

## **TITLE IX: GENERAL REGULATIONS**

### **Chapter**

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## CHAPTER 90: ABANDONED, NUISANCE, AND JUNKED MOTOR VEHICLES

### Section

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### § 90.01 ADMINISTRATION.

The Police Department and the Town Code Administrator shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets

and highways within the town, and on property owned by the town. The Town Code Administrator shall be responsible for administering the removal and disposal of "abandoned", "nuisance" and "junked" motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department and Volunteer Fire Department in enforcing other laws or in otherwise carrying out their duties.  
(Ord. passed 9-8-2008)

### § 90.02 DEFINITIONS.

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

**ABANDONED VEHICLE.** As authorized and defined in G.S. § 160A-303, an abandoned vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left upon a public street or highway for longer than 7 days;
- (3) Is left upon property owned or operated by the town for longer than 24 hours; or
- (4) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than 2 hours.

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**AUTHORIZED OFFICIAL.** The supervisory employee of the Police Department or the Town Code Administrator, respectively, designated to order the removal of vehicles under the provisions of this chapter.

**JUNKED MOTOR VEHICLE.** As authorized and defined in G.S. § 160A-303.2, 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 move in the manner in which it originally was intended to move; or
- (3) Is more than 5 years old and appears to be worth less than \$100.

**MOTOR VEHICLE or VEHICLE.** All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

**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 mosquitos, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation which exceeds 8 inches in height;
- (3) In a condition allowing the collection of pools or ponds of water;
- (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
- (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods;

(6) So situated or located that there is a danger of it falling or turning over;

(7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.

(Ord. passed 9-8-2008)

### § 90.03 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 herein.

(B) Upon investigation, the authorized officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.  
(Ord. passed 9-8-2008) Penalty, see § 10.99

### § 90.04 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, lessee, 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, the Town Code Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.  
(Ord. passed 9-8-2008) Penalty, see § 10.99

**§ 90.05 JUNKED MOTOR VEHICLE  
REGULATED, REMOVAL AUTHORIZED.**

(A) It shall be unlawful for the registered owner or 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 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 herein, on the premises of private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(C) It shall be unlawful for the 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 location requirements or the concealment requirements of this section.

(D) Subject to the provisions of division (E) of this section, the Town Code Administrator may order the removal of a junked motor vehicle found in violation of this chapter to a storage garage or area. No such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Code Administrator finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. The finding 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 residents.

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

(1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Town of Long View Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable covering for not more than 60 calendar days. Junked motor vehicles kept on the premises more than 60 calendar days shall be kept inside a completely enclosed building. The Town Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this division. The covering must remain in good repair and must not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in the preamble of the ordinance codified herein.

(2) Any 1 or more junked motor vehicles kept for a period exceeding 60 calendar days shall be kept within a completely enclosed building, as defined in the Town of Long View Zoning Ordinance. (Ord. passed 9-8-2008) Penalty, see § 10.99

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

(A) Except as set forth in § 90.07, 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 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 a written record to show the name(s) and address(es) to whom and 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 a specified date (no sooner than 7 days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than 7 days after the notice is mailed or affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and 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 Board of Aldermen in writing, heard at the next regularly scheduled meeting of the Board of Aldermen, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. passed 9-8-2008)

#### **§ 90.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.**

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorized official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records.

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

(1) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Aldermen hereby determines that the 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 restrictions.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicle left on town-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorized official finds a special 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.

(Ord. passed 9-8-2008)

#### **§ 90.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.**

(A) Any abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage

or area by a tow truck operator or towing business contracted to perform such services for the town. Whenever such a vehicle is removed, the authorized town official shall immediately notify the last known registered owner of the vehicle, with the notice to include the following:

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

(B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, indicating the information set forth in divisions (A)(1) through (5) 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.

(C) 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 removal of the vehicle.

(D) Whenever an abandoned, nuisance, or junked motor vehicle is removed and the vehicle has no valid registration or registration plates, the authorized town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(1) through (5) above.  
(Ord. passed 9-8-2008)

#### **§ 90.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.**

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor vehicle, the owner or any 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 requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.

(Ord. passed 9-8-2008)

#### **§ 90.10 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 fees, including any 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.

(Ord. passed 9-8-2008) Penalty, see § 10.99

#### **§ 90.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.**

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. Ch. 44A, Art. 1.

(Ord. passed 9-8-2008)

**§ 90.12 CONDITIONS ON 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 the 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 the vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Code Administrator. 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 any loss, expense or liability incurred because of the removal, storage, or sale thereof.

(Ord. passed 9-8-2008)

**§ 90.13 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 an abandoned, nuisance, or junked motor vehicle, for disposing of the vehicle as provided in this chapter.

(Ord. passed 9-8-2008)

**§ 90.14 EXCEPTIONS.**

Nothing in this chapter shall apply to any vehicle:

(A) Which is located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S. § 136-143, in accordance with the "Junkyard Control Act", G.S. §§ 136-141, *et seq.*;

(B) Which is in an enclosed building;

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner; or

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

(Ord. passed 9-8-2008)

**§ 90.15 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 chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ord. passed 9-8-2008) Penalty, see § 10.99



## CHAPTER 91: ANIMALS

### Section

#### *General Provisions*

- 91.01 Bird sanctuary
- 91.02 Keeping of fowl and livestock regulated; dangerous or offensive animals
- 91.03 Abuse prohibited
- 91.04 Rabies inoculation required for dogs and cats
- 91.05 Pets on town property prohibited

#### *Dogs*

- 91.20 Running at large prohibited
- 91.21 Capture and confinement of at-large dogs
- 91.22 Excessive barking
- 91.23 Vicious dogs
- 91.24 Teasing, molesting, and baiting
- 91.25 Enforcement

#### *Cats*

- 91.40 Duty of owner to restrain
- 91.41 Running at large; capture; disposal

#### *Statutory reference:*

*Dangerous dogs, see G.S. §§ 67-4.1 through 67-4.4*

*Rabies, see G.S. §§ 130A-184 et seq.*

#### **GENERAL PROVISIONS**

(B) It shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest any bird or wild fowl or to rob bird nests or wild fowl nests; provided, if starlings, pigeons, or similar birds are found congregating in a particular area and constitute a nuisance or menace to health or property in the opinion of town authorities, those birds may be destroyed by or under the supervision of the Police Chief.

(1994 Code, § 91.01) Penalty, see § 10.99

#### **§ 91.02 KEEPING OF FOWL AND LIVESTOCK REGULATED; DANGEROUS OR OFFENSIVE ANIMALS.**

(A) *Fowl.* No person shall maintain, harbor, or keep within the town limits any fowl, meaning any chicken, game rooster, goose, duck, guinea, or any other fowl.

(B) *Livestock.* No person shall maintain, harbor, or keep within the town limits any pig, hog, goat, sheep, horse, or other livestock.

(Ord. passed 6-28-1988; Am. Ord. passed 6-13-2011)

(C) *Dangerous or offensive animals.* No person shall maintain or harbor within the town limits any animal dangerous to persons or property or offensive to the senses, except by written authorization of the Board of Alderpersons.

(1994 Code, § 91.02) Penalty, see § 10.99

#### **§ 91.01 BIRD SANCTUARY.**

(A) The entire area embraced within the corporate limits of the town is hereby designated a bird sanctuary.

**§ 91.03 ABUSE PROHIBITED.**

It shall be unlawful for any person to physically torture or abuse any animal.

(1994 Code, § 91.03) Penalty, see § 10.99

**§ 91.04 RABIES INOCULATION REQUIRED FOR DOGS AND CATS.**

No dog or cat shall be permitted within the corporate limits of the town unless it has been inoculated against rabies as required by the General Statutes and proof of the inoculation shall be attached to the dog or cat.

(1994 Code, § 91.04) (Ord. passed 6-28-1988) Penalty, see § 10.99

**§ 91.05 PETS ON TOWN PROPERTY PROHIBITED.**

(A) It shall be unlawful for the owner of any pet to allow it to be on the grounds of any town property where signs prohibiting the presence of the animals are erected or posted and the signs are unobstructed and clearly visible.

(B) This section does not apply to animals that are specifically trained to assist handicapped persons. (Ord. passed 4-5-94)

**DOGS****§ 91.20 RUNNING AT LARGE PROHIBITED.**

(A) It shall be unlawful for the owner of a dog, male or female, to permit it to be off the owner's premises and not under control either by a leash, cord, chain, or some other mechanical device whereby the dog is physically held under the immediate control of the owner or other responsible person who is placed in charge of the dog.

(B) For the purpose of §§ 91.20 *et seq.*, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**OWNER.** Any person owning, keeping, or harboring a dog.

(1994 Code, § 91.15) Penalty, see § 10.99

**§ 91.21 CAPTURE AND CONFINEMENT OF AT-LARGE DOGS.**

All dogs within the corporate limits of the town which are found running at large without being under control, as defined in § 91.20, shall be captured by the duly authorized personnel of the town and confined in the Catawba County animal shelter to be confined and disposed of as provided by the ordinances of the county.

(1994 Code, § 91.16)

**§ 91.22 EXCESSIVE BARKING.**

It shall be unlawful for the owner of a dog or the owner of a premises wherein a dog is kept within the town to keep a dog that habitually and repeatedly barks in a manner or to the extent it becomes a public nuisance.

(1994 Code, § 91.17) Penalty, see § 10.99

**§ 91.23 VICIOUS DOGS.**

(A) It shall be unlawful for any person to own, keep, have charge of, shelter, feed, harbor, or take care of any vicious dog within the corporate limits of the town.

(B) A vicious dog is any dog which has bitten 1 or more persons or a dog which has shown on at least 2 or more occasions a propensity to attack humans and that propensity is known or reasonably should be known to the owner.

(1994 Code, § 91.18) Penalty, see § 10.99

**§ 91.24 TEASING, MOLESTING, AND BAITING.**

It shall be unlawful for any person to tease, molest, bait, or in any way bother any dog not belonging to him or her or legally under his or her control, unless it is in the act of injuring the property of the person.

(1994 Code, § 91.19) Penalty, see § 10.99

**§ 91.25 ENFORCEMENT.**

The Town Administrator is hereby authorized and directed to employ the methods and means as he or she may deem necessary to implement and enforce this subchapter and to employ the personnel and make the expenditures as may be necessary in order to fully carry out the meaning and intent of this subchapter.

(1994 Code, § 91.21)

**§ 91.41 RUNNING AT LARGE; CAPTURE; DISPOSAL.**

All cats within the corporate limits of the town which are found running at large without being under control, as defined by § 91.40, shall be captured by the duly authorized personnel of the town and confined and disposed of in the same manner as dogs may be disposed of in the preceding subchapter.

(1994 Code, § 91.31) (Ord. passed 3-1-1977)

**CATS****§ 91.40 DUTY OF OWNER TO RESTRAIN.**

(A) It shall be unlawful for the owner of a cat, male or female, to permit it to be off the owner's premises and not under control either by a leash, cord, chain, or by some other mechanical device whereby it is physically held under the immediate control of the owner or other responsible person who is placed in charge of it.

(B) For the purpose of §§ 91.40 *et seq.*, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**OWNER.** Any person owning, keeping, or harboring a cat.

(1994 Code, § 91.30) (Ord. passed 3-1-1977)  
Penalty, see § 10.99



## CHAPTER 92: FIRE PREVENTION AND PROTECTION

### Section

#### *General Provisions*

- 92.01 Fire limits
- 92.02 Primary fire limits

#### *Structure Burning*

- 92.15 Request to town by owner
- 92.16 Distribution to town officials; title search; approval by Board of Alderpersons
- 92.17 Fire Chief to oversee
- 92.18 Bond or security to be posted for particularly dangerous instances
- 92.19 Asbestos inspection
- 92.20 State Fire Prevention Code adopted by reference

#### *Permits for Burning*

- 92.35 Issuance; fee
- 92.36 Responsibility

### **GENERAL PROVISIONS**

#### **§ 92.01 FIRE LIMITS.**

The fire limits, described by metes and bounds, shall be constituted as follows: beginning at the middle of the intersection of 2nd Avenue Southwest and 24th Street Southwest and runs thence with the center line of 24th Street in a northerly direction until it intersects with the center line of the Southern Railway; thence with the center line of the Southern

Railway right-of-way in a westerly direction until the center line intersects with 27th Street Southwest as extended; thence in a southerly direction with the center line of 27th Street Southwest until it intersects with the center line of 2nd Avenue Southwest as the Avenue is extended westerly, near the southwestern corner of number 213-27th Street Southwest; thence in an easterly direction with the center line of 2nd Avenue Southwest and as same extends westerly to the point of beginning.  
(1994 Code, § 92.01) (Am. Ord. passed 5-4-1993)

#### **§ 92.02 PRIMARY FIRE LIMITS.**

(A) There is hereby established a primary fire limits within the town limits of the Town of Long View, the primary fire limits described as that area shown in blue on map on file with the town which the map bears the notation "Long View Fire District 1."

(B) Within the primary fire limits, the restrictions of G.S. § 160A-436 shall apply.  
(Ord. 5-02, passed 9-3-2002)

### **STRUCTURE BURNING**

#### **§ 92.15 REQUEST TO TOWN BY OWNER.**

A written request by the lawful owner of the building to be burned shall be presented to the Fire Chief. The request shall specify the exact location of the building to be burned, a statement of indemnity to protect the town from any and all claims from

damages or liabilities arising from the burning of the proposed building. The written request shall be furnished by the Fire Chief and may contain other and further information as the Chief may designate from time to time.

(1994 Code, § 92.15)

**§ 92.16 DISTRIBUTION TO TOWN OFFICIALS; TITLE SEARCH; APPROVAL BY BOARD OF ALDERPERSONS.**

(A) Upon receipt of the request to burn, the Fire Chief immediately shall furnish a copy of it to the Town Administrator, the Mayor, the Town Clerk, Town Attorney, and each Alderman.

(B) (1) Upon receipt of a copy of the request, the Town Attorney immediately shall check the title to the property to be destroyed and shall certify the results of the title check to the Fire Chief in writing.

(2) If the certificate of title shows the owners requesting the burning indeed are the lawful owners of the property, the Chief shall present a written request to the next called or regularly scheduled meeting of the Board of Alderpersons.

(3) The request shall ask the Board to approve the request for the burning of the structure in question.

(C) If the Board is satisfied the request is in order and the proper safeguards have been followed and will be followed in the burning of the property, the Board may approve the request for burning.

(1994 Code, § 92.16)

**§ 92.17 FIRE CHIEF TO OVERSEE.**

If the Board of Alderpersons approves the burning, as provided in § 92.16, the Fire Chief shall proceed with the burning, taking into consideration the safety of the lives and property of all citizens and, in particular, the lives and property of adjoining landowners or occupants.

(1994 Code, § 92.17)

**§ 92.18 BOND OR SECURITY TO BE POSTED FOR PARTICULARLY DANGEROUS INSTANCES.**

If the requested burning appears to be particularly dangerous, the Fire Chief, in his or her sole discretion, may require the requesting party to post bond or other security to indemnify the town against all claims for damages arising from the burning.

(1994 Code, § 92.18)

**§ 92.19 ASBESTOS INSPECTION.**

Due to state requirements, asbestos inspections and sample fee to be paid by owner.

(1994 Code, § 92.19)

**§ 92.20 STATE FIRE PREVENTION CODE ADOPTED BY REFERENCE.**

The town hereby adopts the State Fire Prevention Code, Volume 5, and the 2002 Edition of the North Carolina Building Code (2000 International Fire Code with North Carolina amendments), and any amendment thereto by reference and shall be construed to be a part of this code as if fully set forth herein.

(1994 Code, § 92.20) (Ord. passed 12-5-1989; Am. Ord. 7-1-1991)

***PERMITS FOR BURNING***

**§ 92.35 ISSUANCE; FEE.**

(A) Burning permits will be issued by the Fire Chief, Fire Marshal, or his or her assistant on Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. at the Fire Department offices. A fee of \$5 will be charged for a residential burning permit and a fee of \$10 for a commercial or industrial burning permit. The burning permit is good for 2 weeks from date of issuance.

(1994 Code, § 92.30) (Ord. passed 5-2-1989; Am. Ord. passed 5-4-1993)

(B) No person shall kindle or maintain any bonfire or other outdoor fire or authorize the fire to be kindled or maintained without a permit or other proper authorization. No permit shall be issued for the burning of refuse that is in violation of any state or local air quality open burning regulation.

(Ord. 9-96, passed 8-6-1996) Penalty, see § 10.99

**§ 92.36 RESPONSIBILITY.**

The person conducting the burning is responsible for any damage which may result from that burning. The authority to conduct open burning under the provisions of state and local ordinances does not excuse any person from the consequences, damages, or injuries resulting from the burning.

(1994 Code, § 92.31) (Ord. passed 5-2-1989)





## CHAPTER 93: NOISE CONTROL

### Section

#### *General Provisions*

- 93.01 Certain noises prohibited
- 93.02 Certain acts prohibited
- 93.03 Unreasonable sound amplification

#### *Sound Emission Standards*

- 93.15 Definitions
- 93.16 Noise pollution prohibited; compliance
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- 93.18 Burden of persuasion
- 93.19 Sound emission standards
- 93.20 Exceptions
- 93.21 Compliance
- 93.99 Penalty
- Appendix A: Noise standards and allowable octave band sound pressure levels

#### **GENERAL PROVISIONS**

##### **§ 93.01 CERTAIN NOISES PROHIBITED.**

(A) It shall be unlawful for any person to create or assist in creating, to permit, continue, or permit the continuance of any unreasonably loud, disturbing, and unnecessary noise in the town.

(B) Noise of a character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

(1994 Code, § 93.01) Penalty, see § 93.99

##### **§ 93.02 CERTAIN ACTS PROHIBITED.**

The following acts, among others, are declared unreasonably loud, disturbing, and unnecessary noises in violation of this section, but it shall not be deemed exclusive; namely:

(A) The sounding of any horn or signal device or any 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 after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any signal device of any unreasonably loud or harsh sound and the sounding of the device for an unnecessary and unreasonable period of time;

(B) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;

(C) (1) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker, or any other instrument or sound amplifying devices so loudly as to disturb persons in the vicinity thereof.

(2) Permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(D) 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;

(E) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in a manner as to create loud or unnecessary grating, grinding, rattling, or other noise or in the manner as to cause squealing or screeching of tires, or in the manner as to cause the tires to propel rock, sand, or gravel;

(F) 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;

(G) 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 effectively will prevent loud or explosive noises therefrom;

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

(I) The erection, including excavation, demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Code Enforcement Officer, which may be renewed for a period of 3 days or fewer while the emergency continues;

(J) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court, while the same is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of the institution; provided, conspicuous signs are displayed in the streets indicating the same is a school, court, or hospital street;

(K) The creation of any excessive noise on Sundays on any street adjacent to any church; provided, conspicuous signs are displayed in the streets adjacent to churches indicating they are church streets;

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

(M) 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;

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

(O) The use of any drum, loud speaker, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise;

(P) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising purposes except where the specific license is received from the Board of Alderpersons;

(Q) The conducting, operating, or maintaining of any garage or service station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11:00 p.m. and 7:00 a.m.;

(R) The firing or discharging of a gun, squibs, crackers, gunpowder, or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Board of Alderpersons; and/or

(S) The crying, yelling, and/or shouting of any persons that disturbs the peace and quiet of the neighborhood.

(1994 Code, § 93.02) (Ord. passed 12-4-1973; Am. Ord. passed 6- -1988) Penalty, see § 93.99

### **§ 93.03 UNREASONABLE SOUND AMPLIFICATION.**

(A) (1) Excessive and unnecessary noise creates a significant threat to the public health, safety, and welfare.

(2) There has been an alarming increase in the frequency and volume of noise from the many sound-reproducing devices available today.

(3) It is the intent of this section to strike an appropriate balance between the right of individuals to obtain information and derive pleasure by listening to radios and other devices, and the right of the public to a peaceful and healthful environment.

(B) Noise described in division (C) below is hereby declared unreasonable, dangerous to the public health, safety, and welfare, and shall be illegal unless exempted herein.

(C) It shall be unlawful for any person to play, use, or otherwise operate, either from a motor vehicle, as a pedestrian, or from a residential property, any radio, tape player, or other sound amplification device emitting sound that is audible from a distance of 50 or more feet from the source of the sound, unless the device is being used to request assistance or warn against an unsafe condition.

(D) This section shall not apply to any of the following:

(1) Public safety personnel, when responding to an emergency call or engaged in other official business;

(2) Persons engaged in a lawful assembly, procession, or community event;

(3) The operator of a public utility vehicle, when utilizing 2-way communications equipment;

(4) The operator of a vehicle being used for advertising purposes in accordance with existing ordinances; and/or

(5) The activation of a theft alarm signal device.

(1994 Code, § 93.03) (Ord. passed 6-22-1993)  
Penalty, see § 93.99

## ***SOUND EMISSION STANDARDS***

### **§ 93.15 DEFINITIONS.**

(A) All definitions of acoustical terminology shall be in conformance with those contained in A.N.S.I. S1.1-1960, "Acoustical Terminology."

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

**A.N.S.I.** American National Standards Institute or its successor bodies.

**BOUNDARY, INDUSTRIAL.** Outer markers or boundary lines encompassing a tract or parcel of land used or zoned for industrial use.

**BOUNDARY, RESIDENTIAL.** Outer marker or boundary lines encompassing a tract or parcel of land used or zoned for residential use.

**CONSTRUCTION.** On-site erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, including but not restricted to clearing of land, earth moving, blasting, and landscaping.

**DAYTIME HOURS.** 7:00 a.m. to 10:00 p.m., local time.

**dB(A).** Sound level in decibels determined by the A-weighting of a sound level meter.

**DECIBEL (dB).** A unit of measure, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure which, for the purpose of this chapter, shall be 0.0002 microbars.

**EXISTING PROPERTY LINE NOISE SOURCE.** Any property line noise source, the construction or reestablishment of which began before 12-4-1973.

**IMPULSIVE SOUND.** Either a single pressure peak or a single burst (multiple pressure peaks) for a duration less than one second.

**NEW PROPERTY LINE NOISE SOURCE.** Any property line noise source, the establishment of which began on or after 12-4-1973.

**NIGHTTIME HOURS.** 10:00 p.m. to 7:00 a.m., local time.

**NOISE POLLUTION.** The emission of sound that unreasonably interferes with the enjoyment of life or with any lawful business or activity.

**OCTAVE BAND SOUND PRESSURE LEVEL.** The sound pressure level for the sound being measured contained within the specified octave band. The reference pressure is 0.0002 microbars.

**PREFERRED FREQUENCIES.** Those frequencies, in Hertz, preferred for acoustical measurements which, for the purpose of this chapter, consist of the following set of values: 20, 25, 31.5, 40, 50, 63, 80, 100, 125, 160, 200, 250, 315, 400, 500, 630, 800, 1,000, 1,250, 1,600, 2,000, 2,500, 3,150, 4,000, 5,000, 6,300, 8,000, 10,000, and 12,500.

**PROMINENT DISCRETE TONE.** Sound, having a 1/3 octave band sound pressure level which, when measured in a 1/3 octave band at the preferred frequencies, exceeds the arithmetic average of the sound pressure levels of the 2 adjacent 1/3 octave bands on either side of the 1/3 octave band by:

(1) Five dB for the 1/3 octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive, provided, the 1/3 octave band sound pressure level exceeds the sound pressure level of each adjacent 1/3 octave band;

(2) Eight dB for the 1/3 octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive, provided, the 1/3 octave band sound pressure level exceeds the sound pressure level of each adjacent 1/3 octave band; or

(3) Fifteen dB for the 1/3 octave and with a center frequency from 25 Hertz to 125 Hertz, inclusive, provided, the 1/3 octave band sound pressure level exceeds the sound pressure level of each adjacent 1/3 octave band.

**PROPERTY LINE NOISE SOURCE.** Any equipment of facility or combination thereof which operates within any land use as specified by this chapter. The equipment or facility or combination thereof must be capable of emitting sound beyond the property line on the land on which operated.

**SOUND.** An oscillation in pressure in air.

**SOUND LEVEL.** In decibels, a weighted sound pressure level, determined by the use of metering characteristics and frequency weightings specified in A.N.S.I. S1.4-1971 "Specification for Sound Level Meters."

**SOUND PRESSURE LEVEL.** In decibels, 20 times the logarithm to the base ten of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 0.0002 microbars.  
(1994 Code, § 93.10) (Ord. passed 12-4-1973)

## **§ 93.16 NOISE POLLUTION PROHIBITED; COMPLIANCE.**

No person shall cause or allow the emission of sound beyond the boundaries of his or her property so as to cause noise pollution in, or so as to violate any provisions of this chapter.  
(1994 Code, § 93.11) (Ord. passed 12-4-1973)  
Penalty, see § 93.99

## **§ 93.17 MEASUREMENT TECHNIQUES.**

Test procedures to determine whether emission of sound is in conformance with this chapter shall be in substantial conformity with Standards and Recommended Practices established by the American National Standards Institute, Inc. (A.N.S.I.), and the

Society of Automotive Engineers, Inc. (SAE) and the latest revisions thereof, including A.N.S.I. S1.1-1960, A.N.S.I. S1.6-1967, A.N.S.I. S1.8-1969, A.N.S.I. S1.1-1962, A.N.S.I. S1.4-1971-Type 1 Precision, A.N.S.I. S1.11-1966, A.N.S.I. S1.13-1971-Field Method, SAE J-184.

(1994 Code, § 93.12) (Ord. passed 12-4-1973)

### **§ 93.18 BURDEN OF PERSUASION.**

In any proceeding pursuant to this chapter, if any exception stated in this chapter would limit an obligation, limit a liability, or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of persuasion that the exception applies and that the terms of the exception have been met. The appropriate town officials and their designees shall cooperate with and assist persons in determining the application of the provisions of this chapter.

(1994 Code, § 93.13) (Ord. passed 12-4-1973)

### **§ 93.19 SOUND EMISSION STANDARDS.**

(A) No person shall cause or allow the emission of sound during daytime or nighttime hours from any property line noise source which exceeds the sound level values specified in division (A) of Appendix A at the end of this chapter when measured at any point on the adjoining property boundary line.

(B) No person shall cause or allow the emission of sound during daytime or nighttime hours from any property line noise source which exceeds the sound pressure levels specified in division (B) of Appendix A at the end of this chapter when measured at any point on the adjoining property boundary line.

(C) No person shall cause or allow the emission of any prominent discrete tone from any property line noise source location.

(D) The limitation in division (C) above shall not apply to discrete tones having a 1/3 octave band sound pressure level 5 decibels or more below the equivalent

levels indicated in division (B) of Appendix A at the end of this chapter, when measured at the indicated preferred frequencies at any point on the adjoining property boundary line.

(E) No person shall cause or allow the emission of impulsive sound from any noise source that exceeds the dB(A) sound levels specified in division (A) of Appendix A at the end of this chapter, when measured at any point along the boundary.

(1994 Code, § 93.14) (Ord. passed 12-4-1973)  
Penalty, see § 93.99

### **§ 93.20 EXCEPTIONS.**

The sound emission standards defined herein shall not apply to the following sources:

(A) Emergency warning devices;

(B) Lawn care equipment and agricultural field equipment used during the daytime hours; and

(C) Equipment being used for construction.  
(1994 Code, § 93.15) (Ord. passed 12-4-1973)

### **§ 93.21 COMPLIANCE.**

(A) Every owner or operator of a new property line noise source shall comply with the standards and limitations defined herein on and after the indicated effective date of passage.

(B) The owner or operator of an existing property line noise source shall comply with the standards and limitations defined herein on or after 12-12-1974.

(C) Every owner or operator of an existing property line noise source that exists along a residential boundary and exceeds the allowed octave band sound pressure levels by 10 decibels in any 1 band shall comply with the standards and limitations defined herein on or 6 months from 12-12-1973.

(1994 Code, § 93.16) (Ord. passed 12-4-1973)  
Penalty, see § 93.99

**§ 93.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no penalty is prescribed shall be subject to § 10.99.

(B) A violation of § 93.03 shall be a misdemeanor. The first offense shall result in the offender being issued a uniform citation from the charging officer and the penalty will be court costs. Second and all subsequent offenses will be court costs plus \$50.

(1994 Code, § 93.99) (Ord. passed 6-22-1993)

**APPENDIX A: NOISE STANDARDS AND  
ALLOWABLE OCTAVE BAND SOUND PRESSURE LEVELS**

(A) *Recommended boundary noise standards.*

<i>Type of Boundary</i>					
<i>Residential-Residential</i>		<i>Residential-Industrial</i>		<i>Industrial-Industrial</i>	
<i>Day</i>	<i>Night</i>	<i>Day</i>	<i>Night</i>	<i>Day</i>	<i>Night</i>
55 dB(A)	50 dB(A)	60 dB(A)	55 dB(A)	70 dB(A)	70 dB(A)

(B) *Allowable octave band sound pressure levels emitted at the defined boundary.*

<i>Octave Band Center Frequency (Hz)</i>	<i>Type of Boundary</i>					
	<i>Residential-Residential</i>		<i>Commercial-Residential</i>		<i>Commercial-Commercial</i>	
	<i>Day</i>	<i>Night</i>	<i>Day</i>	<i>Night</i>	<i>Day</i>	<i>Night</i>
31.5	72	67	77	72	87	87
63	71	66	76	71	86	86
125	65	60	70	65	80	80
250	57	52	62	57	72	72
500	51	46	56	51	66	66
1,000	45	40	50	45	60	60
2,000	40	35	45	40	55	55
4,000	38	33	43	38	53	53
8,000	37	32	42	37	52	52

(1994 Code, Chapter 93, App. A)





## CHAPTER 94: PARADES; PICKETS; DEMONSTRATIONS

### Section

#### *Parades; Processions and Meetings*

- 94.01 Definitions
- 94.02 Permit required
- 94.03 Application; designation of route
- 94.04 Restricted hours for parades and processions
- 94.05 Interfering with and addressing abusive language to participants
- 94.06 Conducting or participating in to create public disturbance
- 94.07 Use of abusive language by participants and like behavior

#### *Picketing*

- 94.20 Permitted; conditions
- 94.21 Interfering with or addressing abusive language and the like toward pickets
- 94.22 Authority of police to disperse assemblies
- 94.23 Duty to disperse upon police order

### **PARADES; PROCESSIONS AND MEETINGS**

#### **§ 94.01 DEFINITIONS.**

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

**MEETING.** Any assembly, together or concert of action between or among 5 or more persons, for the purpose of protesting any matter or of making known any position or promotion of the persons, or of

or on behalf of any organization or class of persons, or for the purpose of attracting attention to the assembly.

**PARADE or PROCESSION.** Any assembly of 5 or more persons participating in or 3 or more vehicles being operated in any march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places, not including a bona fide funeral procession.  
(1994 Code, § 94.01) (Ord. passed 11-1-1988)

#### **§ 94.02 PERMIT REQUIRED.**

No procession or parade shall occupy, march, or proceed along any street, sidewalk, or any other public place, nor shall any person conduct any public or private meeting on any street, sidewalk, or other public place in the town except in accordance with a permit issued by the Chief of Police and other regulations set forth in this subchapter that may apply.  
(1994 Code, § 94.02) (Ord. passed 11-1-1988)  
Penalty, see § 10.99

#### **§ 94.03 APPLICATION; DESIGNATION OF ROUTE.**

(A) A written application shall be made to the Police Chief by any person desiring to have a parade, procession, or meeting, setting forth the object, time, place, and route of the parade or procession or the object, time, and place of the meeting.

(B) The Police Chief shall have the authority to designate the route of the parade or procession and the

portion of the streets or other public places to be used to avoid as much as possible the obstruction or impediment of public travel or public business.

(C) The Chief may refuse to issue a permit for a parade, procession, or meeting unless the application is filed with him or her at least 72 hours before the time thereof.

(D) In the absence of the Chief, the ranking officer of the Police Department shall act in the Chief's name and stead.

(1994 Code, § 94.03) (Ord. passed 11-1-1988)

#### **§ 94.04 RESTRICTED HOURS FOR PARADES AND PROCESSIONS.**

(A) No parade or procession shall be permitted between the hours of 11:30 a.m. and 1:00 p.m. or between the hours of 5:00 p.m. and 6:00 p.m., local time.

(B) No parade or procession shall commence or continue after sunset or commence before sunrise.

(1994 Code, § 94.04) (Ord. passed 11-1-1988)  
Penalty, see § 10.99

#### **§ 94.05 INTERFERING WITH AND ADDRESSING ABUSIVE LANGUAGE TO PARTICIPANTS.**

It shall be unlawful for any person to physically interfere with processions, marches, or meetings or with the persons lawfully engaged therein in the use of any street, sidewalk, or other public place or to address profane, indecent, abusive, or threatening language or other fighting words to or at the participants which would tend to provoke them or others to a breach of the peace.

(1994 Code, § 94.05) (Ord. passed 11-1-1988)  
Penalty, see § 10.99

#### **§ 94.06 CONDUCTING OR PARTICIPATING IN TO CREATE PUBLIC DISTURBANCE.**

It shall be unlawful for any person to conduct or participate in any parade, procession, or meeting of a character, extent, and duration or of the nature to create a public disturbance, or to operate as a nuisance, or to tend to create or threaten rioting, disorderly conduct, or public or private mischief.

(1994 Code, § 94.06) (Ord. passed 11-1-1988)  
Penalty, see § 10.99

#### **§ 94.07 USE OF ABUSIVE LANGUAGE BY PARTICIPANTS AND LIKE BEHAVIOR.**

It shall be unlawful for any person conducting or participating in any parade, procession, or meeting to address profane, indecent, abusive, or threatening language or other fighting words to or at any person which would intend to provoke the person or others to a breach of the peace.

(1994 Code, § 94.07) (Ord. passed 11-1-1988)  
Penalty, see § 10.99

### ***PICKETING***

#### **§ 94.20 PERMITTED; CONDITIONS.**

Peaceful picketing, including demonstrating, in the furtherance of a lawful purpose shall be permitted in the town, provided it is done under the following conditions.

(A) Picketing shall be conducted only on the sidewalks or other town-owned area normally used or reserved for pedestrian movement, including easements and rights-of-way and shall not be conducted on the portion of a street used primarily for vehicular traffic.

(B) Not more than 10 pickets promoting the same objective shall be permitted to use the sidewalks within 1 block in the town at any 1 time.

(C) The pickets may carry written or printed placards or signs not exceeding 2 feet in width and 2 feet in height promoting the objective for which the picketing is done; provided, the words used are not defamatory in nature or would tend to produce violence. The staff on which the placard is carried shall not exceed 40 inches in length, must be made of wood, shall not exceed 3/4 of an inch in diameter at any point and must be blunt at each end.

(D) Picketers must march single file, not abreast, and may not march closer together than 15 feet, except in passing one another.

(E) If pickets promoting different objectives desire to use the same sidewalk for picketing and the use would result in the presence of more than 10 pickets thereon, the Police Chief shall allot time to each group of picketers for the use of the sidewalk on an equitable basis, but each group shall be permitted to picket subject to the provisions of this section at least once every 2 hours.

(F) It shall be unlawful for any picketer to address profane, indecent, abusive, or threatening language to or at any person which would tend to provoke the person or others to a breach of the peace. (1994 Code, § 94.15) (Ord. passed 11-1-1988) Penalty, see § 10.99

#### **§ 94.21 INTERFERING WITH OR ADDRESSING ABUSIVE LANGUAGE AND THE LIKE TOWARD PICKETS.**

It shall be unlawful for any person to physically interfere with any lawful pickets in the use of the sidewalks or to address profane, indecent, abusive, or threatening language to or at the pickets, which would tend to provoke the pickets or others to a breach of the peace. (1994 Code, § 94.16) (Ord. passed 11-1-1988) Penalty, see § 10.99

#### **§ 94.22 AUTHORITY OF POLICE TO DISPERSE ASSEMBLIES.**

Police officers of the town may, in the event of the assembly of persons in numbers that tend to intimidate picketers pursuing their lawful objective, through numbers alone or use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to remove himself or herself from the assembly when so directed by the officers.

(1994 Code, § 94.17) (Ord. passed 11-1-1988)

#### **§ 94.23 DUTY TO DISPERSE UPON POLICE ORDER.**

When the free passage of any street or sidewalk in the town is obstructed by a crowd, the persons composing the crowd shall disperse or move on when so directed by a police officer, as provided in this subchapter.

(1994 Code, § 94.18) (Ord. passed 11-1-1988) Penalty, see § 10.99



## CHAPTER 95: STREETS AND SIDEWALKS

### Section

#### *General Provisions*

- 95.01 Defacing streets and sidewalks
- 95.02 Snow and ice removal
- 95.03 Sidewalks to be kept free of weeds
- 95.04 Lot abutting sidewalk to be mowed
- 95.05 Cellar doors and the like to be kept in good repair
- 95.06 Congregating on streets and like behavior
- 95.07 Discharge of rain water
- 95.08 Construction near sidewalks
- 95.09 Toy vehicles

#### *Excavations*

- 95.20 Permit required
- 95.21 Sidewalk construction permit
- 95.22 Restoration of surface
- 95.23 Safety precautions

#### *Cross-reference:*

*Traffic Code, see Title VII*

### **GENERAL PROVISIONS**

#### **§ 95.01 DEFACING STREETS AND SIDEWALKS.**

It shall be unlawful for any person to write, print, paint, or stamp any words, pictures, or advertisements upon any street or sidewalk, official traffic signs excepted.

(1994 Code, § 95.01) Penalty, see § 10.99

#### **§ 95.02 SNOW AND ICE REMOVAL.**

Every occupant of a store building, in front of which the sidewalk is paved with stone, brick, asphalt, or cement, shall remove snow, ice, or other obstructions from the sidewalk at the earliest possible time and as soon as the weather permits.

(1994 Code, § 95.02) Penalty, see § 10.99

#### **§ 95.03 SIDEWALKS TO BE KEPT FREE OF WEEDS.**

It shall be the duty of all property owners to keep the sidewalks abutting their property clean and free from weeds.

(1994 Code, § 95.03) Penalty, see § 10.99

#### **§ 95.04 LOT ABUTTING SIDEWALK TO BE MOWED.**

It shall be the duty of the occupant of any lot abutting any sidewalk to keep the grass plot adjoining it neatly mowed.

(1994 Code, § 95.04) Penalty, see § 10.99

#### **§ 95.05 CELLAR DOORS AND THE LIKE TO BE KEPT IN GOOD REPAIR.**

The owner of any building or other structure having a cellar door or vault capable of obstructing a sidewalk shall keep it in good repair and level with the plane of the sidewalk.

(1994 Code, § 95.05) Penalty, see § 10.99

**§ 95.06 CONGREGATING ON STREETS AND LIKE BEHAVIOR.**

It shall be unlawful for any person to loiter or congregate on the sidewalk or street or in any manner block the sidewalks or streets by stopping and interfering with pedestrians or vehicles.

(1994 Code, § 95.06) Penalty, see § 10.99

**§ 95.07 DISCHARGE OF RAIN WATER.**

(A) It shall be unlawful for any person to permit or allow storm water from his or her premises to be discharged from any collecting pipe or drain upon any sidewalk within the town.

(B) All those pipes and drains shall be constructed below the sidewalk level.

(1994 Code, § 95.07) Penalty, see § 10.99

**§ 95.08 CONSTRUCTION NEAR SIDEWALKS.**

(A) Before building or remodeling at any place that is close to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage for pedestrians.

(B) The passageway shall be covered if deemed necessary by the Town Administrator.

(1994 Code, § 95.08) Penalty, see § 10.99

**§ 95.09 TOY VEHICLES.**

It shall be unlawful for any person to ride or operate any skateboard, bicycle, scooter, roller skate, moped, cart, or similar device so as to block or impede traffic or as to create a traffic hazard on any street, sidewalk, or public vehicular area inside the corporate limits of the town.

(1994 Code, § 95.09) (Ord. passed 6-7-1988) Penalty, see § 10.99

**EXCAVATIONS****§ 95.20 PERMIT REQUIRED.**

It shall be unlawful for any person to dig any hole, ditch, or excavation of any kind on any street or sidewalk in the town without first securing a permit therefor in writing from the Town Administrator.

(1994 Code, § 95.20) Penalty, see § 10.99

**§ 95.21 SIDEWALK CONSTRUCTION PERMIT.**

No sidewalk or street of any description shall be built by any person without a written permit from the Town Administrator. The construction shall be in accordance with plans and specifications established by the Town Administrator.

(1994 Code, § 95.21) Penalty, see § 10.99

**§ 95.22 RESTORATION OF SURFACE.**

All openings made in any street or sidewalk under the provisions of this subchapter, immediately upon completion of the work, shall be filled in and the surface thereof made flush with the adjacent surfaces. Any hard surface, macadam, or asphalt removed shall be replaced by the town at the expense of the applicant granted permission to open the street or sidewalk, unless the construction is authorized by the Town Administrator under the standards he or she may specify.

(1994 Code, § 95.22) Penalty, see § 10.99

**§ 95.23 SAFETY PRECAUTIONS.**

It shall be unlawful for any person making an excavation for any purpose in any street or sidewalk to fail to:

(A) Keep red flags around the excavation during the day; and/or

(B) Place a sufficient number of red lights around it before dark and to keep the lights burning all night, every night the excavation is open.  
(1994 Code, § 95.23) Penalty, see § 10.99





## **CHAPTER 96: FALSE AND ACCIDENTAL ALARMS**

### **Section**

- 96.01 Fines and penalties for false and accidental alarms
- 96.02 False alarm responses

because police officers are being taken away from other duties and/or could be delayed from responding to an actual need for police assistance.

### **§ 96.01 FINES AND PENALTIES FOR FALSE AND ACCIDENTAL ALARMS.**

(A) This section addresses companies that have sprinkler systems and/or fire alarm systems. Also, it addresses residences that have fire alarm systems which send an alarm to a monitoring company.

(B) During any 30-day period, if the Fire Department has to respond to 2 or more calls to a business or residence, the Fire Department will advise the business or residence to get the system checked and/or fixed. When the Fire Department receives the third call, and every call thereafter during that 30-day period, a charge up to \$200 may be issued to the business or residence; also, a fine of \$50 per day may be issued at the discretion of the Fire Marshal under the direction of the Fire Chief until the system has been corrected as required by the State Fire Prevention Code.

(1994 Code, § 96.01) (Ord. passed 6-22-1993)

(B) If officers from the Police Department respond to false alarms at the same property more than twice in a 30-day period a civil penalty, to be paid by the property owner(s) or the person in control of the property (as applicable), in the amount of \$50 for the third and all subsequent false alarms during the same 30-day period will be paid to the town.

(C) The property owner(s) or the person in control of the property (as applicable) will be notified by being issued a civil summons by the Chief of Police or his or her agent.

(1994 Code, § 96.02) (Ord. passed 6-22-1993)

### **§ 96.02 FALSE ALARM RESPONSES.**

(A) It is the intent of this section to strike an appropriate balance between the property owners' right to have additional security measures and the public's right to expect prompt police response to emergency situations without them being delayed needlessly and excessively. An unnecessary false alarm creates a threat to the public safety and welfare



## CHAPTER 97: GRAFFITI

### Section

- 97.01 Definitions
- 97.02 Graffiti prohibited
- 97.03 Abatement procedures
- 97.04 Enforcement/remedies
- 97.05 Severability

### § 97.01 DEFINITIONS.

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

**COMMERCIAL PROPERTY.** Any structure or area, which is not defined in this section as a governmental or residential property.

**DEFACE.** To cover, mark, write on, paint, color, etch, scratch, engrave, or otherwise mar, disfigure, or draw whatsoever on any governmental, commercial, or private property, being real or personal property of any nature, without the express consent or authorization of the owner.

**GOVERNMENTAL PROPERTY.** A structure or area operated by a government entity.

**GRAFFITI.** Any inscription, word, writing, drawing, figure, mark of paint, ink, chalk, dye or other similar substance, etching, engraving or other defacement (collectively "defacement") by a graffiti implement or chalk or by the application of any material, gum label, paper, fabric or other matter (collectively "matter") with adhesive or other substance which is intended to make the application of the matter permanent or difficult to remove, on public or private property. **GRAFFITI** does not include

temporary, easily removable chalks or other water soluble markings which are used in connection with traditional children's activities such as drawings of bases for ball games, hopscotch and similar activities, nor does it include temporary, easily removable markings used in connection with any lawful business or public purpose or activity and markings used to denote the location of underground utility infrastructure and those used in conjunction with establishing survey control data and location points by survey crews.

**GRAFFITI IMPLEMENT.** Any aerosol paint container or paint applicator or brush, indelible marker containing ink or other pigmented liquid that is not water soluble, stick on label, paint stick, etching equipment or any other device capable of defacing or leaving a visible mark on public or private property.

**PAINT.** Paint, wax, epoxy or similar substance capable of being applied to a surface and leaving defacement.

**PROPERTY OWNER(S).** The owner and such owner's agent or manager, or any other person in lawful control or possession of property if known to the town. The owner of the property shall be deemed to be those persons whose names appear on the tax records as having a financial interest in the property.

**RESIDENTIAL PROPERTY.** Any structure serving as a home, residence, or sleeping place.

**TOWN.** The Town of Long View or its agent.  
(Ord. passed 1-11-2010)

**§ 97.02 GRAFFITI PROHIBITED.**

(A) *Placing graffiti prohibited.* It shall be unlawful for any person, without the express permission or authority of the owner of the property, to deface with graffiti any governmental, commercial, or residential property or any other real property or personal property. Any individual defacing property in violation of this chapter may also be subject to prosecution for such offenses as permitted within the statutes of the State of North Carolina, including but not limited to restitution costs for abatement of the nuisance and damage to property.

(B) *Exemption.* Division (A) above shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets, or other paved surfaces which are used in connection with traditional children's activities, such as drawings or bases for stickball, kickball, handball, hopscotch, or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other easily removable water soluble markings used in connection with any lawful business, public purpose or activity.

(C) *Removing graffiti required.* It shall be unlawful for the owner of any real or personal property or any person acting as manager or agent for the owner of property to fail to remove or effectively obscure any graffiti upon such property. Failure to abate any nuisances shall be deemed unlawful. (Ord. passed 1-11-2010)

**§ 97.03 ABATEMENT PROCEDURES.**

(A) The owner of record of any governmental, commercial, or residential property, being real or personal in nature, or their agents or managers, which has any form of graffiti on any building, structure, or apparatus owned, managed, or operated by the owner or owner's managers, agents, tenants, and employees, shall be required to restore the defaced surface(s) by removing or concealing the graffiti within 10 calendar days after receipt of written notice, by any code

enforcement officer, requiring such removal. Notifications shall be made by personal service or certified mail and regular mail.

(B) *Right of entry on private property.* Prior to entering upon private property or property owned by a public entity other than the town for the purpose of this section, the town shall make a reasonable attempt to secure the consent of the property owner or manager for release of the town from liability for property damage or personal injury. If the property owner or manager fails to remove the offending graffiti within the time specified herein, or the town has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the town and consistent with the terms of this section, the town shall commence abatement and cost recovery proceedings for the graffiti removal according to the provisions specified herein. When any graffiti as defined in this chapter is found on any property, including rights-of-way and easements, within the town or within one mile of the town limits, a code enforcement officer shall have the following authority:

- (1) To enter upon property;
- (2) To obtain an administrative search and inspection warrant, if necessary, as provided in G.S. 15-27.2;
- (3) To issue a notice of violation and impose civil penalties;
- (4) To enter upon or authorize an agent to enter upon and clean up property in violation of this chapter;
- (5) To utilize the services of an outside contractor to remove the graffiti from the property in violation of this chapter.

(C) Notices or orders issued by the code enforcement officer under this chapter shall be served on the owner or property manager of the identified

property by either hand delivery or by certified mail and regular mail. Service by mail shall be deemed complete by depositing the notice or order in the mail at the address listed in the county tax records. When the manner of service is by certified mail and regular mail and the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days of mailing, service is deemed sufficient. The person mailing the notice or order by regular mail shall certify that fact and the date of the mailing, and such certification shall be conclusive evidence of service in the absence of fraud. The notice to remove shall provide:

- (1) The street address or other description of the property sufficient for property identification;
- (2) A description and general location of the graffiti;
- (3) A statement that the property is a public nuisance due to the existence of the graffiti;
- (4) A statement that the graffiti must be removed or effectively obscured within 5 business days after receiving notice to remove and that if the nuisance is not so abated within that time the town will abate the public nuisance at the cost of the property owner as set forth herein;
- (5) Information identifying any graffiti removal assistance available through the town; and
- (6) Information concerning procedures for appeal of the notice.

(D) *Notification.* Notification to the property owner will advise that the conditions that exist on the identified property constitute graffiti and such shall be abated within 10 calendar days of the date of the notification and that failure to abate or remove the graffiti shall result in the assessment of the costs of abatement or removal, imposition of administrative fees, and the assessment of a civil penalty as identified in this chapter. The code enforcement officer may afford the owner additional time to remove or abate

the graffiti if such failure was caused by weather conditions or other factors as determined by the code enforcement officer not to have been within the control of the owner.

(E) *Removal by the town.* When the owner of the property, property manager, or agent fails or refuses to abate the declared nuisance, then the code enforcement officer shall issue to the owner a civil penalty in the amounts stated herein and shall forward to the Revenue Division of the Finance Department a report and invoice for the costs of the abatement of the nuisance, administrative fees and a copy of the civil citation for collection. Such charges shall be assessed against the property owner and shall become a lien upon the property, subject only to the town and county ad valorem taxes thereon. Such charges shall be collected and enforced in the same manner as unpaid taxes.

(F) *Appeals process.* Any property owner who receives a notice to remove may appeal the notice within 5 business days of receipt of notice to the Town Manager. The appeal shall be in writing and shall state with the town reasons for the appeal ("appeal notice"). The Manager or designee shall set a hearing date within ten (10) days of receipt of the appeal notice, and shall render a decision within a reasonable time after the hearing date. If, on appeal, the Manager or designee determines that the graffiti is a public nuisance and must be removed, the Manager shall establish a new date for such removal or obscuring.

(G) *Emergency removal.* Where any public nuisance as set forth in this chapter requires immediate abatement to avoid and prevent the degradation of adjoining properties as determined by the code enforcement officer, the nuisance may be summarily removed and abated by the town without prior notice to the property owner, but the owner shall be responsible for all abatement costs, administrative fees, and civil penalties.

(H) *Removal by perpetrator.* It shall be unlawful for any person placing graffiti on public or private

property to fail to remove such graffiti or cause such graffiti to be removed within 72 hours after notice from the town. If graffiti is applied by a person under the age of 18 years of age, the parents or legal guardians of such minor shall be responsible for removal of the graffiti within 72 hours after notice from the town.

(I) *Removal/obscuring.* The town shall not clean, paint or obscure or repair any property containing graffiti more extensively than where the graffiti itself is located. The town shall not be required to restore the area that contained graffiti, or any obscured area, to its original condition including conditions of color, texture, and finish. Notwithstanding the preceding, if the Town Manager determines in writing that a more extensive area is required to be repainted or repaired in order to avoid an aesthetic disfigurement to the neighborhood or community, the town or its authorized private contractor is expressly permitted to perform the work necessary to do more extensive repainting or repairing.  
(Ord. passed 1-11-2010)

#### § 97.04 ENFORCEMENT/REMEDIES.

(A) *Civil penalties.* In addition to or in lieu of the other remedies provided by this chapter, any owner of a property whose property shall be declared a public nuisance, and who fails to abate the nuisance after notice as provided in this chapter shall be subject to a civil penalty in the amount of \$50 for the first offense, \$100 for the second offense in the calendar year, and \$250 for the third and subsequent offenses in the calendar year. An administrative fee in the amount of \$50 per offense shall be assessed for each violation of this chapter. If a person fails to pay the civil penalty plus an administrative fees and abatement costs within 30 days after being notified of the amount due, the town may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect a debt in addition to any other remedy available under this chapter.

(B) *Criminal penalty.* In addition to or in lieu of civil penalties or other remedies, violation of division (A) above shall constitute a misdemeanor. Any person convicted of a violation of this section shall be fined not less than \$250 for a first offense and \$500 for a second or subsequent offense. In addition to any other remedy, the court shall order any person convicted of a violation of division (A) above to make restitution to the victim and/or to the town for the damage or loss suffered by the victim and/or to the town as a result of the offense. The court may determine the amount, terms, and conditions of the restitution.

(C) *Collection/use of civil/criminal fees and penalties.* Unless provided for or directed by some other provision of law, the fees collected for violations of this chapter shall be held separately for use as payment for contacted graffiti removal services.  
(Ord. passed 1-11-2010)

#### § 97.05 SEVERABILITY.

The provisions of this chapter shall be deemed severable. If any portion of this chapter is deemed unconstitutional, it shall not affect the constitutionality of any other portions of this chapter.  
(Ord. passed 1-11-2010)