

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ABANDONED VEHICLES

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§ 90.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED MOTOR VEHICLE. A motor vehicle that:

- (1) Has been left upon a street or highway in violation of a law, provision of this code or other ordinance of the town prohibiting parking;
- (2) Is left on property owned or operated by the town for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days.

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JUNKED MOTOR VEHICLE. As authorized and defined in G.S. § 160A-303.2, means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self propelled or moved in the manner in which it originally was intended to move; or
- (3) Is more than five years old and appears to be worth less than \$500.

NUISANCE VEHICLE. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
 - (2) A point of heavy growth of weed or other noxious vegetation over eight inches in height;
 - (3) A point of collection of pools or ponds of water;
 - (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
 - (5) One which has areas of confinement which cannot be opened from the inside, such as trunk, hoods and the like;
 - (6) So situated or located that there is a danger of it falling or turning over;
 - (7) One which is a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;
 - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
 - (9) Any other vehicle specifically declared a health or safety hazard and a public nuisance by the Town Council.
- (Prior Code, § 60.01) (Ord. passed 6-10-1993)

§ 90.02 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined in § 90.01.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Prior Code, § 60.02) (Ord. passed 6-10-1993) Penalty, see § 10.99

§ 90.03 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner or occupant of the real property upon which the vehicle is located, to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) Upon investigation, proper authorizing officials of the town may determine and declare that a vehicle is a health or safety hazard and/or a nuisance vehicle as defined in § 90.01, and order the vehicle removed.

(Prior Code, § 60.03) (Ord. passed 6-10-1993) Penalty, see § 10.99

§ 90.04 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to the possession of junked motor vehicle, for the owner, lessee or occupant of the real property upon which a junked vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) It shall be unlawful to have more than one junked motor vehicle, as defined in § 90.01, upon the premises of public or private property. A single permitted junked motor vehicle must be stored in strict compliance with the location and concealment requirements of this section.

(C) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle or for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(D) Subject to the provisions of division (E) below, upon investigation, proper authorizing officials may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and

(5) Promotion of the comfort, happiness and emotional stability of the area residents.

(E) Permitted concealment or enclosure of junked motor vehicles.

(1) *One junked motor vehicle.* One junked motor vehicle, in its entirety, can be located in the rear yard as defined by the town's zoning ordinance if the junked vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering or enclosure.

(2) *More than one junked motor vehicle.* Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, conforming use of a garage or building structure erected pursuant to the lawful issuance of building permit and which has been constructed in accordance with all zoning and building code regulations.

(F) The proper authorizing officials have the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering or enclosure must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives of this chapter.

(Prior Code, § 60.04) (Ord. passed 6-10-1993) Penalty, see § 10.99

§ 90.05 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 90.06 below, an abandoned, nuisance or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain the written record to show the name(s) and address(es) to which mailed and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on or after a specified date (no sooner than seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on or after a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that date.

(B) With respect to abandoned vehicles on private property, nuisance vehicles or junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle

outweigh the burdens, such appeal shall be made to the Town Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the vehicles shall be stayed until the appeal is heard and decided.

(Prior Code, § 60.05) (Ord. passed 6-10-1993) Penalty, see § 10.99

§ 90.06 EXCEPTIONS TO PRIOR NOTICE REQUIREMENTS.

(A) (1) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted for those circumstances where there is a need for prompt action to eliminate traffic obstructions or otherwise maintain and protect the public safety and welfare.

(2) Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(B) Circumstances justifying the removal of the vehicles without prior notice includes:

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets or highways, the Town Council hereby determines that immediate removal of such vehicles may be warranted when they are:

- (a) Obstructing traffic;
- (b) Parked in violation of an ordinance prohibiting or restricting parking;
- (c) Parked in a no stopping or standing zone;
- (d) Parked in loading zones;
- (e) Parked in bus zones; or
- (f) Parked in violation of temporary parking restriction imposed under code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice in those circumstances where the authorizing official finds a need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Prior Code, § 60.06) (Ord. passed 6-10-1993)

§ 90.07 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) (1) Any abandoned or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such vehicle is removed, the authorizing official shall immediately notify the last known registered owner, such notice is to include the following:

- (a) The description of the removed vehicle;
- (b) The location where the vehicle is stored;
- (c) The violation with which the owner is charged, if any;
- (d) The procedure the owner must follow to redeem the vehicle; and
- (e) The procedure the owner must follow to request a probable cause hearing on the removal.

(2) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reach by telephone, written notice, including the information set forth in divisions (A)(1)(a) through (A)(1)(e) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(B) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the time of removal of the vehicle.

(C) Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner and to notify him or her of the information set forth in divisions (A)(1)(a) through (A)(1)(e) above.

(Prior Code, § 60.07) (Ord. passed 6-10-1993)

§ 90.08 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.

After removal of an abandoned, nuisance or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing request. The magistrate will set the hearing within 72 hours of receipt of the request and the hearing will be conducted in accordance with the provision of G.S. § 20-22, as amended.

(Prior Code, § 60.08) (Ord. passed 6-10-1993)

§ 90.09 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, and any other storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter. (Prior Code, § 60.09) (Ord. passed 6-10-1993)

§ 90.10 SALE AND DISPOSITION OF UNCLAIMED VEHICLES.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. Chapter 44A, Article 1. (Prior Code, § 60.10) (Ord. passed 6-10-1993)

§ 90.11 CONDITIONS OF REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which as been ordered removed by the authorizing official. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against loss, expense or liability incurred because of the removal, storage or sale thereof. (Prior Code, § 60.11) (Ord. passed 6-10-1993)

§ 90.12 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, nuisance or junked vehicle, for disposing of such vehicle as provided in this chapter. (Prior Code, § 60.12) (Ord. passed 6-10-1993)

§ 90.13 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle:

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(A) Which is located in a bona fide “automobile graveyard” or “junk yard” as defined in G.S. §§ 136-143 et seq.;

(B) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

(C) Which is in an appropriate storage place of depository maintained in a lawful place and manner by the town.

(Prior Code, § 60.13) (Ord. passed 6-10-1993)

§ 90.14 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees, which are due, or bond in lieu of such fees, have been paid.

(Prior Code, § 60.14) (Ord. passed 6-10-1993) Penalty, see § 10.99

§ 90.15 ILLEGAL ACTIVITY.

Nothing in this chapter is intended to give permission to conduct an illegal activity in a residential, zone, such as auto repairs, that is otherwise prohibited by the zoning ordinance.

(Prior Code, § 60.15) (Ord. passed 6-10-1993)

CHAPTER 91: ANIMALS

Section

- 91.01 Running at large prohibited
- 91.02 Dangerous, vicious dog prohibited
- 91.03 Dangerous, vicious dog destruction
- 91.04 Nuisance
- 91.05 Chicken coops

- 91.99 Penalty

§ 91.01 RUNNING AT LARGE PROHIBITED.

(A) No person owning or having possession, charge, care, custody or control of any animal shall cause, permit or allow the animal to stray or to in any manner to run at large in or upon any public street, sidewalk or park, or upon the property of another.

(B) Every person owning or having possession, charge, care, custody or control of any dog shall keep such dog exclusively upon his or her own premises; provided however, that such dog may be off said premises if under the control of a competent person and restrained by a chain or leash or other means of adequate physical control.

(Prior Code, § 61.01) (Ord. passed 6-21-2006) Penalty, see § 91.99

§ 91.02 DANGEROUS, VICIOUS DOG PROHIBITED.

(A) No dog of dangerous, vicious or fierce propensities or tendencies whether vaccinated against rabies or not shall be a large at any time within the town and it shall be unlawful for the owner or other person having any such dog in his or her or her possession or under his or her or her control or in any manner keeping or harboring any such dog within the town regardless to permit any such dog to be at large in the town limits.

(B) If any dog bites or attempts to bite any person while such dog is at large, and bite or attempt to bite is unprovoked, then such dog shall be conclusively presumed to be a dangerous dog and a dog of dangerous propensities and tendencies.

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(C) If any dog attacks or attempts to attack any other dog or other animal while such dog is at large or chases or otherwise attempts to catch a person and said attack or attempt to attack, chase or chase a person is unprovoked, then such dog shall be conclusively presumed to be of vicious propensities and tendencies.

(D) All complaints regarding dog bites, attempts to bite any person, dog attacks or attempts to attack any person, dog or other animal by any dog while such dog is at large or while such dog chases or attempts to catch a person shall be reported to the County Animal Control Office of the County Sheriff's Department.

(Prior Code, § 61.02) (Ord. passed 6-21-2006) Penalty, see § 91.99

§ 91.03 DANGEROUS, VICIOUS DOG DESTRUCTION.

Any dangerous or vicious dog or dogs having dangerous or vicious propensities and tendencies found at large after the owner thereof has previous knowledge or notice that such dog is dangerous or vicious or has dangerous and vicious propensities and tendencies may be killed by any police or animal control officer of the town or county without such officer having to catch or impound such dog.

(Prior Code, § 61.03) (Ord. passed 6-21-2006) Penalty, see § 91.99

§ 91.04 NUISANCE.

(A) It shall be unlawful for any owner and/or custodian to fail to exercise proper care and control of his or her animals prevent them from becoming a public nuisance. Molesting passersby, chasing vehicles, viciously attacking other domestic animals, trespassing upon school grounds or trespassing upon private property in such manner as to damage property shall be deemed a nuisance.

(B) It shall be unlawful for any owner and/or custodian to fail to provide animals with sufficient good and wholesome food and water and proper shelter and protection from the weather, veterinarian care when needed to prevent suffering and with humane care and treatment.

(C) It shall be unlawful for any owner and/or custodian to beat, be cruel to, cruelty, ill treat, torment, overload, overwork or otherwise abuse an animal or cause or permit any dog fight, bull fight or other combat between animals or between animals and humans.

(D) It shall be unlawful for any owner and/or custodian to allow his or her animals to engage in excessive continuous or untimely barking, whining or howling.

(Prior Code, § 61.04) (Ord. passed 6-21-2006) Penalty, see § 91.99

§ 91.05 CHICKEN COOPS.

(A) *Sanitation.* Any persons who keeps, feeds or maintains chickens in the corporate limits shall provide a bin or a pit which shall be watertight and fly-proof, or a watertight barrel with a close-fitting

lid. Manure accumulating shall be placed in the bin, pit or barrel each day, and the manure shall be removed and discarded as household waste at regular intervals not longer than seven days. Likewise, uneaten feed shall be placed in the bin, pit or barrel each day, and removed at the intervals specified above for manure. The slaughter of chickens for personal use is allowed only on the property where the chickens are kept. The slaughter must be performed in a sanitary manner with the immediate proper disposal of all waste materials. Any dead chickens, not from slaughter, shall be placed and sealed in a plastic bag upon discovery and discarded with other household waste.

(B) *Sheltering and limits on the type and number of chickens.*

(1) *Enclosed run.* Chickens shall be kept in an enclosed run and shall not roam free on the property. Said enclosure shall be a minimum of four feet in height and must be enclosed on all sides and the top with wire mesh fencing. The enclosed run shall provide at least ten square feet of run area per chicken. Any access gates or other access openings in the enclosed run shall be self-closing, self-latching and lockable.

(2) *Coop.* The coop shall be constructed of solid material and shall be located within the enclosed run or constructed and located so as only to provide ingress/egress for the chickens into the enclosed run. The coop shall provide a minimum of three square feet of floor area per chicken and shall be a minimum of two feet in height per floor or level where chickens are housed.

(3) *Number, type and purpose.* Chickens may be kept at a single-family residence that is zoned residential. It shall be an accessory use for any property classified in one of the residential zoning districts. The maximum number of chickens that can be kept on any residentially-zoned property within the corporate limits of the city shall be ten, if there is enough square footage to meet the above requirements for run and coop space and the setback requirements below. All chickens shall be hens; no roosters are permitted. No other fowl including, but not limited to, ducks, geese or turkeys are permitted. All chickens and by-products shall be used for personal use and not sold commercially.

(4) *Enclosed run and coop materials.* The enclosed run and coop shall be maintained in a clean and sanitary condition. The chickens shall have constant access to feed, clean water and bedding. All solid materials and fencing used in conjunction with the construction of the coop and enclosed run shall be suitable for exposure to moisture without deterioration and shall be conducive to regular cleaning and sanitation. Without limiting the materials that can be used, examples meeting this requirement are pressure treated wood, painted wood, wood frame with metal or vinyl siding, asphalt shingle roofing and metal roofing for the coop and galvanized or vinyl mesh fencing and fencing supports for the enclosed run. The coop shall be constructed to keep out predators.

(5) *Setbacks for the keeping of chickens.* The enclosed run or coop keeping the chickens shall be in the rear yard and shall be no closer to the street than the rear yard of the dwelling or principal structure and at no time may be closer than 25 feet from any adjacent property lines.

(6) *Permit required for the keeping of chickens.* A zoning permit for accessory use, issued by the Code Enforcement Officer is necessary prior to constructing and/or erecting the enclosed run and/or coop. Submittal requirements shall include, but not limited to, a scaled site plan showing all property

lines and existing structures, the proposed enclosure, run and/or coop, the distance from the property lines to the proposed enclosure, run and/or coop, as well as a sketch or elevation(s) of the planned enclosure and/or coop design and a materials list indicating what the enclosure, run and/or coop will be constructed of. Any and all state requirements will need to be complied with as well.

(7) *Permit renewal and revocation.* The zoning permit shall automatically renew annually. Should two confirmed/sustained Notices of Violations (NOW) concerning violations within a one-year period, the permit shall be automatically revoked. Upon permit revocation, the property owner shall be prohibited from keeping or applying for a permit to keep chickens or other fowl for a period of two years. Following the two-year period, the property owner may re-apply for a permit which will include a \$50 application fee.

(Ord. passed 12-8-2016) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any violation of § 91.01 shall subject the offender to a civil penalty in the amount of \$50. The Town Code Enforcement Officer and/or the Town Administrator is authorized to issue this civil citation and the violator shall pay the penalty to the Town Clerk within ten days of receipt. The failure of such to pay the civil penalty within the specified time shall subject such violator to a civil action to collect all penalties and costs for such violation and any civil penalty that has not been paid which delinquent notice was sent shall carry an additional late penalty of \$25. Continuing violations shall subject the violator to separate, distinct and successive civil penalties.

(Prior Code, § 61.01)

(C) (1) Any violation of § 91.04 shall subject the offender to a civil penalty in the amount of \$50. Any duly authorized local government official is authorized to issue this civil citation and the violator shall pay the penalty to the Town Clerk within ten days of receipt. The failure of such to pay the civil penalty within the specified time shall subject such violator to a civil action to collect all penalties and costs for such violation and any civil penalty that has not been paid which delinquent notice was sent shall carry any additional late penalty of \$25. Continuing violations shall subject the violator to separate, distinct and successive civil penalties.

(2) Where there is a violation of § 91.04(D) substantiated by a complaint, a representative of the County Sheriff's Department or the town shall first issue a warning citation to the violator directing that such a nuisance be abated within 24 hours. If the violator fails to abate such nuisance within the 24 hours, then the violator shall be punished as provided in division (C)(1) above.

(Prior Code, § 61.04) (Ord. passed 8-10-2017)

CHAPTER 92: FIRE PREVENTION

Section

Traffic Regulations at Fires

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- 92.03 Parking vehicles in vicinity of fires
- 92.04 Congregating at fires
- 92.05 Interfering with firefighters
- 92.06 Driving over fire hose
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- 92.20 Burning of trash prohibited
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- 92.35 Transportation of petroleum products; restricted
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- 92.50 Purpose
- 92.51 Scope
- 92.52 Definitions
- 92.53 Permissible open burning
- 92.54 Adoption of Fire Code

TRAFFIC REGULATIONS AT FIRES**§ 92.01 RIGHT-OF-WAY.**

In the event of an alarm fire, the apparatus of the Fire Department shall have the right-of-way upon the streets, lanes, alleys, squares and crossings in answering the alarm. It shall be unlawful for any person to fail or refuse to yield the right-of-way to Fire Department apparatus which is responding to an alarm.

(Prior Code, § 62.01) Penalty, see § 10.99

§ 92.02 TRAFFIC MUST STOP.

Whenever a fire alarm is given, and upon the approach of fire apparatus, all vehicles shall immediately drive to the right as near as possible to the curb at the point where they may be at the time, and stop until the fire apparatus has passed. However, the driver of any vehicle, upon the request of a member of the Fire Department, may transport the member to the scene of the fire without observing the regulation herein.

(Prior Code, § 62.02)

§ 92.03 PARKING VEHICLES IN VICINITY OF FIRES.

It shall be unlawful for any person to park a vehicle in any street, lane, alley, square or other public property within 500 feet of a fire.

(Prior Code, § 62.03) Penalty, see § 10.99

§ 92.04 CONGREGATING AT FIRES.

It shall be unlawful to congregate in the streets, lanes, alleys or squares, or upon adjacent property, next to a fire so as to interfere with the work of the Fire Department.

(Prior Code, § 62.04) Penalty, see § 10.99

§ 92.05 INTERFERING WITH FIREFIGHTERS.

It shall be unlawful for any person to interfere with any members of the Fire Department or to obstruct the work of the Department in any way, at or during a fire or while answering an alarm.

(Prior Code, § 62.05) Penalty, see § 10.99

§ 92.06 DRIVING OVER FIRE HOSE.

It shall be unlawful for any person to drive any vehicle over any fire hose belonging to the Fire Department.

(Prior Code, § 62.06) Penalty, see § 10.99

§ 92.07 RIDING ON TRUCKS.

It shall be unlawful for any person other than a member of the Fire Department to mount any fire apparatus at any time, unless by permission of the driver or officer in command of the apparatus.

(Prior Code, § 62.07) Penalty, see § 10.99

FIRE HAZARDS

§ 92.20 BURNING OF TRASH PROHIBITED.

It shall be unlawful for any person to burn or set fire to any leaves, tree trimmings, grass, branches or any similar matter on or in any street right-of-way, alley or sidewalk within the town.

(Prior Code, § 62.15) Penalty, see § 10.99

§ 92.21 ENCUMBRANCES ON FIRE ESCAPES.

It shall be unlawful for any person at any time to place any encumbrance whatsoever before or upon any fire escape, balcony or ladder intended as a means of escape from fire.

(Prior Code, § 62.16) Penalty, see § 10.99

§ 92.22 EXIT SIGNS.

Every exit in any theater or motion picture house shall be plainly indicated by a sign having the word "Exit", which sign shall be kept lighted throughout each performance.

(Prior Code, § 62.17)

§ 92.23 LOTS TO BE KEPT FREE FROM FIRE HAZARDS.

It shall be unlawful for any person to permit or suffer rubbish, or articles of a combustible nature to accumulate or remain on any lot or premises.

(Prior Code, § 62.18) Penalty, see § 10.99

TRANSPORTATION OF PETROLEUM PRODUCTS**§ 92.35 TRANSPORTATION OF PETROLEUM PRODUCTS; RESTRICTED.**

It shall be unlawful for any person to operate any motor truck used for the propose of hauling gasoline or other petroleum products on any street within the fire limits, except for the purpose of delivering the products to purchasers within the fire limits, upon posting appropriate signs.

(Prior Code, § 62.25) Penalty, see § 10.99

§ 92.36 LOADING AND UNLOADING COMBUSTIBLE FUELS.

It shall be unlawful for any tank truck or other conveyance used in the transportation of gasoline, fuel oil or other combustible fuels or materials, to be left unattended while actually loading or unloading the combustibles within the corporate limits.

(Prior Code, § 62.26) Penalty, see § 10.99

OPEN BURNING**§ 92.50 PURPOSE.**

This regulation is for the purpose of preventing, abating and the controlling of air pollution resulting from air contaminants released in the open burning of refuse or other combustible materials.

(Prior Code, § 62.45)

§ 92.51 SCOPE.

(A) This regulation shall apply to all operations involving open burning except those specifically exempted by § 92.53.

(B) No person shall cause, suffer, allow or permit open burning of refuse or other combustible material except as may be allowed in compliance with § 92.53 or except those covered by a permit issued by an authorized public agency.

(Prior Code, § 62.46) Penalty, see § 10.99

§ 92.52 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AMBIENT AIR. The portion of the atmosphere outside of buildings and other enclosures, stacks or ducts, and which surrounds human, animal or plant life, or property.

COMBUSTIBLE MATERIAL. Any substance which, when ignited, will burn in air.

DUSTFALL. Particulate matter which settles out of the air and is expressed in units of grams per square meter per 30-day period.

FUEL BURNING EQUIPMENT. Equipment whose primary purpose is the production of thermal energy or power from the combustion of any fuel. The equipment is generally used for, but not limited to, heating water, generating or circulating steam, heating air as in warm air furnaces, furnishing process heat entirely through transfer by fluids, or transmissions through process vessel walls.

GARBAGE. Any animal or vegetable waste resulting from the handling, preparing, cooking and serving of food.

INCINERATOR. A device designed and engineered to burn solid, liquid or gaseous waste material.

OPACITY. The property of a substance tending to obscure vision and is measured in terms of percent obscuration.

OPEN BURNING. Any fire wherein the products of combustion are emitted directly into the outdoor atmosphere and are not directed thereto through a stack or chimney or approved incinerator.

PARTICULATE MATTER. Any material, except uncombined water, that exists in a finely divided form as a liquid or a solid at standard conditions.

REFUSE. Any garbage, rubbish and trade waste.

RUBBISH. Solid or liquid wastes from residences and dwellings, commercial establishments and institutions.

(Prior Code, § 62.47)

§ 92.53 PERMISSIBLE OPEN BURNING.

(A) While recognizing that open burning contributes to air pollution, the Town Council is aware that certain types of open burning may reasonable be allowed in the public interest; therefore, the following are permissible as specified if burning is not prohibited by ordinances and regulations of government entities having jurisdiction.

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(B) The authority to conduct open burning under the provision of this section does not exempt or excuse any person from the consequences, damages or injuries which may result from this conduct nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction in compliance with this section:

(1) Fires purposely set for the instruction and training for public and industrial firefighting personnel;

(2) Fires purposely set to agricultural lands for disease and pest control and other accepted agricultural or wildlife management practices acceptable to the North Carolina Board of Water and Air Resources;

(3) Fires purposely set to forest lands for forest management practices acceptable to the Division of Forestry and the North Carolina Board of Water and Air Resources;

(4) Fires purposely set in rural areas for rights-of-way maintenance only in instances where there are no other practicable or feasible methods of disposal and under conditions acceptable to the North Carolina Board of Water and Air Resources;

(5) Camp fires and fires used solely for outdoor cooking and other recreational purposes for ceremonial occasions or for human warmth and comfort;

(6) Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises in areas where no public pickup facilities are available and the burning is done between 8:00 a.m. and 6:00 p.m. and does not create a nuisance;

(7) Open burning in other than predominately residential areas for the purpose of land clearing or right-of-way maintenance. This will be exempt only if the following conditions are met:

(a) Prevailing winds at the time of burning must be away from any city or town or built-up area, the ambient air of which may be significantly affected by smoke, fly-ash or other air contaminants from the burning;

(b) The location of the burning must be at least 1,000 feet from any dwelling located in a predominantly residential area other than a dwelling or structure on the property on which the burning is conducted;

(c) The amount of dirt on the material being burned must be minimized;

(d) Heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any materials other than plant grown may not be burned; and

(e) Initial burning may generally be commenced only between the hours of 9:00 a.m. and 3:00 p.m. of one day, and no combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. of the following day and that under favorable meteorological conditions deviations

from the above stated hours of burning may be granted by the air pollution control agency having jurisdiction. It shall be the responsibility of the owner or operator of the open burning operation to obtain written approval for burning during the periods other than those specified above.

(8) Fires for the disposal of dangerous materials where there is no alternative method of disposal and burning is conducted in accordance with procedures acceptable to the Board of Water and Air Resources; and

(9) Permission granted by the Fire Department under this section shall be subject to continued review and may be withdrawn at any time.

(Prior Code, § 62.48) Penalty, see § 10.99

Statutory reference:

Environmental Management Commission, see G.S. § 143B-282

§ 92.54 ADOPTION OF FIRE CODE.

The most current editions of the National Fire Protection Association Code and Standards are hereby adopted by reference, and shall apply in the town. The Code shall be enforced by the Fire Department. (Prior Code, § 62.49)

CHAPTER 93: HEALTH AND SANITATION

Section

Noxious Odors and Smoke

- 93.01 Excessive smoke, dust, noise prohibited
- 93.02 Abatement

Nuisances

- 93.15 Conditions constituting nuisance
- 93.16 Investigation; notice to abate
- 93.17 Abatement by the town
- 93.18 Other remedies not excluded

Removal of Trash and Undergrowth from Property

- 93.30 Accumulation of refuse and debris declared public nuisance; abatement
- 93.31 Dead trees declared public nuisance; abatement
- 93.32 Accumulation of weeds and undergrowth declared public nuisance, abatement
- 93.33 Responsibility of property owner
- 93.34 Property condition prohibited
- 93.35 Procedure for notice of violation; definitions
- 93.36 Hearing and appeal
- 93.37 Appeal and enforcement of orders
- 93.38 Cost of enforcement
- 93.39 Collection of cost of enforcement; remedies for violation of chapter
- 93.40 Stay upon appeal

- 93.99 Penalty

Charter reference:

Removal of trash, weeds; lien and costs, see Charter Ch. VI

*NOXIOUS ODORS AND SMOKE***§ 93.01 EXCESSIVE SMOKE, DUST, NOISE PROHIBITED.**

No person, firm or corporation shall operate, or cause to be operated within the town, or within one mile outside the corporate limits, any business or other operation emitting excessive smoke, dust or noise, or create any condition causing offensive odors, so as to adversely affect the health of any of the citizens of the town.

(Prior Code, § 64.01) Penalty, see § 93.99

§ 93.02 ABATEMENT.

The Town Council shall designate an official as the officer responsible for removing, abating and remedying any violation of § 93.01. The designated official shall give personal notice to any violator stating that if the violation is not voluntarily removed, abated or remedied within 24 hours after the notice, a warrant shall be issued against that person, firm or corporation in violation thereof, in the same manner as described in §§ 93.17 and 93.18.

(Prior Code, § 64.02) Penalty, see § 93.99

*NUISANCES***§ 93.15 CONDITIONS CONSTITUTING NUISANCE.**

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 inches, causing or threatening to cause a hazard detrimental to the public health or safety;

(B) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health;

(C) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health; and

(D) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(Prior Code, § 64.10) Penalty, see § 93.99

§ 93.16 INVESTIGATION; NOTICE TO ABATE.

(A) The Town Administrator, upon notice from any person of the existence of any of the conditions described in § 93.15, shall cause to be made by the appropriate County Health Department official or town official such investigation as may be necessary to determine whether, in fact, those conditions exist.

(B) Upon a determination that conditions constituting a public nuisance exist, the Town Administrator shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.

(Prior Code, § 64.11)

§ 93.17 ABATEMENT BY THE TOWN.

(A) If any person, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Town Council shall cause the condition to be removed or otherwise remedied by having employees of the town go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Town Council. Any person who has been ordered to abate a public nuisance may within the time allowed by this section, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(B) The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the Town Administrator to mail a statement of these charges to the owner or other person in possession of the premises with instruction that the charges are due and payable within 30 days from the receipt thereof.

(C) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in division (B) above, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

(Prior Code, § 64.12)

§ 93.18 OTHER REMEDIES NOT EXCLUDED.

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this subchapter shall not prevent

the town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this subchapter as provided in § 10.99.

(Prior Code, § 64.13)

REMOVAL OF TRASH AND UNDERGROWTH FROM PROPERTY

§ 93.30 ACCUMULATION OF REFUSE AND DEBRIS DECLARED PUBLIC NUISANCE; ABATEMENT.

It is found and determined that there exist in the town lots and tracts of land, occupied and unoccupied, privately and publicly owned, upon which refuse and debris have been allowed to accumulate and remain. Such conditions provide a harborage for rodents, vermin, mosquitoes and other pests, depreciate property values or neighboring properties, constitute a detriment, danger or hazard to the health, safety and welfare of the residents of the town, and are hereby declared to be a public nuisance. A public necessity exists to exercise the police power of the town to cause the abatement of such conditions in the manner hereinafter provided.

(Prior Code, § 64.20) (Ord. passed 11-10-1994)

§ 93.31 DEAD TREES DECLARED PUBLIC NUISANCE; ABATEMENT.

It is also found and determined that there exist in the town lots and tracts of land, occupied and unoccupied, privately and publicly owned, upon which dead trees of sufficient size and proximity to a public street or sidewalk have been allowed to remain such that the trees, or limbs therefrom, upon falling, could interfere with the free and safe passage along the street or sidewalk by pedestrians or vehicular traffic. Such conditions constitute a detriment, danger or hazard to the health, safety and welfare of the residents of the town and are hereby declared to be a public nuisance. A public necessity exists to exercise the police power of the town to cause the abatement of such conditions in the manner hereinafter provided.

(Prior Code, § 64.21) (Ord. passed 11-10-1994)

§ 93.32 ACCUMULATION OF WEEDS AND UNDERGROWTH DECLARED PUBLIC NUISANCE, ABATEMENT.

It is further found and determined that there exist in the town lots and tracts of land, occupied and unoccupied, privately and publicly owned, upon which dense growth of weeds, vines, briars or undergrowth have been allowed to grow, accumulate or remain. Where such conditions provide a harborage for rodents vermin or other pests, exist in such proximity to houses and other structures as to increase the hazards of disease, injury or fire, or otherwise constitute a detriment, danger or hazard to the health, safety and welfare of the residents of the town, they are hereby declared to be a public

nuisance. A public necessity exists to exercise the police power of the town to cause the abatement of such conditions in the manner hereinafter provided.

(Prior Code, § 64.22) (Ord. passed 11-10-1994)

§ 93.33 RESPONSIBILITY OF PROPERTY OWNER.

It shall be unlawful for any person to keep or maintain any real property in a condition prohibited by this subchapter.

(Prior Code, § 64.23) (Ord. passed 11-10-1994) Penalty, see § 93.99

§ 93.34 PROPERTY CONDITION PROHIBITED.

The following enumerated and described conditions are prohibited:

(A) A place which refuse or debris is permitted or caused to accumulate. The words **REFUSE OR DEBRIS** shall be taken to refer to all classifications of solid waste and shall include garbage, rubbish, ashes, street refuse, dead animals, abandoned automobiles and industrial refuse. Refuse derives from such places as homes, hotels, institutions, stores, restaurants, markets, wholesalers, processing plants, factories, shops, garages, office buildings, streets, sidewalks, alleys, vacant lots, power plants and the like; provided, however, this section does not apply to:

- (1) Industrial refuse temporarily stored within a delineated storage area;
- (2) Building refuse temporarily stored within a delineate storage area for purposes of refuse disposal;
- (3) Sites approved by the state as sanitary landfills, provided such sites comply with the state landfill rules and regulations; and
- (4) Salvage or junk operations carried on in compliance with the zoning ordinance.

(B) Where found to constitute a public nuisance under the provisions of this subchapter, a place of dense growth of weeds, grass, vines or briars over 12 inches in height, and within 100 feet of an abutting public street or 50 feet of a house or other residential, commercial or industrial building; provided, however, the term **BUILDING** shall not include detached structures which are accessory to a dwelling unit or other residential, commercial or industrial building. The weeds, grass, vines or briars constitute a prohibited condition described by this division (B) shall be cleared and cut to not more than six inches in height; and

(C) A place upon which any dead trees, under the circumstances specified in § 93.31 has been allowed to remain.

(Prior Code, § 64.24) (Ord. passed 11-10-1994) Penalty, see § 93.99

§ 93.35 PROCEDURE FOR NOTICE OF VIOLATION; DEFINITIONS.

(A) (1) When any condition prohibited by this subchapter is found to exist, the Town Administrator or his or her designee shall send to the owner of the property a notice of the violation by registered or certified mail.

(2) The notice shall include the following:

(a) The property location and a description of the prohibited condition found to exist;

(b) An order that the owner correct the conditions within 15 days; provided, however, the Town Administrator or his or her designee may extend the time for correcting said conditions for a period not to exceed 15 days, where he or she finds such extension to be necessary and reasonable; and

(c) An explanation of the hearing and appeal procedure set forth in this subchapter.

(3) If the owner of the property refuses to accept notice of the violation, or if the name of whereabouts of the owner of the property cannot be discovered through the exercise of due diligence, then the notice shall be posted on the property in question and published one time in a newspaper of general distribution in the town.

(B) (1) **PROPERTY OWNER** or **OWNER OF PROPERTY**, when used in this section, means the holder of the title in fee simple, every mortgagee of record, all individuals, associations and corporations who have an interest of record in the property, and any individual, association or corporation in possession of the property.

(2) The phrase **ANY INDIVIDUAL, ASSOCIATION OR CORPORATION IN POSSESSION OF THE PROPERTY** is intended to include persons who occupy real property under any recognized form of tenancy.

(Prior Code, § 64.25) (Ord. passed 11-10-1994)

§ 93.36 HEARING AND APPEAL.

(A) Upon receipt of the notice of violation or upon its proper posting and publication, as provided in this subchapter, the owner of the property may, within ten days, request a hearing with the Town Administrator or his or her designee. The Town Administrator or his or her designee shall fix the time and place for the hearing and shall notify the owner of the property of such time and place. Failure of the owner, or representative thereof, to appear at the hearing shall be considered an abandonment and withdrawal of the request for the hearing.

(B) The Town Administrator or his or her designee shall also notify by first class mail any other interested person who shall have requested, in writing, to be notified of the time and place of the hearing; provided, however, that where the conditions on the property have come to the attention of the

Town Administrator through the complaint of a person or organization, such person or organization shall be similarly notified of the time and place of the hearing whether or not such notice has been requested.

(C) At the hearing, the Town Administrator or his or her designee shall consider statements and evidence presented by the property owner or by any other person. The Town Administrator or his or her designee shall then enter an order dismissing, amending or confirming the order described above in this subchapter. The Town Administrator or his or her designee shall make a record of the hearing and of his or her order entered at the hearing. The Town Administrator or his or her designee shall fix in his or her order a reasonable period of not less than ten days or more than 20 days within which the property owner shall comply with the order; provided, however, the Town Administrator or his or her designee may extend said period for an additional time, not to exceed 20 additional days where the Town Administrator or his or her designee finds such extension to be necessary and reasonable.

(D) Where the property owner believes that the order of the Town Administrator or his or her designee is not in accord with the terms of this subchapter, the property owner may appeal the order of the Town Administrator or his or her designee to the Town Council by notifying the Town Administrator or his or her designee, in writing, within five days of the date of the Town Administrator's or his or her designee's order.

(E) The Town Administrator or his or her designee shall notify the property owner by registered mail at least ten days in advance of the date and time of the Town Council meeting at which the matter will be heard; provided, however, nothing in this subchapter shall preclude the Town Administrator or his or her designee from reporting the matter to the Town Council for appropriate action at any time when the treat to the public health, welfare and safety in the absence of abatement is imminent.

(F) If proper notice as described is required and has been given, the Town Council may proceed to hear the matter in the absence of the property owner or his or her representative.

(G) At the hearing, the Town Council shall hear all interested persons, review the evidence presented by the Town Administrator or his or her designee, the property owner or his or her representative, or other persons; and enter a written order dismissing the matter or directing the owner to correct the conditions complained of within 15 days or such additional time as it finds to be reasonable.

(H) At the hearing, all witnesses shall be sworn and subject to cross-examination by adverse parties or their representatives. Proof of violation of this subchapter shall be by preponderance of the evidence, and the burden of such proof shall rest upon the Town Administrator.

(I) It shall not be a defense to an alleged violation of this subchapter that the conditions complained of on the property were not created by the owner thereof; provided, however, that the owner is entitled to show at the hearing that said conditions were created by persons in the possession of the property, lawful or unlawful, or unknown members of the public. The Town Council may consider such evidence in setting the period of time in which the unlawful conditions are to be abated.

(J) Every order of the Town Council shall be in writing, shall be promptly filed in the office of the Town Administrator and shall be open to public inspection; a certified copy shall be sent by registered mail to the property owner. If the Town Council determines in its order that any condition prohibited by this subchapter is found to exist on the property, the order shall be enforced as provided in this subchapter unless the property owner corrects and abates such condition within the time prescribed by the Town Council. In the event of a Town Council determination adverse to the property owner, the Town Council's order shall include specific findings of fact and conclusions of law, and a concise statement of the of the evidence supporting the findings of fact.

(K) The Town Council may vary the application of any provisions of this subchapter in hardship or other cases when, in its opinion, the enforcement thereof would do manifest injustice or be contrary to the spirit and purpose of this subchapter or the public interest. In hardship cases, a hardship peculiar to the applicant must be shown. The relationship between the cost of abating the unlawful conditions and the value of the property involved is a factor the Town Council may consider in determining whether there is a hardship in a given case.

(Prior Code, § 64.26) (Ord. passed 11-10-1994)

§ 93.37 APPEAL AND ENFORCEMENT OF ORDERS.

An owner of property, for purposes of seeking judicial review, in any form, of the Town Council's order or the enforcement thereof may obtain upon request and at the town's expense, copies of the audio tape of the hearing maintained by the Town Administrator; and of any documentary or photographic evidence included in the record of hearing. If within the time specified in the Town Council's order the property owner has neither complied with the order nor initiated judicial proceedings for relief therefrom and served the town with notice thereof, the Town Administrator or his or her designee shall enter upon the property and correct the prohibited conditions found to exist thereon. The Town Council's order shall be stayed pending the final disposition of judicial proceedings.

(Prior Code, § 64.27) (Ord. passed 11-10-1994)

§ 93.38 COST OF ENFORCEMENT.

Where the Town Administrator or his or her designee has proceeded to enforce the Town Council's order, he or she shall determine the cost of enforcement provided in this subchapter. He or she shall certify to the Town Council the amount of such cost. The Town Council shall note the time of receipt of the certification. At the same time, the Town Administrator or his or her designee shall notify the owner of the property in the manner provided for notice of hearing in this subchapter of the cost of enforcement, and shall inform the property owner that said cost may be paid within 30 days of the date that the Town Council receives the certification. The Town Administrator or his or her designee shall, in the notice, also inform the property owner that the amount of the cost may be challenged by an appeal to the Town Council within 30 days from the date of such certification. In the absence of such appeal, the certification shall be final. The owner of the property may pay said cost without interest or further

penalty within 30 days of the date the Town Council receives certification of the cost of enforcement from the Town Administrator or his or her designee.

(Prior Code, § 64.28) (Ord. passed 11-10-1994)

§ 93.39 COLLECTION OF COST OF ENFORCEMENT; REMEDIES FOR VIOLATION OF CHAPTER.

(A) The cost of enforcement, together with interest of 8% per annum thereon, shall constitute a lien against the property and may, after 30 days from the date of certification as provided in this subchapter be collected in the same manner as ad valorem taxes upon such property.

(B) The alternative, in the discretion of the town, the cost of enforcement may, after 30 days from the date of certification as provided in this subchapter, be recovered as a civil penalty by the town in a civil action in the nature of a debt as provided in G.S. § 160A-175.

(C) This subchapter may be enforce by any other remedy prescribed by G.S. § 160A-175.
(Prior Code, § 64.29) (Ord. passed 11-10-1994)

§ 93.40 STAY UPON APPEAL.

An appeal concerning the amount of the cost of enforcement determined under this subchapter stays the certification of costs until the appeal is concluded.

(Prior Code, § 64.30) (Ord. passed 11-10-1994)

§ 93.99 PENALTY.

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Each day of operation in violation of § 93.01 shall constitute a separate offense.
(Prior Code, § 64.01)

CHAPTER 94: NOISE

Section

- 94.01 Generally
- 94.02 Radios and mechanical musical instruments
- 94.03 Chimes on churches

- 94.99 Penalty

§ 94.01 GENERALLY.

(A) *Unreasonable noises prohibited.* Subject to the provisions of this section, the creation of any unreasonably loud, disturbing and unnecessary noise in the town is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(B) *Particular noises prohibited.*

(1) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section:

(a) The sounding any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the creation by means of any such signal device of any unreasonably loud or harsh sound, and the sounding of such device of an unnecessary and unreasonable period of time;

(b) The playing of any television, radio, phonograph or any musical instrument in such a manner or with such volume, particularly during the hours between 10:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other place of residence;

(c) The keeping of any animal or bird which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity;

(d) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded, or modified in such a manner as to create loud or unnecessary grating, rattling or other noise;

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(e) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger;

(f) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;

(g) The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced;

(h) The erection (including excavation), demolition, alteration or repair or cleaning of the outside of any building in a residential or business district other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays, except cases of urgent necessity in the interest of public safety or convenience. However, in cases in which the work is required by an emergency, or by the nature of the particular project or specified portion thereof it is necessary to have a continuous operation without break, or where the specified work cannot be performed while the plant or enterprise is in operation, the Town Administrator may issue a permit for such work to be carried on between hour and on days in addition to the hours and days herein specified. The term **WEEKDAYS**, when used in this division (B)(1)(h), means any day except Sunday;

(i) The creation of any excessive noise on any street adjacent to an institution as specified in this section which unreasonably interferes with the working, decorum or operation of any school, institution of learning, library, sanitarium or court while it is in session, or adjacent to any hospital, or any church during services, or any funeral parlor when exterior signs indicate services for the deceased are being conducted;

(j) The creation of loud and excessive noise in connection with the loading and unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers;

(k) The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;

(l) The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood;

(m) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise; and

(n) The operation of any dirt bike, all-terrain bike or other motor bike along streets in residential areas or adjacent to any residential property, any church during services; or any funeral-parlor when exterior signs indicate services for the deceased are being conducted other than to directly and efficiently transport the vehicle from one place to a destination point or recreation area. Motorized

bikes shall be properly equipped and operated with the manufacturer's or other authorized standard muffler(s) and sound reduction equipment and used under proper operating conditions.

(2) The enumeration above shall not be deemed to be exclusive.

(C) *Designation of a "quiet zone"*.

(1) Any person may petition the Town Council for the establishment of a temporary "quiet zone" to protect and/or promote the health and safety of the person(s) occupying the property sought to be so designated or the use(s) of the property sought to be so designated. Upon finding that the designation of the "quiet zone" is in the public interest and will promote the health, safety and welfare of those persons who occupy or use the property to be designated, the Town Council may designate a "quiet zone" for a period of time not to exceed six months. The duration of the "quiet zone" may be extended upon request for extension and approval by the Town Council.

(2) Any property designated a "quiet zone" shall be marked by signs erected by the town. The petitioner shall bear the expense of the purchase and erection of the sign.

(3) The creation of any unreasonably loud or unnecessary noise or any noise designated in divisions (A) or (B) above or (E) below shall constitute a violation of this division (C).

(D) *Small motors.* The running of a motor not exceeding one horsepower on a refrigeration truck for the purpose of keeping perishable fruits, vegetable and all other perishable meats and food contained in such truck from spoiling, shall not constitute an unnecessary noise or disturbance within the meaning of this section.

(E) *Particular standard established.*

(1) In addition to the violations established by divisions (A) and (B) above, no person shall cause, produce or allow any mechanically or electronically produced or amplified sound that:

(a) Exceed the level set out in this division (E)(2) below as such sound is measured at any point beyond the boundary of the property from which the sound emanates; and

(b) Is not authorized by a permit issued pursuant to the town code or state or federal authority; or otherwise exempted from regulation by the exceptions established by division (F) below.

(2) No nighttime (10:00 p.m. to 8:00 a.m.) sound level shall exceed 50 dB(A).

(3) No daytime or evening (after 8:00 a.m., before 10:00 p.m.) sound shall exceed 60 dB(A).

(4) **DECIBEL (dB)** as used in this division (E) shall mean a unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ration of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter. The sound level shall

be measured by the use of a sound level meter and frequency weighting network "A" as specified in the latest approved American National Standards Institute specification for sound level meters.

(F) *Exceptions.* The following sounds shall be exempt from the provision of this section:

(1) Sounds of safety signals, warning devices and emergency pressure relief valves;

(2) Sounds resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency;

(3) Any sound resulting from activities of a temporary duration permitted by law and for which a license or permit has been granted by the town or state or federal agency when such sounds do not exceed the conditions and limits stated in the license or permit;

(4) Sound emanating from the normal operations of properly equipped aircraft (not including model aircraft);

(5) Sound emanating from a:

(a) Motor vehicles; or

(b) Lawn mower or agricultural equipment operated between the hours of 7:00 a.m. and 9:00 p.m. when the vehicle or equipment is properly equipped with the manufacturer's or other authorized standard muffler(s) and sound reduction equipment and in use under proper operating conditions.

(6) Musical chimes emanating from a public or religious institution or facility, provided that the sound is less than 15 minutes in duration and occurs not more than three times per day.
(Prior Code, § 65.01) (Ord. passed 4-14-1994) Penalty, see § 94.99

§ 94.02 RADIOS AND MECHANICAL MUSICAL INSTRUMENTS.

It shall be unlawful for any person to maintain and operate in any building or on any premises in the town or on any public street or on any motor vehicle using the streets or any airplane flying over the town, any radio device or mechanical musical instrument or amplifier or device of any kind whereby the sound therefrom is cast directly upon the public streets and places or for the purpose of attracting the attention of the public, or which is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises. However, this section shall not apply to the actual conduct of auction sales of real estate on or adjacent to the premises to be sold where the auctioneer or auction company is properly licensed. In addition, nothing herein shall be construed to affect official warning sounds promulgated by the Office of Civil Defense.

(Prior Code, § 65.02) (Ord. passed 4-14-1994) Penalty, see § 94.99

§ 94.03 CHIMES ON CHURCHES.

Nothing contained in §§ 94.01 or 94.02 shall be construed as prohibiting the playing of chimes by mechanical musical instrument or device, electronics or other method on churches, business buildings and other places within the town.

(Prior Code, § 65.03) (Ord. passed 4-14-1994)

§ 94.99 PENALTY.

Violation of this chapter shall be a misdemeanor and shall be punishable by a fine of not more than \$50 or imprisonment for not more than 30 days as set forth in G.S. § 14-4.

(Prior Code, § 65.04) (Ord. passed 4-14-1994)

CHAPTER 95: PARADES, PICKETS LINES AND GROUP DEMONSTRATIONS

Section

- 95.01 Definitions
- 95.02 Permit required
- 95.03 Issuance of permit
- 95.04 Right of appeal upon denial of permit application; alternative permit
- 95.05 Regulations concerning parades, picket lines and demonstrations
- 95.06 Regulations concerning public meetings, speeches and gatherings
- 95.07 Revocation of permit
- 95.08 Exceptions

§ 95.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GROUP DEMONSTRATION. Any assembling together or concert of action between two or more persons for the purpose of protesting any matter or making known any position or thought of the group or of attracting attention to the demonstration.

PARADE. Any parade, march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, parks or other public places.

PERSON. Any person, firm, partnership, association, company or organization of any kind.

PICKET LINE. Any persons formed together for the purpose of making known any position or promotion of the persons or on behalf of any organization.
(Prior Code, § 66.01)

§ 95.02 PERMIT REQUIRED.

No parade, picket line or group demonstration is permitted on the sidewalks or streets of the town unless a permit therefor has been issued by the town. However, nothing herein shall be construed to prevent the peaceful assembly of any group for orderly expression or communication between those assembled.

(Prior Code, § 66.02) Penalty, see § 10.99

§ 95.03 ISSUANCE OF PERMIT.

(A) The official designated by the Town Council is authorized to issue permits as required in § 95.02 and in the issuance thereof shall:

(1) Require a written application therefor to be filed not less than three days nor more than ten days in advance of the parade, picket line or group demonstration on a form prescribed by the Sheriff's Department and which shall require the application to be signed by the person or persons filing the application. The applicant shall therein state the proposed site, time, purpose and the size of the parade, picket line or group demonstration, and whether or not any minors below the age of 18 years shall participate;

(2) Refuse to issue the permit when the activity or purpose stated in the application would violate any ordinance of the town, statute of the state, or when the activity or purpose would endanger the public health or safety or hinder or prevent the orderly movement of pedestrian or vehicle traffic on the sidewalks or streets of the town; and

(3) Specify in the permit whether or not minors below the age of 18 years will be permitted to participate. The Town Council or designated town official shall be permitted to participate in the parade, picket line or group demonstration, and shall base this determination upon whether or not the purpose, time or place of the participation will be detrimental to or endanger the health, welfare or safety of the minors.

(B) The permit may set the starting time and duration of the parade, demonstration or picket line and may set the speed of its travel; the space between persons or vehicles; the portions or areas of the streets and sidewalks to be used; the length of the parade, group or line; and such other requirements as the Town Council or designated official may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety and property rights of the participants and general public. Failure to comply with these requirements, as set for in the permit, shall be unlawful.

(C) The applicant for a permit shall specify and the permit shall designate the person in charge of the parade, group demonstration or picket line and the person in charge shall accompany the parade, demonstration or picket line and shall carry the permit with him or her at all times.

(D) The Town Council or designated official in considering the issuance of a permit shall, among other considerations provided, consider and find as a requisite for issuance that:

(1) The activity will not require excessive diversion of police from other necessary duties;

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property; and

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public, and will not be likely to cause injury to persons or property, provoke disorderly conduct or create a public disturbance.

(E) Any picket line or group demonstration which participates in any area subject to normally heavy pedestrian or vehicular traffic may be limited in the permit issued to a concentration of not more than six persons participating within any designated area of the street or sidewalk; however, the officer issuing the permit may specify a larger number in the designated area when, in his or her judgment, conditions permit a higher concentration. A **DESIGNATED AREA** is defined as the entire width of the street or sidewalk within a distance measured along its length for 100 feet.

(Prior Code, § 66.03) Penalty, see § 10.99

§ 95.04 RIGHT OF APPEAL UPON DENIAL OF PERMIT APPLICATION; ALTERNATIVE PERMIT.

(A) *Notice of rejection.* The designated official shall act upon the application for a parade permit within two days after the filing thereof. If the designated official disapproves the application, he or she shall notify the applicant within two days after the date upon which the application was filed of his or her action, stating the reason for his or her denial of the permit.

(B) *Appeal procedure.* Any person aggrieved shall have the right to appeal the denial of a parade permit to the Town Council. The appeal shall be taken within five days after notice. The Town Council shall act upon the appeal within five days after its receipt.

(C) *Alternative permit.* The designated official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall within five days after notice of the action of the designated official file a written notice of acceptance with the designated official. An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under the provisions of this chapter.

(Prior Code, § 66.04)

§ 95.05 REGULATIONS CONCERNING PARADES, PICKET LINES AND DEMONSTRATIONS.

(A) In any parade, picket line or group demonstration, it shall be unlawful:

(1) For any minor below the age of 18 years to participate or be allowed to participate, and any person encouraging, leading or allowing a minor to participate, unless a permit therefor has been issued, shall be guilty of a violation of this section;

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(2) For any person to lead, guide, participate in or in any way support or encourage a parade, picket line or group demonstration when a minor below the age of 18 years is participating therein, unless a permit for the participation by the minor has been issued;

(3) For any parent to knowingly permit any child under 18 years of age to participate in a parade, picket line or group demonstration, unless a permit for participation by a minor has been issued; and

(4) To cause, participate in, lead or encourage any parade, picket line or group demonstration to deviate in any manner from the authority therefor specified in the permit.

(B) No person shall hamper, obstruct, impede or interfere with such activity or any person participating therein. Law enforcement officers are authorized to establish lines for separation of the general public from such activity and it shall be unlawful to violate the provisions of this division (B) or cross these lines.

(C) No parade, picket line or group demonstration is permitted in any public building or structure. (Prior Code, § 66.05) Penalty, see § 10.99

§ 95.06 REGULATIONS CONCERNING PUBLIC MEETINGS, SPEECHES AND GATHERINGS.

(A) No person, firm or corporation shall obstruct or block any street or sidewalk in the town.

(B) Any public meeting, speech or gathering shall be conducted only on a sidewalk and at a minimum of 50 feet from any street corner.

(C) The speaker shall not interfere or permit members of the gathering to interfere with the orderly movement of vehicular and pedestrian traffic on the streets or sidewalks of the town. The speaker shall not become so loud in his or her speech or violent in his or her movements as to annoy or frighten persons using the streets, sidewalks or adjacent properties.

(D) The speaker shall not conduct any public meeting or deliver an address except during the hours set forth in the specific permit. (Prior Code, § 66.06) Penalty, see § 10.99

§ 95.07 REVOCATION OF PERMIT.

Upon violation of the terms of the permit by those participating, the designated official as may then be in charge is authorized to then revoke the permit and direct those participating to disperse. (Prior Code, § 66.07) Penalty, see § 10.99

§ 95.08 EXCEPTIONS.

This chapter shall not apply to:

(A) Funeral processions;

(B) Students going to and from school classes or participating in educational activities where the activity is under the immediate supervision and direction of proper school authorities; and

(C) A governmental agency acting within the scope of its functions.

(Prior Code, § 66.08)

CHAPTER 96: COMMUNITY APPEARANCE STANDARDS

Section

- 96.01 Legislative finding
- 96.02 Conditions unlawful
- 96.03 Enforcement

§ 96.01 LEGISLATIVE FINDING.

It is hereby found and determined that there exist within the area subject to the zoning jurisdiction of the town premises that, because of the existence of the conditions herein determined to be unlawful, constitute a visual blight and detriment upon the surrounding neighborhood and create substantial and unreasonable interference with the reasonable and lawful use and enjoyment of other premises in the neighborhood, or such conditions inhibit property values, interfere with the public health and safety. (Ord. passed 8-27-2015)

§ 96.02 CONDITIONS UNLAWFUL.

The existence of any of the following conditions on any lot or parcel of land within the zoning jurisdiction of the town is hereby declared to be unlawful and a violation of the provisions of this section:

(A) Any of the following conditions in open space (for the purposes of this section, *OPEN SPACE* is defined as areas of properties or portions thereof that are open to the exterior, including buildings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards):

(1) Any litter consisting of human-made and used materials which is scattered, cast, thrown, blown, placed, swept or deposited anywhere on a persistent, continuous or ongoing basis so as to accumulate on any property in open places. The owner and occupant of any dwelling, including glass, bottles, waste paper, paper napkins, cartons, package containers and other used or waste materials intentionally or unintentionally scattered, discarded, thrown or haphazardly left on such premises on a continuous, ongoing or persistent basis, such as waste or ensuring that same is placed in approved refuse containers and/or locations for collection for the town;

(2) Any worn-out, deteriorated or abandoned household or office furniture, appliances or similar products of any kind which are kept in open spaces; and

(3) Any junk, waste materials, unusable building materials, trash, garbage, barrels, cans, papers bricks and other litter, refuse, rubbish or combustible materials which is scattered, cast, placed or deposited in a yard or yards, so as to constitute an accumulation or concentration in an open area.

(B) The presence, accumulation, storage or placement of:

(1) Any indoor furniture situated on porches and in yards (couches, recliners and the like); and

(2) (a) Junk, including, but not limited to, deteriorated, unusable or inoperative furniture, appliances, machinery, equipment, building materials and tires or any human-made items.

(b) Whether stored on a residential or nonresidential property such storage of junk shall be maintained in such a manner so as to prevent overgrown or an infestation of wild animals.

(Ord. passed 8-27-2015) Penalty, see § 10.99

§ 96.03 ENFORCEMENT.

Enforcement of this chapter will follow the enforcement provisions of Chapter 93 of this code of ordinances.

(Ord. passed 8-27-2015)