

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ANIMALS

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GENERAL PROVISIONS

§ 90.01 GRAZING.

No person shall graze or tie up any cattle, sheep or other animal on any vacant lot, within 50 feet of any dwelling or street.

(1993 Code, § 10-2) Penalty, see § 90.99

§ 90.02 HITCHING ANIMALS.

No person shall hitch any horse or other animal to any of the trees, lampposts, electric light or power or telephone or telegraph poles, mailboxes, wires or hydrants owned by the town or permitted

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by the town to be erected on or in any of the streets, sidewalks, squares or parks.
(1993 Code, § 10-3) Penalty, see § 90.99

§ 90.03 KEEPING SWINE PROHIBITED.

No person shall keep any pigs or hogs within the corporate limits.
(1993 Code, § 10-4) Penalty, see § 90.99

§ 90.04 MAINTENANCE OF STABLES.

Every stable and place where cattle, horses or other animals may be kept shall be maintained at all times in a clean and healthful condition.
(1993 Code, § 10-5) Penalty, see § 90.99

§ 90.05 FOWL RUNNING AT LARGE.

No person shall permit ducks, geese or chickens to remain on or in any of the streets or public places at night, or to run at large in the daytime.
(1993 Code, § 10-6) Penalty, see § 90.99

§ 90.06 CONFINEMENT OF PIGEONS.

It shall be unlawful to keep pigeons, except when those pigeons are properly kept in a cage or enclosure at all times.
(1993 Code, § 10-7) Penalty, see § 90.99

§ 90.07 BIRD SANCTUARY; CERTAIN BIRDS EXCEPTED.

(A) All that territory embraced within the corporate limits of the town shall be a bird sanctuary.

(B) It shall be unlawful for any person to hunt, kill or trap any bird within the corporate limits of the town, except pigeons, crows, starlings, English sparrows, domesticated fowl and birds classed as predatory by the Wildlife Resources Commission or by the General Statutes of North Carolina.
(1993 Code, § 10-8) Penalty, see § 90.99

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§ 90.08 IMPOUNDMENT OF CERTAIN ANIMALS.

Any animal which is found running at large or staked, hitched or fastened in violation of the provisions of this chapter shall be seized and impounded by the Chief of Police or any person finding same. The impounder may demand the same fees as are allowed by state law.
(1993 Code, § 10-9)

§ 90.09 EXOTIC AND OTHER DANGEROUS WILD ANIMALS PROHIBITED.

(A) For purposes of this section, ***DANGEROUS WILD ANIMAL*** shall mean any live individual animal of the following scientific classifications belonging to Class Mammalia:

(1) Order Carnivora:

(a) Family Canidae: red wolves (*Canis rufus*) and gray wolves (*Canis lupus*).

(b) Family Felidae: all species of felids, excluding domestic cats (*Felis catus*), and including hybrids of lions (*Panthera leo*), tigers (*Panthera tigris*), leopards (*Panthera pardus*), clouded leopards (*Neofelis nebulosa*, *Neofelis diardi*), snow leopards (*Panthera uncia*), jaguars (*Panthera onca*), cheetahs (*Acinonyx jubatus*), and mountain lions (*Puma concolor*).

(c) Family Hyaenidae: all species of hyena and aardwolf.

(d) Family Ursidae: all species of bears.

(2) Order Primates: all species, excluding humans.

The term shall also include any poisonous snake, constrictor snake, alligator, crocodile, poisonous frog, scorpion, or any other dangerous animal which by its physical characteristics and natural instincts is capable of causing death or serious bodily injury to persons.

(B) No person shall possess, sell, transfer, transport or breed a dangerous wild animal.

(C) Any dangerous wild animal may be impounded by the Chief of Police or his or her designee, the County Animal Control Officer, or any other lawful designee of the Town. The Town or its designee may transfer any wild dangerous animal to an accredited institution, wildlife sanctuary or other appropriate location, or otherwise humanely dispose of any such animal, upon proper notice and opportunity to respond provided to any person in violation of this section. Nothing herein shall in any way limit any Town officer or agent from protecting the health and safety of any person from a dangerous wild animal.

(D) This section shall not apply to any person temporarily transporting a legally owned dangerous wild animal through the Town if the transit time is not more than three hours, the dangerous wild animal is not exhibited, and the dangerous wild animal is maintained at all times in a species-appropriate cage or travel container.

(Ord. 4-15-19)

DOGS

§ 90.20 RUNNING AT LARGE; IMPOUNDMENT.

It shall be unlawful for any owner or keeper of any dog to permit the dog to run at large in the town. Proof of finding that dog off the premises of the owner or keeper, unless under the control of its owner, shall constitute a prima facie case. Any dog found running at large within the town except upon the premises of the owner or his or her agent may be impounded by the County Animal Control Officer. (1993 Code, § 10-36) Penalty, see § 90.99

§ 90.21 DOGS NOT INOCULATED, REGISTERED OR TAGGED DECLARED A NUISANCE; IMPOUNDMENT.

(A) The keeping of dogs that have not been inoculated, registered and tagged and equipped with a collar as set forth in this subchapter, within the corporate limits of the town is hereby declared a nuisance and a menace to the public and the same is hereby prohibited.

(B) Any dog found in the town that has not been inoculated, registered and tagged as hereinbefore set forth shall be impounded in accordance with § 90.20 above. Any person interfering with the catching, impounding or destruction of any dog as authorized in this section or attempting to release that dog from the pound shall be subject to the penalties provided by this chapter. (1993 Code, § 10-37) Penalty, see § 90.99

§ 90.22 DOGS IN HEAT OR VICIOUS DOGS AT LARGE.

It shall be unlawful for any owner or keeper of a prowling female dog or vicious dog to permit that animal to run at large within the town, and any animal found running at large within the town may be destroyed by the police. (1993 Code, § 10-38) Penalty, see § 90.99

§ 90.23 HABITUAL BARKING, PUBLIC DISTURBANCES.

It shall be unlawful for any owner or keeper of any dog to have within the town a dog that habitually or repeatedly barks in a manner as to disturb the neighborhood, or a dog that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles, or turns over garbage pails or damages gardens, flowers or vegetables. (1993 Code, § 10-39) Penalty, see § 90.99

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§ 90.24 TETHERING OF DOGS PROHIBITED.

It shall be unlawful to tether a dog to a tree, fence, post, dog house, or other stationary object. For purposes of this section, **TETHERING** means to tie or fasten a dog to a rope, chain or other line for restraining a dog outdoors. The term does not mean to restrain a dog on an attended leash. (Ord. 2013-10, passed 10-21-2013)

§ 90.25 PROPER RESTRAINT OF UNATTENDED DOGS.

(A) It shall be unlawful to keep any dog on private property unless;

(1) the dog's owner resides at the premises, is present on the premises or has placed the dog in the care of a responsible person who resides at the premises; and

(2) the dog is restrained by a fence (including a wooden, metal or electronic fence) or other such enclosure that is at least 100 square feet per dog and of sufficient height, weight, durability, strength, or other physical property to prevent the dog from escaping, unless the dog is restrained with a leash by a person of sufficient age and physical size or ability to restrain the animal. Dogs may be temporarily confined in an outdoor kennel for a reasonable period of time.

(Ord. 2013-10, passed 10-21-2013; Am. Ord. 2014-05, passed 4-21-2014; Am. Ord. 2015-01, passed January 20, 2015)

§ 90.26 ABUSE OF ANIMALS PROHIBITED.

(A) It shall be unlawful for a person to negligently or willfully:

(1) Fail to provide adequate food and/or water for any animal in that person's care, custody or control;

(2) Beat, torture, injure, torment, poison or mutilate any animal causing physical pain, suffering or death;

(3) Fail to provide adequate medical attention for any sick, diseased or injured animal he or she owns, possesses, or harbors;

(4) Keep any animal under unsanitary or inhumane conditions which are detrimental to the animal's health and general welfare, or fail to maintain a condition of good order and cleanliness which reduces the probability of transmission of disease;

(5) Promote, stage, hold, manage, conduct, carry on or attend any game, exhibition, contest, fight or combat between one or more animals or between animals and humans;

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(6) Fail to provide an adequate shelter for any animal in that person's care, custody or control in order to protect the animal from extremes of weather (heat, cold, rain, and the like) and to allow the animal to remain dry and comfortable during inclement weather;

(7) Place or confine an animal or allow an animal to be placed or confined in a motor vehicle under such conditions or for such a period of time as to endanger the health or well-being of such animal due to temperature, lack of food or drink, or such other conditions as may reasonably be expected to cause suffering, disability or death; or

(8) Fail to provide sufficient shade, when sunlight is likely to cause overheating and discomfort, to allow any animal kept outdoors to protect itself from the direct rays of the sun.

(B) Nothing in this section shall be construed to prohibit animal control officers or veterinarians from euthanizing dangerous, unwanted, injured or diseased animals in a humane manner; nor to prohibit slaughterhouses or medical facilities from the proper, humane and lawful carrying out of their activities or duties.

(Ord. 2013-10, passed 10-21-2013)

§ 90.99 PENALTY.

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

(B) Any person permitting any dog that has not been so inoculated, as per § 90.21, registered and tagged and equipped with a collar to be or to remain in the town as set forth in this section shall be subject to a penalty of \$50 for each offense.

(1993 Code, § 10-37)

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CHAPTER 91: CEMETERIES

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- 91.02 Permit for disinterment
- 91.03 Reopening graves for interment of additional bodies
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§ 91.01 INTERNMENTS TO BE MADE IN CEMETERIES ONLY.

No person shall bury or inter a human corpse except in the cemeteries.
(1993 Code, § 22-1) Penalty, see § 10.99

§ 91.02 PERMIT FOR DISINTERMENT.

No person shall disinter the remains of any human body without first having obtained written permission from the County Health Officer allowing that disinterment.
(1993 Code, § 22-2) Penalty, see § 10.99

§ 91.03 REOPENING GRAVES FOR INTERMENT OF ADDITIONAL BODIES.

No grave shall be reopened for the interment therein of an additional body.
(1993 Code, § 22-3)

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§ 91.04 DEPTH OF GRAVES.

All graves over 4-1/2 feet in length shall be a minimum of six feet in depth.
(1993 Code, § 22-4)

§ 91.05 WORKING ON LOTS OF OTHERS.

No person shall do any work of any kind on any lot in any cemetery belonging to any other person without first notifying the person in charge thereof, and presenting to him or her an order in writing from the owner or agent of the owner of that lot authorizing the bearer thereof to do that work.
(1993 Code, § 22-5)

§ 91.06 PLAN OF CEMETERY SHALL NOT BE DISTURBED.

No person authorized to do the work mentioned in § 91.05 shall do the same in a manner as to interfere with the walks, decoration or general arrangement of the cemetery, except with the permission of the person in charge thereof and under his or her supervision.
(1993 Code, § 22-6)

§ 91.07 HOURS PERMITTED FOR ENTRANCE.

It shall be unlawful for any person to enter town cemeteries during the period of each day from sunset until sunrise unless that person has permission from the Town Administrator to make an entry.
(1993 Code, § 22-7) Penalty, see § 10.99

§ 91.08 INJURING, DEFACING PROPERTY.

(A) No person shall in any way injure anything put or placed to mark a grave or for the ornamentation thereof, or any paling or wall around a grave or shall remove any plant, post or timbers in a graveyard, except by order or with the permission of the person in charge of the graveyard, or of the owner of that grave.

(B) No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure or thing placed in the cemeteries or any fence, railing or other work, for the protection or ornamentation of any tomb, monument, gravestone or other structure aforesaid, or for the ornamentation or protection of any cemetery, or shall unlawfully and willfully destroy, cut, break, remove or injure any tree, shrub or plant that may have been planted, or that may be growing in any cemetery, or commit any other depredation within the limits of any cemetery.
(1993 Code, § 22-8) Penalty, see § 10.99

Statutory Reference:

Defacing or desecrating grave sites, see G.S. § 14-148

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§ 91.09 DISTURBING FIXTURES.

No person shall unlawfully and willfully disturb or remove any vase, jardiniere or other receptacle for flowers or shrubs, or other thing placed on or by any grave for the ornamentation thereof.
(1993 Code, § 22-9) Penalty, see § 10.99

§ 91.10 DESTRUCTION OF FLOWERS.

No person shall wantonly or willfully injure or destroy any flowers, either wild or cultivated, in any cemetery. All cut flowers shall be removed when they become wilted, impaired, or unsightly. If flowers are not removed by the owners, then they shall be removed by the town. Any containers left at the graveside after the flowers have served their usefulness shall be removed by the town.
(1993 Code, § 22-10) (Am. Ord. 2008-05, passed 9-15-2008) Penalty, see § 10.99

§ 91.11 SALES WITHIN CEMETERY LIMITS.

No person shall sell, or offer for sale, any article of merchandise, or any fruit, drink or beverage or any other thing of value within the limits of the cemetery.
(1993 Code, § 22-11) Penalty, see § 10.99

§ 91.12 CONDUCT IN CEMETERIES.

No person shall engage in any of the following in any cemetery:

- (A) Use any part of any cemetery as a playground, parking place, recreation area or cookout area;
- (B) Make loud noises of any kind;
- (C) Possess or discharge any firearm (provided that firearms may be discharged in case of military funerals and Memorial Day exercises);
- (D) Use language reasonably calculated to provoke an immediate breach of the peace;
- (E) Remain within or enter a cemetery after sunset without first having secured permission from the Public Works Director, Chief of Police or their designee. Any person on the premises of a public cemetery after sunset and before sunrise shall be considered trespassing;
- (F) Plant or maintain any tree, shrub or ground cover in the town cemetery;
- (G) Define any lot or grave by fence, railing, coping or hedge;
- (H) Take any animal into the cemetery or allow any animal to run at large therein;

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(I) Possess or consume any type of alcoholic beverage;

(J) Loiter in or about a public cemetery.

(1993 Code, § 22-12) (Am. Ord. 2008-05, passed 9-15-2008; Am. Ord. 2011-02, passed 4-18-2011)
Penalty, see § 10.99

§ 91.13 USE AS THOROUGHFARE PROHIBITED.

No person shall use any cemetery as a common thoroughfare or public walk, and all traveling through or across any cemetery, except in connection with cemetery purposes, or for the purpose of visiting a burial lot, is forbidden.

(1993 Code, § 22-13) Penalty, see § 10.99

§ 91.14 SPEED LIMIT.

No person shall drive any vehicle over five mph in any cemetery.

(1993 Code, § 22-14) Penalty, see § 10.99

§ 91.15 DRIVING OVER SIDEWALKS.

No person shall drive any carriage, wagon or other vehicle over any walks or drives of the cemetery, or allow any vehicle to stand thereon.

(1993 Code, § 22-15) Penalty, see § 10.99

§ 91.16 PROCEDURE FOR PURCHASE OF LOTS.

(A) The town intends to make cemetery lots available to all persons on an equal basis. In order to accomplish this, restrictions must be placed on the sale of lots to discourage the purchasing of lots with the primary intent of reselling them for a profit.

(B) No person shall be allowed to purchase from the town more than six cemetery lots. Any person denied the right to purchase a lot or lots pursuant to this section may appeal the decision of the Town Clerk to the Town Administrator for a final decision on the matter.

(C) Upon payment by the purchaser of the full purchase price and registration fee, the Town Clerk shall deliver a deed to the purchaser and maintain appropriate records of each transaction. The Town Clerk shall cause the deed to be executed by the town, registered in the office of the County Register of Deeds and subsequently delivered to the purchaser.

(D) In order to properly manage the cemetery, the town must know, at all times, the identity of the legal owner of each lot. The public records of the County Registry shall be used for that purpose. If a lot is resold, after conveyance from the town, the purchaser must register the conveying instrument in

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the office of the Halifax County Register of Deeds within 15 days after its execution and provide the Town Clerk a copy of the registered instrument within 15 days after registration.
(Ord. 2008-05, passed 9-15-2008)

§ 91.17 GRAVE SITES.

(A) Every person must apply for and receive prior written approval from the town before disturbing any grave site or placing any monument, footstone or other grave marking in any cemetery owned or operated by the town.

(B) All monuments, footstones and other grave markings shall have mowing borders around the base of at least three inches.

(C) All monuments and footstones shall be erected under the supervision of the Public Works Director or designee and all persons shall conform to these regulations and shall clean the site of their work of all unused materials or debris upon completion. Unused materials must be removed from the cemetery site.

(D) No person shall place or cause to be placed on any lot in the cemetery any stone, planting or obstacle, other than approved markers or monuments. Placing of a coping or other enclosure of whatsoever kind around a lot or lots, or around a grave, shall not be permitted. Mowing, sodding and maintenance shall be performed by the town.

(E) Any person buried in a town-owned or operated cemetery must be placed in a casket or other appropriate container designed to store human remains. The casket or container must be further placed and buried in a sealed, airtight concrete vault of sufficient strength and quality to prevent the deterioration of the soil and the formation of sink holes above and around the grave site.
(Ord. 2008-05, passed 9-15-2008; Am. Ord. 2014-06, passed 5-12-2014)

§ 91.18 TENTS AND OTHER PRIVATE PROPERTY.

Any tent erected by a funeral home or any other person shall be removed within seven days of its placement.
(Ord. 2008-05, passed 9-15-2008)

§ 91.19 GENERAL CONDUCT DURING MEMORIAL SERVICES.

(A) Except for Memorial Day ceremonies, no memorial service or other visitation within a public cemetery shall exceed one hour in duration unless prior written approval has been provided by the Town Administrator.

(B) No person shall intentionally disrupt or otherwise interfere with a memorial service.
(Ord. 2011-02, passed 4-18-2011)

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CHAPTER 92: ABANDONED OR JUNKED MOTOR VEHICLES

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§ 92.01 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, means a vehicle that is left on:

- (1) A public street or highway in violation of a law or ordinance prohibiting parking;
- (2) A public street or highway for longer than seven days;
- (3) Property owned or operated by the town for longer than 24 hours; or

(4) Private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

AUTHORIZING OFFICIAL. The Chief of Police or Town Administrator respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

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:

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- (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 \$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 mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds 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 operated from the inside, such as trunks, 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 and safety hazard and a public nuisance by the Board of Commissioners.

(1993 Code, § 30-46)

Statutory References:

Abatement of public health nuisances, see G.S. § 160A-193

Authority to regulate the removal and disposal of junked or abandoned motor vehicles, see G.S. § 160A-303.2

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§ 92.02 STATUTORY AUTHORIZATION.

The Board of Commissioners is authorized by G.S. §§ 160A-193, 106A-303 and 160A-303.2 to regulate, restrain or prohibit abandoned, nuisance and junked motor vehicles on public and private property within the town's ordinance-making jurisdiction.
(1993 Code, § 30-47)

§ 92.03 OBJECTIVES.

The Board of Commissioners finds it necessary and desirable to promote or enhance:

(A) The quality of urban attractiveness and aesthetic appearance of the town;

(B) The protection of property values throughout the town;

(C) The preservation of the liveability and attractiveness of neighborhoods;

(D) The promotion of tourism, conventions and other opportunities for economic development for the town;

(E) The attractiveness of the town's thoroughfares and commercial roads which present the primary, public visibility to visitors and to passers-by of the town; and

(F) The promotion of the comfort, happiness and emotional stability of occupants of property in the vicinity of junked motor vehicles.
(1993 Code, § 30-48)

§ 92.04 RESPONSIBILITY FOR ADMINISTRATION AND ENFORCEMENT.

The Chief of Police and Town Administrator shall be responsible for the administration and enforcement of this chapter. The Chief of Police 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 Administrator shall be responsible for administering the removal and disposition of abandoned, nuisance or 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 Fire Department in enforcing other laws or, otherwise, in carrying out their duties. In all cases, the official responsible shall keep a complete and separate file on each vehicle, from the time the file was initiated to one year after final disposition of the vehicle.

(1993 Code, § 30-49)

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§ 92.05 ABANDONED VEHICLE; REMOVAL AUTHORIZED.

(A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow that vehicle to be abandoned.

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

(1993 Code, § 30-50) Penalty, see § 10.99

§ 92.06 NUISANCE VEHICLE; 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 Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

(1993 Code, § 30-51) Penalty, see § 10.99

§ 92.07 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 on the premises of public or 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 any owner, person entitled to the possession of a junked motor vehicle, or 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, the Town Administrator may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. This 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;

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- (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 area residents.

(E) Concealment or enclosure:

- (1) Permitted concealment or enclosure of junked motor vehicles:

(a) *One junked motor vehicle.* One junked motor vehicle, in its entirety, can be located in the rear yard as defined in § 153.005 if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

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

(2) The Town Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this section. 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 § 92.03.

(1993 Code, § 30-52) Penalty, see § 10.99

§ 92.08 PRIOR NOTICE REQUIREMENT FOR REMOVAL OF VEHICLES.

(A) Except as set forth in § 92.09, an abandoned, nuisance or junked 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, certified with a return receipt. The mailing official shall retain a written record to show the names and addresses to which mailed, and the date mailed and attach the return receipt when received. If those 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 seven 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 seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

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(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor 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, that appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
(1993 Code, § 30-53)

§ 92.09 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 authorizing 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. These findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

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

(1) *Vehicles abandoned on streets.* For vehicles left on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of those 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; and/or
- (e) Parked in violation of temporary parking restrictions imposed under code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, those vehicles may be removed without giving prior notice only in those circumstances where the authorizing 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, these circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner as to pose a traffic hazard and vehicles causing damage to public or private property.
(1993 Code, § 30-54)

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§ 92.10 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 the tow truck operator or towing business contracting to perform those services for the town.

(B) Whenever that vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, that 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.

(C) 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, including the information set forth in divisions (B)(1) through (B)(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, by first class mail, certified with a return receipt.

(D) If the vehicle is registered in the state, 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.

(E) Whenever an abandoned, nuisance or junked motor vehicle is removed, and that vehicle has no valid registration or registration plates, the authorizing 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 (B)(1) through (5) above.
(1993 Code, § 30-55)

§ 92.11 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 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 those 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. § 20-222.
(1993 Code, § 30-56)

§ 92.12 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, including any storage charges, or by posting a bond for double the amount of those 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.

(1993 Code, § 30-57)

§ 92.13 SALE, DISPOSITION OF UNCLAIMED VEHICLE.

(A) The town shall contract on an annual basis with a local licensed towing service, to provide for the removal of all abandoned, nuisance or junked motor vehicles. This contract shall be awarded on the basis of competitive bids solicited from all local towing agencies, with the lowest overall schedule for fees being the prime consideration.

(B) The owner of the vehicle in question, in order to recover the vehicle once towed, must pay the scheduled towing fee.

(C) The vehicle owner may, in writing, appeal to the Board of Commissioners, to contest the validity of the status of the vehicle when towed. The Board shall review and decide on the validity of the written appeal, and the Town Administrator shall respond by first class mail, certified with a return receipt, of the Board's decision on the appeal.

(D) If the Board of Commissioners rejects the appeal, the vehicle owner has the right to request a hearing before a County Magistrate as outlined under § 92.11.

(E) Upon application of the owner of a vehicle towed under the provisions of this chapter, with presentation of satisfactory proof of ownership, and after paying all fees and charges involved, the vehicle shall be released to the owner. The owner shall also be required to sign a statement at the time the vehicle is released to him or her to the effect that the vehicle will not be returned to a location or situation that will bring it into violation of this chapter in the future.

(F) In all cases, notification to owners shall include a statement that 90 days after final denial of any appeal regarding the status of any vehicle falling under the provisions of this chapter, that vehicle may be offered for legal sale by officials of the town. Proceeds from the sale of each vehicle shall be used to offset the charges incurred in towing the vehicle, with any excess going into the general fund of the town. If unsold, the officials may sell the vehicle as scrap, with the same disposition of the funds received.

(1993 Code, § 30-58)

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§ 92.14 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 that 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 has been ordered removed by the Town Administrator or his or her designated representative. 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.

(1993 Code, § 30-59)

§ 92.15 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 that vehicle as provided in this chapter.

(1993 Code, § 30-60)

§ 92.16 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 the enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or

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

(1993 Code, § 30-61)

§ 92.17 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 that 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 those fees, have been paid.

(1993 Code, § 30-62) Penalty, see § 10.99

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CHAPTER 93: NOISE

Section

- 93.01 Loud and raucous noise prohibited
- 93.02 Prohibited noise activities
- 93.03 Exemptions
- 93.04 Permit for mechanical sound producing device

§ 93.01 LOUD AND RAUCOUS NOISE PROHIBITED.

The generation or maintenance of any loud and raucous noise within the town limits is hereby declared to be a public nuisance. It shall be unlawful for any person to willfully make, continue or cause to be made or continued any loud and raucous noise, which term shall mean any sound which, because of its volume level, duration and character, annoys, disturbs, injures or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities within the town limits. The term **LOUD AND RAUCOUS NOISE** shall include, but shall not be limited to, the kinds of noise generated by the activities enumerated in § 93.02, except as provided in § 93.03. The term shall be limited to loud and raucous noise heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church, synagogue or other place of worship, or hospital, or upon the grounds thereof while in use, in any parking lot open to members of the public as invitees or licensees or in any occupied residential dwelling unit or upon the grounds thereof. The term is further limited to noise which is clearly audible at a distance of more than 50 feet from the source of the noise, measured in a straight line from the noise source.

(Ord. passed 8-17-1994) Penalty, see § 10.99

§ 93.02 PROHIBITED NOISE ACTIVITIES.

The following acts, as limited by § 93.01, are subject to the exemptions of § 93.03, are hereby declared to be public nuisances in violation of § 93.01, but the acts enumerated in this section shall not be deemed to be exclusive:

(A) The use or operation of any mechanical or electrical device, apparatus or instrument to amplify, intensify or reproduce the human voice, or to produce, reproduce, intensify or amplify any other sound when the sound from the activity is clearly audible more than 50 feet from the device, apparatus or instrument.

(B) The playing or operation of any radio, cassette tape player, compact disk player or any other sound producing instrument, device or apparatus installed or located in a motor vehicle when the speaker volume is elevated to an extent that the sound is clearly audible more than 50 feet from the vehicle. The provisions of this chapter shall apply regardless of whether the vehicle is traveling upon the streets of the town, parked on public or private property or stopped in traffic.

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(C) The sounding of any horn or signal device on any automobile, motorcycle, bicycle, bus or other vehicle, except as a danger signal, so as to create an unreasonably loud or harsh sound, or the sounding of a device for an unreasonable period of time, or the use of siren horns on bicycles, automobiles or other vehicles except upon automobiles and other apparatus of the police and fire departments or upon authorized emergency service vehicles.

(D) The playing of any radio, cassette tape player, compact disk player, phonograph or mechanical or nonmechanical musical or sound producing instrument in a manner or with volume that the sound therefrom creates a loud and raucous noise.

(E) The owning, keeping or harboring of any animal or bird which frequently or for continued duration howls, barks, meows, squawks or makes other sounds which disturb the reasonable comfort and peace of any person in the vicinity by creating a loud and raucous noise.

(F) The use of any automobile, motorcycle or vehicle so out of repair or so loaded, or in a manner or combination with other vehicles as to create by virtue of its grating, grinding or rattling sound, a loud and raucous noise.

(G) 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.
(Ord. passed 8-17-1994)

§ 93.03 EXEMPTIONS.

The following acts or activities are exempt from the provisions of this section:

(A) The use of a permanently installed loud speaker or public address system at railroad and bus stations to announce the arrival and departure of trains and buses;

(B) The use of permanently installed loud speaker or public address system at athletic stadiums to announce athletic contests;

(C) Musical chimes or the sounding of bells emanating from a public or religious institution or facility, provided the sound is less than 15 minutes in duration and occurs not more than three times within any 24-hour period;

(D) Sounds emanating from any authorized emergency vehicle responding to an emergency or acting in the time of emergency;

(E) Noise sources associated with or created by construction, repair, remodeling, demolition or grading of any real property, provided the activities do not take place between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturdays, or at any time on Sunday;

(F) Noise sources associated with the maintenance of real property, provided the activities take place between the hours of 7:00 a.m. and 10:00 p.m. on any day;

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(G) Noise emanating from any burglar alarm or security device on any building, dwelling or vehicle, provided the noise terminates within 30 minutes of being activated;

(H) Any activity to the extent regulation thereof has been pre-empted by state or federal law; and

(I) The use of a sound producing or sound amplifying device, instrument or apparatus for non-advertising purposes when a permit has been issued for use pursuant to § 93.04, provided the activity is conducted in conformity with the permit.

(Ord. passed 8-17-1994)

§ 93.04 PERMIT FOR MECHANICAL SOUND PRODUCING DEVICE.

(A) *Application.* Each applicant for a permit to use or operate a sound producing device, instrument or apparatus within the town limits shall complete and sign an application on a form supplied by the town and file the same with the Chief of Police at least seven days prior to the date upon which the sound producing equipment is to be used or operated. Where good cause is shown, or in the judgment of the Chief of Police the activity would involve significant political or religious features and therefore be entitled to enhanced deference or protection under the state or federal constitutions, the Chief of Police shall consider applications filed after the deadline. The application shall describe the sound producing equipment, state the specific location at which the sound producing equipment is to be used or operated, the day and the hour or hours during which it is proposed to be used or operated, and other pertinent information as is necessary for the Chief of Police to carry out his or her duties under this section. If the sound producing equipment is to be used or operated on private property the owner of the property must consent in writing.

(B) *Issuance of permit.* The Chief of Police shall issue a permit for the use of the requested sound producing instrument, device or apparatus to any applicant who complies with the provisions of this section unless he or she finds in writing that one or more of the restrictions specified in division (C) below apply, or unless the issuance of a permit for the time and location requested would overlap a previously applied for permit. Each permit issued pursuant to this section shall describe the specific location or locations at which the sound producing equipment may be used or operated thereunder, the period of time for which the sound producing equipment may be operated in a location and shall specify other terms and conditions as are essential to secure and protect the public safety. The person signing the application shall be required to be present at the time and place the sound producing equipment is operated or used and the permit shall be invalid unless in his or her possession.

(C) *Special restrictions.* The Chief of Police shall not issue any permit for the use of a sound producing instrument, device or apparatus:

(1) At any location within 500 feet of a school, courthouse, synagogue or other place of worship, during the hours of school, court or worship, respectively, or within 500 feet of any hospital, nursing home or other institution caring for the sick, aged or infirmed;

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(2) At any location where the Chief of Police, upon investigation, shall determine that the conditions of vehicular or pedestrian traffic or both are that the use of a sound producing instrument, device or apparatus will constitute a threat to the safety of pedestrians or vehicle operators;

(3) At any location where the Chief of Police, upon investigation, shall determine that the conditions of overcrowding or of street repair or other physical conditions are that the use of a sound producing instrument, device or apparatus will deprive the public of the reasonable right to safe and peaceful enjoyment of any public street, park or other public place, or will constitute a threat to the safety of pedestrians or vehicle operators;

(4) For a period of continued use exceeding two hours without a 30 minute break, unless the Chief of Police, upon investigation, determines that a longer period of time will not annoy or disturb reasonable persons of ordinary sensibilities residing in the area;

(5) In or on any vehicle or other device while it is in motion; or

(6) Between the hours of 10:00 p.m. and 9:00 a.m.

(D) *Alternate permit.* The Chief of Police, in denying any application as submitted under this section, may grant a permit for a date, time or place different from that requested by applicant, or subject to different requirements or conditions than requested by an applicant. An applicant desiring to accept an alternate permit shall, within 24 hours after notice of the action of the Chief of Police, file a written note of acceptance with the Chief of Police on a form supplied by the town.

(E) *Processing time, notice, right of appeal.* Applications for permits to use a sound producing instrument, device or apparatus shall be processed and decisions made as expeditiously as possible, and in any event before 5:00 p.m. on the fifth business day following the day of receipt. If the application was submitted more than ten days in advance of the event, the permit, alternate permit or written notice of denial shall be mailed to the applicant. If the application was submitted less than ten days in advance of the event, the Police Department shall exercise reasonable diligence in attempting to notify the applicant of the action taken as soon as possible by telephone or other means. Any person aggrieved by action taken on a permit application may file a written notice of appeal, first with the Town Manager and the Town Council. The notice of appeal must be filed within seven days from date notice of the action, regardless of the means used to convey notice, is received by the applicant. The Town Manager shall act on the appeal as expeditiously as possible. The Town Council shall hear any appeal taken from the decision of the Town Manager at its next regularly scheduled meeting. In hearing any appeal the Town Manager or the Town Council may reverse or affirm, wholly or in part, the action of the Chief of Police, or may grant an alternate permit or a date, time or place different from that requested by the applicant or subject to different requirements or conditions than requested by an applicant. An alternate permit must be accepted in writing within 24 hours after notice that it is available.

(F) *Chief of Police.* The Chief of Police may revoke any permit issued hereunder for the following reasons or causes:

(1) The substantial violation of this section or the terms and conditions of a permit; or

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(2) A material misstatement of any fact on the application for a permit.
(Ord. passed 8-17-1994)

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CHAPTER 94: HEALTH AND SANITATION; NUISANCES

Section

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GENERAL PROVISIONS

§ 94.01 DEFINITIONS.

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

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GARBAGE. Decayed meats, fruits, vegetables, food waste, any container material and any other things that attract flies and create offensive odors.

LITTER. Trash, waste paper, garbage or any other discarded material appearing as an untidy accumulation of objects.
(1993 Code, § 38-1)

§ 94.02 VIOLATION OF COUNTY HEALTH REGULATIONS.

It shall be unlawful for any person to violate any lawfully adopted rule or regulation of the County Board of Health. The enforcement of this section shall be under the supervision of the County Health Officer.
(1993 Code, § 38-2) Penalty, see § 10.99

§ 94.03 RIGHT OF ENTRY; INSPECTIONS, INVESTIGATIONS.

The County Health Officer or any of his or her assistants have the right to enter any premises at any reasonable hour for the purpose of making inspections or investigations.
(1993 Code, § 38-3)

§ 94.04 INTERFERENCE WITH HEALTH OFFICER.

It shall be unlawful for any person to hinder, obstruct or delay the Health Officer or any of his or her assistants in the lawful discharge of their duties.
(1993 Code, § 38-4) Penalty, see § 10.99

§ 94.05 LIABILITY FOR REMOVAL OF NUISANCES, VIOLATIONS.

The owner, lessee, tenant or occupant of any building or premises where there shall be a nuisance or any violation of any ordinance relating to health and sanitation shall be jointly and severally liable therefor and each of them may be required to abate the same or comply with the order of the Health Officer or his or her assistants within the time specified within the order.
(1993 Code, § 38-5)

§ 94.06 SANITATION OF BUSINESS PREMISES.

(A) All persons doing business in the town shall keep their premises in a sanitary and litter-free condition. Garbage, including fish boxes, decayed meats, fruits, vegetables or any other thing which attracts flies or creates offensive odors, shall be removed.

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(B) All drugstores, drink stands, restaurants, markets, barbecue stands and barbershops must be kept in a sanitary condition. Any place declared unsanitary by the Health Officer shall be immediately closed and remain closed until put in a sanitary condition.

(1993 Code, § 38-6)

§ 94.07 DISPOSAL OF HUMAN AND ANIMAL WASTE; DEAD ANIMALS.

(A) It shall be unlawful for any person to urinate or deposit any human waste on any street, lot or premises except in an approved sanitary facility. No butcher, fishmonger, huckster or vendor of merchandise of any kind shall leave any refuse on the streets, or uncovered by earth, on the lots of the town. All putrid or decayed animal or vegetable matter must be removed from all cellars and out buildings at least once in every 48 hours during the months of May, June, July, August and September, and at least once a week during the other months of the year.

(B) No animal that died by disease or accident and no meat therefrom nor any animal or meat therefrom killed while feverish, bruised, disabled, injured with broken bones or otherwise heavy with young, jaded or fatigued from long driving or shipping, or killed or kept in some building or in so close proximity with fumes of gas, or disease or spoiled meat as to become contaminated therefrom or rendered unwholesome or unhealthy thereby, or manipulated with tools used on diseased or other dead carcasses as aforesaid, shall be brought into town, held or offered for sale as food therein.

(C) Owners of animals dying in the town shall, upon notice of their death, immediately remove same. Removal of that animal at least 1/2 mile beyond the corporate limits of the town must be accomplished within 12 hours from the time of the animal's death.

(D) Any animal killed by a railroad train or rail car within the corporate limits of the town shall be removed by the railroad. For failure to observe this section, after having been notified by the Town Administrator, a fine shall be imposed on that company.

(1993 Code, § 38-7) Penalty, see § 10.99

§ 94.08 MAINTENANCE OF DITCHES, DRAINS.

Ditches and drains on all property within the town shall provide for the adequate disposal of surface water, as determined by the County Health Officer and/or an official of the town designated by the Board of Commissioners.

(1993 Code, § 38-8)

§ 94.09 RODENT CONTROL.

All business buildings shall be rat-proofed, freed of rats and maintained in a rat-proof and rat-free condition by the agents, owners or occupants thereof, as required by the County Health Department.

(1993 Code, § 38-9)

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§ 94.10 REMOVAL OF STAGNANT WATER.

Stagnant waters in cellars or upon lots shall be removed on notice from the County Health Officer to the person permitting the same to remain.
(1993 Code, § 38-10) Penalty, see § 10.99

§ 94.11 MOSQUITO CONTROL.

It shall be unlawful for any person to permit within the town any collection of standing or flowing water in which mosquitoes breed, or are likely to breed.
(1993 Code, § 38-11) Penalty, see § 10.99

§ 94.12 UNUSED OR ABANDONED WELLS.

Unused or abandoned wells shall be filled by the owners or agents in charge of the property on which those wells are located. Failure to fill that well within 30 days after written notification to do so shall be a violation of this section.
(1993 Code, § 38-12) Penalty, see § 10.99

NUISANCES GENERALLY

§ 94.25 CONTROL OF WEEDS AND NOXIOUS GROWTH.

(A) Every owner or person in possession of property, either vacant or occupied, within the corporate limits of the town shall maintain the property in a manner so that all grass, weeds or other noxious growth on the lot is kept at a level not to exceed four inches. If, after proper notice, it becomes necessary for the town to maintain the property because the property owner or person in possession fails to do so, the expense of the action shall be paid by the person in default, and if not paid, a lien shall be placed upon the land or premises, and shall be collected as unpaid taxes.

(B) For purposes of this section, the expense of any action taken by the town is \$250 per violation. A violation occurs each time the town is required to bring a separate parcel of property into compliance with this section.
(1993 Code, § 30-26; Ord. 2015-15, passed 10-19-15)

§ 94.26 REGULATION OF SWIMMING POOLS.

(A) In addition to requirements of state law, any person that owns or operates a swimming pool within the corporate limits of the town or one mile thereof that no longer resides or maintains control of the swimming pool shall drain the swimming pool of all water and maintain a sealed, protective covering over the swimming pool so as to prevent water penetration. If, after proper notice, it becomes

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necessary for the town to maintain the swimming pool to comply with this section because the owner or person in possession fails to do so, the expense of the action shall be paid by the person in default, and if not paid, a lien shall be placed upon the land or premises, and shall be collected as unpaid taxes.

(B) As used herein, *SWIMMING POOL* shall mean any structure intended for swimming, recreational bathing or wading that contains water over 24 inches deep. This includes in-ground, above-ground and on-ground pools, hot tubs, spas, and fixed-in place wading pools.
(Ord. 2009-06, passed 8-17-2009)

§ 94.27 PROPERTY CONDITIONS PROHIBITED.

The following enumerated and described conditions are hereby declared to be a public nuisance and are prohibited. A public necessity exists to exercise the police power of the town to cause the abatement of the following conditions:

(A) A place upon which refuse or debris is permitted or caused to accumulate. The term "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. Provided, however this section does not apply to:

(1) Industrial refuse temporarily stored within a delineated storage area for purposes of refuse or disposal;

(2) Building rubbish temporarily stored in a confined area on construction sites during construction;

(3) Sites approved by the state as sanitary landfills, provided such sites comply with state landfill rules and regulations; and

(4) Salvage or junk operations carried on in compliance with the Code of Ordinances.

(B) A place upon which any dead tree or other vegetation could fall or otherwise interfere with the free and safe passage along any street or sidewalk.

(C) No person shall place or allow to remain exposed to the elements, whether outdoors or within an enclosed porch or similar area, any chair, sofa, bed, table or similar furniture, which is not designed and intended for outdoor use and which is thereby readily susceptible to deterioration. This section shall not apply to furniture which is placed outside as refuse for collection and disposal.

(Ord. 13-07, passed 9-16-2013)

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ENFORCEMENT AND PENALTY

§ 94.93 PROCEDURE FOR NOTICE OF VIOLATION.

When any condition prohibited by this chapter is found to exist, the code enforcement officer shall send to the owner of the property a notice of the violation by first class mail. In addition, on the same date of mailing, notice shall be posted in a conspicuous place on the property. The code enforcement officer shall develop a policy for posting the notice. The notice shall include the following:

(A) The property location and a description of the prohibited conditions found to exist.

(B) An order for the owner to correct the conditions within ten days from mailing and posting of the notice; provided, however, the code enforcement officer may extend the time for correcting such conditions for a period not to exceed ten additional days, where he or she finds such extension to be necessary and reasonable.

(C) An explanation of the hearing and appeal procedure set forth in § 94.95. If the name or 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.

(Ord. 13-07, passed 9-16-2013)

§ 94.94 CHRONIC VIOLATORS; NOTICE OF VIOLATION; REMEDIES.

(A) A chronic violator is a person who owns property whereupon, in the previous calendar year, the town issued a notice of violation pursuant to § 94.93 at least two times due to conditions prohibited by this chapter.

(B) The code enforcement officer may notify a property owner who is a chronic violator as defined in division (A) of this section that, if the violator's property is found to be in violation of this chapter, the town may, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The annual notice shall be served by registered or certified mail and regular mail. If the owner of the property refuses to accept notice of the violation, or if the name or 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.

(Ord. 13-07, passed 9-16-2013)

§ 94.95 HEARING AND APPEAL; TOWN SELF HELP REMEDY.

(A) If the property owner does not correct the conditions in the notice of violation and order issued pursuant to § 94.93, then the code enforcement officer shall have authority to enter the premises involved and correct the conditions. However, within the time period to correct the conditions as set forth in § 94.93, the owner may appeal the findings to the Board of Adjustment by giving written notice

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of the appeal to the code enforcement officer to stay the abatement of the nuisance (prohibited conditions) by the code enforcement officer until a final determination by the Board of Adjustment. In the event no appeal is taken, the code enforcement officer may proceed to correct the conditions.

(B) The code enforcement officer shall place the appeal on the agenda of the Board of Adjustment within a reasonable time. The Board of Adjustment may, after hearing all interested persons and reviewing the findings of the code enforcement officer, reverse the finding and order made pursuant to § 94.93; but if the Board of Adjustment shall determine that the findings of the code enforcement officer are correct and proper, it shall adopt an order affirming the determination of the code enforcement officer and specifically declaring the conditions existing on the property to be a danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and a public nuisance and directing the code enforcement officer to cause the conditions to be abated.
(Ord. 13-07, passed 9-16-2013)

§ 94.96 COLLECTION OF COST OF ENFORCEMENT.

(A) After correction of the conditions pursuant to this chapter, the cost of abatement, together with interest of 8% per annum accruing thereon, shall constitute a lien against the property and shall have the same priority and be collected in the same manner as unpaid ad valorem taxes upon such property.

(B) The cost of enforcement is also a lien on any other real property owned by the property owner, where such property is located within the town limits or within one mile of the town limits, except for the owner's primary residence.

(C) In the alternative, in the discretion of the town, the cost of enforcement may be recovered as a civil penalty by the town in a civil action in the nature of debt as provided in G.S. § 160A-175(c).
(Ord. 13-07, passed 9-16-2013)

§ 94.97 REMEDIES.

This chapter may be enforced by any one, all, or a combination of the remedies described herein or elsewhere in this chapter or otherwise authorized by common law or statute. Such statutes include but are not limited to G.S. § 160A-175.
(Ord. 13-07, passed 9-16-2013)

§ 94.98 CRIMINAL PENALTY.

It shall be unlawful for any person to fail to comply with any final order or direction of the code enforcement officer or Board of Adjustment made by virtue and in pursuance of this chapter. Every day such person shall fail to comply with any final order or other direction shall constitute a separate and distinct offense. A violation of this chapter is subject to the provisions of § 10.99..
(Ord. 13-07, passed 9-16-2013; Am. Ord. 3-18-19)

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§ 94.99 CIVIL PENALTY.

Any owner who fails to comply with any of the provisions of this chapter shall be subject to a civil penalty in the amount of \$100 for the first day of noncompliance and \$10 for each day thereafter. This penalty may be recovered by the town in a civil action in the nature of a debt if the owner does not pay the same within 30 days after the initial day of noncompliance.

(Ord. 13-07, passed 9-16-2013)

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CHAPTER 95: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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- 95.02 Sheds, awnings
- 95.03 Gates opening onto streets and sidewalks
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Public Parks

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IN GENERAL

§ 95.01 ENCROACHMENT ON STREETS.

It shall be the duty of the Town Administrator to notify all persons about to erect any buildings, sidewalks, walls or fences near the street or any public way or alley not to encroach that street or public alley and if, in the opinion of the Town Administrator, any obstruction is being, or has been, constructed on any street or public alley, the Town Administrator shall cause a survey of the line of that street or alley to be made by a competent surveyor; and if the survey shall show that the street or alley is obstructed by that building, sidewalk, wall or fence, the owner shall be required to pay the costs of the survey and remove all obstructions at once. Every person who shall be found to have encroached on any street or public way or alley by those buildings, sidewalks, walls or fences, and refuses or neglects to remove the same upon notice from the Town Administrator within one week from the date thereof, shall be subject to the provisions of § 10.99.

(1993 Code, § 62-1; Am. Ord. 3-18-19)

§ 95.02 SHEDS, AWNINGS.

No person shall erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of an awning or erect upon any street or sidewalk any post for the support of any awning. If any person shall violate this section then each day that the above forbidden structure shall remain after notice shall constitute a separate violation; provided, that this shall not be construed to prevent the erection over the sidewalk of cloth or metal awnings supported upon metallic frames firmly suspended from the building, and at least seven feet above the level of the sidewalk.

(1993 Code, § 62-2) Penalty, see § 10.99

§ 95.03 GATES OPENING ONTO STREETS AND SIDEWALKS.

No gate to any residence, lot or other enclosure shall swing or open outward over the street or sidewalk. Each day any gate is allowed to open outward over the sidewalk or street shall constitute a separate offense.

(1993 Code, § 62-3) Penalty, see § 10.99

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§ 95.04 PLACING OBJECTS ON STREETS AND SIDEWALKS.

It shall be unlawful for any person to store, pile, deposit, erect, keep or place, or cause, permit or suffer to be stored, piled, deposited, erected, kept or placed upon any sidewalk in the town any wood, coal, boxes, barrels, stone, brick, lumber, dirt, merchandise, shipping case, stand, stall, booth or show case or other obstruction of any kind, except as provided in this chapter or otherwise provided by law or ordinance.

(1993 Code, § 62-4) Penalty, see § 10.99

§ 95.05 CONSTRUCTION NEAR SIDEWALK.

Before building or remodeling at any place where the same is in close proximity to the sidewalk, a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

(1993 Code, § 62-5)

§ 95.06 ASSEMBLY ON SIDEWALK.

All crowds or assemblages of persons that shall congregate on the streets or sidewalks of this town, thereby obstructing the street to the inconvenience of pedestrians shall be dispersed by the police. Any person who refuses to obey the warning of the police officer shall be deemed to violate this section.

(1993 Code, § 62-6)

§ 95.07 IMPEDING TRAVEL.

No person shall obstruct or impede travel on any street in the corporate limits of the town.

(1993 Code, § 62-7) Penalty, see § 10.99

Statutory reference:

Obstructing highways and roads, see G.S. § 136-90

§ 95.08 DISPLAY OF GOODS.

It shall be unlawful for any merchant or other person to exhibit or display any goods, wares or merchandise of any kind, or anything else upon the sidewalks of the town, or to leave any delivery cart, wagon or other vehicle standing in or upon any street or sidewalk in that portion as will impede traffic except with permission of the Town Administrator.

(1993 Code, § 62-8) Penalty, see § 10.99

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§ 95.09 SIDEWALK SALES.

(A) All duly licensed merchants within the town housing businesses adjoining a sidewalk area shall have the right and privilege of conducting sidewalk sales subject to the following regulations:

(1) The display tables, racks and shelves, along with those articles of merchandise to be sold shall occupy the smaller of 1/3 of the sidewalk or three feet as measured from the outside wall of the store building toward the street.

(2) Each merchant desiring to conduct a sidewalk sale shall first register with the Town Clerk giving the date of the sale not less than one week in advance and for that sale to be not more than 24 hours in duration.

(3) Each merchant shall immediately abide by any request of the Chief of Police to remove the articles from the sidewalk at any time where the protection, safety and welfare of the general public may require the removal in the opinion of the Chief of Police.

(4) In no event shall any article of merchandise or the facilities for display thereof block or impede the use of the sidewalk for pedestrians.

(B) Any display of merchandise by any merchant not in conformity with this section shall be subject to the provisions of § 10.99.

(1993 Code, § 62-9; Am. Ord. 3-18-19)

§ 95.10 SIGHT ZONES; OBSTRUCTION OF VISIBILITY ON STREETS.

The corner portion of each corner lot in the residential section fronting 15 feet on each street is hereby declared a sight zone for the benefit of motorists and it is unlawful for any person to place any item, wall, building or shrubbery within this zone that is or will become more than 36 inches in height. It shall also be unlawful for any person to plant any shrubbery or flowers within the grass plot adjacent to the aforesaid sight zone, which shrubbery or flowers will become more than 36 inches in height.

(1993 Code, § 62-10)

§ 95.11 PLANTING, PROTECTION OF TREES.

Citizens may plant trees in front of their lots and around their lots; provided, they shall not plant any that are detrimental to the town. No plant or trees shall be planted between the sidewalk and street or in the streets or gutters. No person shall cut or damage any tree upon the sidewalks of the town without the permission of the Director of Public Works and Utilities or shall dig up or injure any tree or shall track or post any advertisement upon those trees of the town.

(1993 Code, § 62-11)

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§ 95.12 RIDING BICYCLES PROHIBITED ON CERTAIN STREETS.

It shall be unlawful for any person to ride a bicycle upon the sidewalks or walkways along both sides of Whitfield Street from Dennis Street on the west to Railroad Street on the east, and on the westerly side of Railroad Street from Whitfield Street on the south to Franklin Street on the north, and on the easterly side of Railroad Street from Market Street on the south to Whitaker Street on the north, and on both sides of Whitaker Street from Railroad Street on the west to McDaniel Street on the east.
(1993 Code, § 62-12) Penalty, see § 10.99

§ 95.13 INJURY TO STREETS, SIDEWALKS AND APPURTENANCES.

(A) No person shall injure, deface or mar in any manner whatsoever any of the streets or sidewalks of the town. The town shall have the right and privilege to repair any injury, defacement or mar and assess the cost thereof against the offender.

(B) No person shall break, destroy or in any manner injure any light, pump, well or tree in any street or public place, or deface or in any manner injure any public building.
(1993 Code, § 62-13)

EXCAVATIONS

§ 95.25 PERMIT REQUIRED.

No person shall make any excavation, cut or make any other opening in any of the streets or sidewalks without first having obtained a permit therefor from the Code Enforcement Officer.
(1993 Code, § 62-66) Penalty, see § 10.99

§ 95.26 FEES FOR CUTTING STREETS OR SIDEWALKS.

The fees for cutting streets or sidewalks shall be determined from time to time by the Town Administrator as approved by the Board of Commissioners and shall be kept on file in the office of the Town Clerk.
(1993 Code, § 62-67)

§ 95.27 ADJUSTMENT OF FEES.

When the opening is being made and it is found that the cut or opening will necessarily have to be larger than was estimated in the application, the applicant shall immediately pay the town the remainder of the fee that would have been charged for the opening or cut in the first instance.
(1993 Code, § 62-68)

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§ 95.28 DISPOSITION OF FEES.

All fees collected for the purpose of opening or cutting any street or sidewalk shall be paid into the general fund.

(1993 Code, § 62-69)

§ 95.29 PROTECTION OF OPENINGS.

Any person excavating or opening any street or sidewalk shall protect the same with a sufficient number of traffic cones during the daytime and flashing amber lights at night.

(1993 Code, § 62-70)

Statutory Reference:

Authority to regulate driveways and curb cuts, see G.S. § 160A-307

§ 95.30 RESTORATION.

All openings made in any street or sidewalk under the provisions contained in this chapter shall immediately, upon the completion of the work, 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. Each day the opening is left unfilled in violation of this section shall constitute a separate offense.

(1993 Code, § 62-71)

POLES AND UTILITY LINES

§ 95.40 SEPARATE LINES OR WIRES ON SAME POLES PERMITTED BY AGREEMENT.

(A) Whenever any electric, telephone or cable television company shall desire to place lines or wires along any particular street upon which it does not have a line of poles, but upon that street there exists a line of poles owned by another company or the town, all parties may maintain their wires upon the same poles.

(B) If an agreement cannot be reached between the parties owning the poles and the parties desiring to place wires thereon, the parties may submit the question of compensation to the Board of Commissioners for determination.

(C) This section shall apply to poles owned by the town as well as poles owned by parties operating under franchises from the town.

(1993 Code, § 62-91)

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§ 95.41 CARE, INSPECTION OF POLES.

It shall be the duty of the owners of all poles supporting electric, telephone or telegraph wires, to keep the same in a safe condition, and for that purpose inspect the same once every three months.
(1993 Code, § 62-92)

§ 95.42 PERMIT REQUIRED FOR PLACING POLES.

No poles for electric, telegraph, telephone or other purposes shall be placed on any street without a permit therefor being obtained from the town.
(1993 Code, § 62-111)

§ 95.43 PERMITS LIMITED TO SINGLE LINES.

No permit shall be issued for the erection of poles on any street where there exists a line of poles on that street for the purpose of supporting electric, telephone or telegraph wires.
(1993 Code, § 62-112)

GRAFFITI

§ 95.50 FINDINGS AND PURPOSE.

The Town of Enfield Board of Commissioners enacts this subchapter to help prevent the spread of graffiti vandalism. The Board finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the town acts to remove graffiti from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to live, all to the detriment of the town. The Board intends, through the adoption of this subchapter, to provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

(Ord. 11-03, passed 4-18-2011)

§ 95.51 DEFINITIONS.

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

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GRAFFITI. Any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by any graffiti implement, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, is otherwise deemed a public nuisance by the Board of Commissioners.

GRAFFITI IMPLEMENT. An aerosol paint container, paint stick, paint and paint brush, or other such instrument commonly used to produce graffiti.

(Ord. 11-03, passed 4-18-2011)

§ 95.52 PROHIBITED ACTS.

(A) *Defacement.* It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any property owned by the town or, without the permission of the owner or occupant, on any other property.

(B) *Possession of graffiti implements in designated public places.* It shall be unlawful for any person to possess any graffiti implement while in or upon any public facility, park, playground, or other public property owned or operated by the town unless otherwise authorized by the town.

(Ord. 11-03, passed 4-18-2011) Penalty, see § 95.99

§ 95.53 GRAFFITI AS NUISANCE.

(A) The existence of graffiti on public or private property in violation of this subchapter is expressly declared to be a public nuisance and, therefore, is subject to the removal and abatement provisions specified herein.

(B) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all times keep the property clear of graffiti.

(Ord. 11-03, passed 4-18-2011)

§ 95.54 REMOVAL OF GRAFFITI.

(A) *Removal by the perpetrator.* Any person applying graffiti on public or private property shall have the duty to remove the graffiti within 24 hours after notice by the town or private owner of the property involved. Such removal shall be done in a manner prescribed by the Town Administrator or his or her designee. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Failure of any person to remove graffiti or pay for the removal shall constitute an additional violation of this subchapter. Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for such removal or for the payment for the removal.

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(B) *Property owner responsibility.* If graffiti is not removed by the perpetrator according to division (A), graffiti shall be removed by the person who is the owner of, or otherwise responsible for, property that has been defaced with graffiti within ten days after written notice by the town. The notice by the town shall contain the following information:

(1) The street address and legal description of the property sufficient for identification of the property;

(2) A statement that the property is a potential graffiti nuisance property with a concise description of the conditions leading to the finding; and

(3) A statement that the graffiti must be removed within ten days after receipt of the notice and that if the graffiti is not abated within that time the town will declare the property to be a public nuisance and will abate the nuisance itself.

(C) *Right of town to abate graffiti.* If the property owner or responsible party fails to remove the offending graffiti within the time specified by division (B), or if 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, the town shall commence abatement and cost recovery proceedings for the graffiti removal. Before entering upon private property or property owned by a public entity other than the town for the purpose of graffiti removal the town shall attempt to secure the consent of the property owner or responsible party.

(1) If the town secures such consent, the terms of the graffiti removal and cost incurred shall be determined between the town and the owner or responsible party.

(2) If the town cannot secure such consent, the Town Administrator or his or her designee shall provide the owner or responsible party not less than 48 hours notice of the town's intent to hold a due process hearing at which time such person shall be entitled to present evidence and assert that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in the area in which the property is located. The determination of the Town Administrator after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of the attendance of the responsible party, the Town Administrator determines that the property contains graffiti viewable from a public or quasi-public place, the Town Administrator shall give written notice in an eradication order that, unless the graffiti is removed within ten days, the town shall enter upon the property, cause the removal, painting over (in such color as shall meet with the approval of the Town Administrator), or such other eradication thereof as the Town Administrator determines appropriate, and shall provide the owner or responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis. The owner or responsible party shall thereafter have ten days to dispute the cost assessment.

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If all or any portion of the assessed eradication charges remain unpaid after 30 days, the unpaid portion shall constitute a lien on the property that was the subject of the eradication effort and on any other real property owned by the person in default within the town limits or within one mile of the town limits, except the person's primary residence.
(Ord. 11-03, passed 4-18-2011)

PUBLIC PARKS

§ 95.60 GENERAL REGULATIONS.

No person shall engage in any of the following in any public park:

(A) Possess or discharge any firearm;

(B) Remain within or enter a public park after sunset and before sunrise, unless prior written approval has been issued by an authorized representative of the town. Any person on the premises of a public park during unauthorized hours shall be considered trespassing;

(C) Allow an animal to roam about the premises (pets are prohibited);

(D) Possess or consume any type of alcoholic beverage.

(Ord. 2011-01, passed 4-18-2011) Penalty, see § 95.99

§ 95.99 PENALTY.

(A) Violation of §§ 95.50 through 95.54 shall be punishable as provided by § 10.99 of this Code of Ordinances and shall be subject to a fine in the amount of \$500 per offense. Each item of tangible or personal property defaced by graffiti, and each graffiti implement possessed by an unauthorized user, shall each constitute a separate and distinct offense.

(B) Violation of § 95.60 shall be punishable as provided by § 10.99 of this Code of Ordinances. Each violation shall constitute a separate and distinct offense.
(Ord. 2011-01, passed 4-18-2011; Ord. 11-03, passed 4-18-2011)

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CHAPTER 96: FIRE PREVENTION AND PROTECTION

Section

In General

- 96.01 Burning trash restricted
- 96.02 Permit required for bonfire
- 96.03 Deposit of ashes, matter liable to spontaneous combustion

Fire Department

- 96.15 Administration
- 96.16 Deputy Chief
- 96.17 Control of firefighting operations
- 96.18 Investigation of cause of fire
- 96.19 Record of fire
- 96.20 Inspections
- 96.21 Notice of fire hazard; order to remedy
- 96.22 Service of order
- 96.23 Failure to comply with order
- 96.24 Right to enter building or premises
- 96.25 Authority to summon assistance

IN GENERAL

§ 96.01 BURNING TRASH RESTRICTED.

No person shall burn or cause to be burned any trash or other material of any kind outside any house, on or in any street, sidewalk, alley, lot or yard within the town limits.
(1993 Code, § 34-1) Penalty, see § 10.99

§ 96.02 PERMIT REQUIRED FOR BONFIRE.

No person shall kindle or maintain any bonfire, or shall knowingly furnish the material for any fire, or authorize any fire to be kindled or maintained on or in any street, avenue, road, lane or public ground or upon any private lot, unless a written permit to do so has first been secured from the Town Administrator or his or her designee.
(1993 Code, § 34-2) (Am. Ord. 14-10, passed 8-19-2014) Penalty, see § 10.99

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§ 96.03 DEPOSIT OF ASHES, MATTER LIABLE TO SPONTANEOUS COMBUSTION.

No person shall deposit ashes, smoldering coals or embers, greasy or oily substances or other matter liable to spontaneous ignition, within 15 feet of any wooden or plastered wall, or other combustible materials, except in metallic or other noncombustible receptacles. These receptacles, unless residing on the ground outside the building, shall be placed on noncombustible stands, and in every case shall be kept at least two feet from any wall or partition. Nothing in this section shall prevent the deposit of cold or wet ashes and cinders for the improvement of any unpaved alley or walkway.

(1993 Code, § 34-3) Penalty, see § 10.99

FIRE DEPARTMENT

§ 96.15 ADMINISTRATION.

(A) The Board of Commissioners may contract with and delegate full authority to a local volunteer fire department to provide fire prevention and protection services and to administer and enforce the terms of this chapter. In that event, the members of the volunteer fire department shall designate a Chief of the Fire Department who shall have full authority to implement the provisions of this chapter. In addition, if the town contracts with a volunteer fire department, the volunteer fire department may generally be referred to as the “Fire Department” even though it is an independent third party.

(B) It shall be the duty of the Chief of the Fire Department to:

- (1) Supervise and direct the extinguishing of fires;
- (2) Preserve and safekeep all equipment of the Fire Department;
- (3) Compel when necessary all officers of the town or other persons to aid in the extinguishing of fires;
- (4) Enforce all rules and ordinances relative to fire prevention;
- (5) Inspect all equipment of the Fire Department and report all needed repairs to the Board;
- (6) Report all violations of any fire prevention ordinances;
- (7) Annually report to the Town Administrator and the Board the names, residences and occupations of all firefighters, the number and locality of fires which have occurred during the year, the causes thereof if they can be ascertained, name of the owner and value of the property destroyed, an accounting of all funds appropriated by the town, and any other matters pertaining to the Fire Department, its organization and operation as he or she deems best; and

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(8) Do any other and further things necessary for the proper and efficient operation of the Fire Department and for the prevention of fire.
(1993 Code, § 34-31) (Am. Ord. 14-10, passed 8-19-2014)

§ 96.16 DEPUTY CHIEF.

In the absence of the Fire Chief, the Deputy Chief shall perform all duties required of the Chief, and shall be clothed with the same authority as the Chief.
(1993 Code, § 34-32) (Am. Ord. 14-10, passed 8-19-2014)

§ 96.17 CONTROL OF FIREFIGHTING OPERATIONS.

Whenever a fire shall occur it shall be the duty of the Fire Chief to report immediately to the place of the fire and to take active charge of the firefighting operations.
(1993 Code, § 34-33)

§ 96.18 INVESTIGATION OF CAUSE OF FIRE.

Immediately after the occurrence of any fire, the Fire Chief shall investigate, or shall cause to be investigated, the cause, origin and circumstances thereof; and, as far as possible, shall determine whether the fire is the result of accident, carelessness or design. If he or she has reason to believe that the fire is of suspicious origin, he or she shall notify the proper authorities designated by law to pursue the investigation of those matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case when properly instituted.
(1993 Code, § 34-34)

§ 96.19 RECORD OF FIRE.

The Fire Chief shall keep, or shall cause to be kept, an accurate record of all fires, calls for service, or any other information or record required of the town as required by state, federal or local law.
(1993 Code, § 34-35) (Am. Ord. 14-10, passed 8-19-2014)

§ 96.20 INSPECTIONS.

(A) It shall be the duty of the Fire Chief to inspect or to cause to be inspected as often as may be specified in Volume V of the State Fire Prevention Code all specially hazardous manufacturing processes, storage or installations of acetylene or other gases, chemicals, oils, explosives and inflammable materials, all interior fire alarms and automatic sprinkler systems and any other hazards or appliances for the safeguarding of life and property from fire.

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(B) Whenever any person shall make written complaint to the Fire Chief that any business or premises constitutes a fire hazard, it shall be his or her duty to have the same inspected immediately.
(1993 Code, § 34-36)

Statutory Reference:

Investigation of fires and inspection of premises, see G.S. §§ 58-79-1 et seq.

§ 96.21 NOTICE OF FIRE HAZARD; ORDER TO REMEDY.

Whenever the Fire Chief shall find that any building or any premises constitutes a fire hazard, he or she shall serve or cause to be served upon the owner and the occupant of that building a written notice specifying the condition complained of, ordering the same to be remedied promptly and indicating what is considered a reasonable time for compliance with that order.
(1993 Code, § 34-37)

§ 96.22 SERVICE OF ORDER.

The service of any order to remedy a fire hazard may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of the same to and leaving it with any person in charge of the premises or in case that the person is not found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises. In case the owner of the premises is some person other than the occupant thereof, service of that notice may be made by delivering a copy of that notice to the owner personally or by mailing the copy to his or her last known address. If the occupant or owner is a partnership, service upon any partner shall be sufficient; and if a corporation, upon any local agent thereof.
(1993 Code, § 34-38)

§ 96.23 FAILURE TO COMPLY WITH ORDER.

It shall be unlawful for any occupant or any owner of any building or premises to fail to comply within a reasonable time after the service of any order to remedy a fire hazard with the requirements thereof.
(1993 Code, § 34-39) Penalty, see § 10.99

§ 96.24 RIGHT TO ENTER BUILDING OR PREMISES.

The Fire Chief, any member of the Fire Department when so directed by him or her or the Fire Code Official shall have the right to enter any building or premises, at any reasonable hour, for the purpose of making an inspection.
(1993 Code, § 34-40)

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§ 96.25 AUTHORITY TO SUMMON ASSISTANCE.

During the continuance of any fire, the Fire Chief and each of the captains of the Fire Department shall have the power to call on any and all persons to assist in extinguishing a fire, or in removing any goods, wares, merchandise or furniture from any building on fire, or in danger, to some place of safety. No person shall fail to obey an order given for the purpose aforesaid.
(1993 Code, § 34-41) Penalty, see § 10.99

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CHAPTER 97: LIBRARY

Section

In General

97.01 Establishment

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97.15 Establishment; membership

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IN GENERAL

§ 97.01 ESTABLISHMENT.

(A) In G.S. § 153A-261 the General Assembly stated its recognition that the availability of adequate, modern library services and facilities is in the general interest of the public.

(B) Thus, the stated policy is to promote the establishment and development of public library services throughout the state. G.S. § 153A-263 provides that the Town Board may “establish, operate and support (a public library)” and that citizens that operate or financially support (through taxes) public libraries are entitled to free use of the library and their services.

(C) In keeping with this policy, the Lilly Pike Sullivan Municipal Library was established in the town to meet the library needs of the community. Its purpose is to provide information, cultural enrichment, recreation and a means of continuing education for people of all ages and interests. Since the library is one of the many services provided by the government, in keeping with good management practices, it is designated a department within the town’s organization.

(1993 Code, § 42-1)

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LIBRARY BOARD OF TRUSTEES

§ 97.15 ESTABLISHMENT; MEMBERSHIP.

(A) In order to ensure that the public interests are continually addressed by the library, the Board of Commissioners shall appoint a Library Board of Trustees which understands the community's needs, the library's capabilities and the necessity to plan carefully for a library program that will provide the services needed. The Board of Trustees will advise the Board of Commissioners on library programs and policy as required.

(B) In order to provide for the effective trusteeship needed to ensure a viable library program, the members shall be selected based on the following qualifications:

- (1) Interest in the library, in the community and in the library's relationship to the community;
- (2) Readiness to devote time and effort to carry out the duties of trusteeship;
- (3) Recognition of the library's importance as a center of information of community culture, recreation and continuing education;
- (4) Close acquaintance with community social and economic conditions and with groups within the community;
- (5) Ability to work well with others – Board members, the librarian and staff members and the public served by the library;
- (6) An open mind, intellectual curiosity and respect for the opinions of others;
- (7) Initiative and ability to recommend policies for successful operation of the library and impartial service to all patrons;
- (8) Courage to plan creatively, to carry out plans effectively and to withstand pressures, prejudices and provincialism;
- (9) Ability to envision library development to include improvement and external expansion;
and
- (10) Devotion to the library, its welfare and its progress.

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(C) The library shall have a Board of Trustees consisting of six persons who shall be appointed by the Board of Commissioners. Because the library is a service available to the citizens of Greater Enfield, membership of the Board of Trustees shall be composed of persons with an Enfield mailing address. Each member shall serve for a period of four years or until a successor is duly appointed and qualified, except that two of the first Board members following the adoption of this chapter shall serve for two years. Library Board members may be reappointed by the Board of Commissioners for an indefinite number of terms. Vacancies shall be filled in the same manner at the first meeting after the vacancy occurs.

(1993 Code, § 42-26)

§ 97.16 OFFICERS; DUTIES.

(A) The Library Board of Trustees shall elect from its members a Chairperson, Vice-Chairperson, Secretary and Treasurer every two years at the first regular meeting following the appointment of the new Board.

(B) It shall be the duty of the Chairperson to preside at all meetings, to appoint all committees, to certify all actions approved by the Library Board, to authorize calls for any special meetings and to represent the Library Board when necessary, including appropriate communication with the Board of Commissioners.

(C) It shall be the duty of the Vice-Chairperson to function in the place of the Chairperson in his or her absence.

(D) It shall be the duty of the Secretary to record a true and accurate account of all proceedings of the Library Board meetings, to issue notices of all regular and on the Chairperson's authorization, of all special meetings and shall notify the Board of Commissioners of any vacancies on the Library Board. The Librarian shall be responsible for transcription of the minutes and shall maintain the minutes and other records of the Library Board.

(E) It shall be the duty of the Treasurer with the administrative support of the Librarian to have charge of any special library funds and income, to keep books, report at each meeting on the state of the funds, develop the library departmental budget, present the proposed budget to the Library Board and to make an annual report.

(1993 Code, § 42-27)

§ 97.17 RULES OF OPERATION; POWERS.

(A) For efficiency, the Library Board of Trustees should adopt bylaws to govern its operation. They should be concise and should include, but not be limited to, the following:

- (1) Time and place of regular meetings;
- (2) The method of calling special meetings;

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- (3) Quorum;
- (4) Expansion, if desired, of the duties of the officers;
- (5) Order of business;
- (6) The appointment and duties of committees;
- (7) Hearings before the Board; and
- (8) Amending the bylaws.

(B) The town library is a legal entity and an instrument of the town government. The Board of Trustees, which is the primary advisor to the Board of Commissioners, is a legal body that has the following powers:

(1) To formulate and propose programs, policies and regulations for the operation of the library;

(2) To make recommendations to the Board of Commissioners concerning the construction and improvement of buildings and other structures for the library system;

(3) To advise the Town Administrator in the appointment of a Chief Librarian, and provide assistance as requested with regard to the interview process;

(4) To propose a schedule of fines and charges for late return of, failure to return, damage to and loss of library materials and to take other measures to protect and regulate the use of materials;

(5) To participate in preparing the annual budget of the Library Department;

(6) To extend the privileges and use of the library system to nonresidents of the town as deemed feasible; and

(7) To advise the Board of Commissioners on library matters generally.

(1993 Code, § 42-28)

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CHAPTER 98: PUBLIC DEMONSTRATIONS

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PARADES

§ 98.01 TITLE.

This subchapter shall be known and may be cited as the Parade Regulations of the town.
(1993 Code, § 62-131)

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§ 98.02 DEFINITIONS.

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

PARADE. Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in the town.

PARADE PERMIT. A permit as required by this subchapter.
(1993 Code, § 62-132)

§ 98.03 COMPLIANCE.

A permittee under this subchapter shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading that activity shall carry the parade permit upon his or her person during the conduct of the parade.

(1993 Code, § 62-134)

Statutory References:

Mass gatherings, see G.S. §§ 130A-251 et seq.

Regulation of motor vehicles in parades, see G.S. § 20-169

§ 98.04 PUBLIC CONDUCT DURING PARADES.

(A) *Interference.* No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(B) *Driving through parades.* No driver of a vehicle shall drive between the vehicles or persons comprising a parade when those vehicles or persons are in motion and are conspicuously designated as a parade unless so directed by a competent official.

(C) *Parking on parade route.* The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this subchapter.

(1993 Code, § 62-135) Penalty, see § 98.99

§ 98.05 EXCEPTIONS.

This subchapter shall not apply to:

(A) Funeral processions;

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

(C) A governmental agency acting within the scope of its functions.
(1993 Code, § 62-136)

§ 98.06 PERMIT REQUIRED.

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the Chief of Police (or other appropriate official or body).
(1993 Code, § 62-137) Penalty, see § 98.99

§ 98.07 APPLICATION FOR PERMIT.

(A) A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by that officer.

(B) An application for a parade permit shall be filed with the Chief of Police not less than 30 days nor more than 60 days before the date on which it is proposed to conduct the parade.

(C) The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct that parade;

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of that organization;

(3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;

(4) The date when the parade is to be conducted;

(5) The route to be traveled, the starting point and the termination point;

(6) The approximate number of persons who, and animals and vehicles which, will constitute the parade; the type of animals; and a description of the vehicles;

(7) The hours when the parade will start and terminate;

(8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;

(9) The location by streets of any assembly areas for the parade;

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(10) The time at which units of the parade will begin to assemble at any assembly area;

(11) The interval of space to be maintained between units of the parade;

(12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf; and

(13) Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit should be issued.

(D) The Chief of Police, where good cause is shown therefor, shall have the authority to consider any application under this section which is filed less than 30 days before the date the parade is proposed to be conducted.

(E) The designated fee shall be paid at the time of filing the application for a parade permit.
(1993 Code, § 62-138)

§ 98.08 STANDARDS FOR ISSUANCE.

The Chief of Police shall issue a permit as provided for under this section when, from a consideration of the application and from any other information as may otherwise be obtained, he or she finds that:

(A) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(B) The conduct of the parade will not require the diversion of so great a number of police officers of the town to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the town;

(C) The conduct of the parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the town other than that to be occupied by the proposed line of march and areas contiguous thereto;

(D) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to those assembly areas;

(E) The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire;

(F) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;

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(G) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route; and/or

(H) The parade is not to be held for the sole purpose of advertising any product, goods or event, and is not designed to be held purely for private profit.
(1993 Code, § 62-158)

§ 98.09 NOTICE OF REJECTION.

The Chief of Police shall act upon the application for a parade permit within five working days after the filing thereof. If the Chief of Police disapproves the application, he or she shall mail to the applicant, within ten days after the date upon which the application was filed, a notice of his or her action stating the reasons for his or her denial of the permit.
(1993 Code, § 62-159)

§ 98.10 APPEAL PROCEDURE.

Any person aggrieved shall have the right to appeal the denial of the parade permit to the Board of Commissioners. The appeal shall be taken within ten days after notice. The Board of Commissioners shall act upon the appeal within ten days after its receipt.
(1993 Code, § 62-160)

§ 98.11 ALTERNATIVE PERMIT.

(A) The Chief of Police, 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.

(B) An applicant desiring to accept an alternate permit shall, within five days after notice of the action of the Chief of Police, file a written notice of acceptance with the Chief of Police.

(C) An alternate parade permit shall conform to the requirements of and shall have the effect of a parade permit under this subchapter.
(1993 Code, § 62-161)

§ 98.12 NOTICE TO TOWN, OTHER OFFICIALS.

Immediately upon the issuance of a parade permit, the Chief of Police shall send a copy thereof to the following:

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(A) The Mayor;

(B) The Town Administrator;

(C) The Fire Chief; and

(D) Director of Public Works and Utilities.

(1993 Code, § 62-162)

§ 98.13 CONTENTS.

Each parade permit shall state the following information:

(A) Starting time;

(B) Minimum speed;

(C) Maximum speed;

(D) Maximum interval of space to be maintained between the units of the parade;

(E) The portions of the streets to be traversed that may be occupied by the parade;

(F) The maximum length of the parade in miles or fractions thereof; and

(G) Any other information as the Chief of Police shall find necessary to the enforcement of this subchapter.

(1993 Code, § 62-163)

§ 98.14 REVOCATION.

The Chief of Police shall have the authority to revoke a parade permit issued under this section upon application of the standards for issuance as set forth in § 98.09.

(1993 Code, § 62-164)

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PICKETING AND DEMONSTRATIONS

§ 98.25 LIMITED TO CERTAIN LOCATIONS.

Picketing and demonstrations shall be conducted only on public sidewalks maintained by the town, and only the outside five feet of those sidewalks next to the curb shall be used by the pickets or demonstrators. No picketing or demonstrating shall be conducted on the remaining portion of the sidewalks or on that portion of the streets used primarily for vehicular traffic.

(1993 Code, § 62-181)

§ 98.26 MARCHING; NUMBERS RESTRICTED.

The marching of pickets and demonstrators shall be in single file and they shall be spaced a distance of not less than 15 feet apart, and not more than six pickets shall picket or demonstrate before any given place of business or public facility. No vehicle or animal shall be used in any picket or demonstrating line, and all pickets or demonstrators shall be afoot and shall be in continuous motion.

(1993 Code, § 62-183)

§ 98.27 PICKETS LIMITED TO ONE BUSINESS PER BLOCK.

Pickets or demonstrators promoting the same objective may picket or demonstrate in front of only one place of business or public facility within a town block at any one time. The term **BLOCK** as used in this section shall mean that portion of a street lying between intersections.

(1993 Code, § 62-183)

§ 98.28 REGULATION OF SIGNS, PLACARDS.

Pickets or demonstrators shall carry only cardboard or paper placards or signs and the words used thereon shall not be defamatory in nature and shall not be so that they would tend to produce violence. No metal or wood may be attached to those placards or signs and the placards or signs shall not be more than 24 inches in length and not more than 24 inches in width. No picket or demonstrator or person supervising or accompanying the picket or demonstrator shall make any statement, remark or verbal utterance to any person traveling on the sidewalks or streets of the town. Any message that the picket or demonstrator wishes to convey to the public must be printed or in writing on placards or signs as described in this section.

(1993 Code, § 62-184)

§ 98.29 NOTICE TO CHIEF OF POLICE.

The Chief of Police of the town is to be given at least 24 hours' notice by any person planning to picket or demonstrate. This notice shall include the name of the organization planning to picket and also

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shall include the names of the places of business or public facilities which will be picketed and the hours that the picketing or demonstrating will be conducted.

(1993 Code, § 62-185)

Statutory Reference:

Picketing and parading, see G.S. § 14-225.1

§ 98.30 DISPERSAL REQUIRED IF ORDERED BY POLICE.

Whenever the free passage of any street or sidewalk in the town shall be obstructed by a crowd, the persons composing that crowd shall disperse or move on when directed to do so by a police officer. It shall be unlawful for any person to refuse to so disperse or move on when so directed by a police officer as provided in this section.

(1993 Code, § 62-186) Penalty, see § 98.99

§ 98.99 PENALTY.

A violation of this chapter is subject to the provisions of § 10.99.

(1993 Code, § 62-133; Am. Ord. 3-18-19)