

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ABANDONED, NUISANCE AND JUNKED VEHICLES

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Statutory references:

Abandoned and derelict motor vehicles, see G.S. §§ 20-137.6 et seq.

Abandonment of junked motor vehicles, see G.S. § 160A-303.2

Abatement of public health and public safety nuisances, see G.S. § 160A

Removal and disposal of junked and abandoned motor vehicles in municipalities, see G.S. § 160A-303

Report of abandoned vehicles, see G.S. § 20-114(c)

§ 90.01 DEFINITIONS.

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

ABANDONED VEHICLE. As authorized and defined in G.S. § 160A-303, a motor vehicle that:

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

AUTHORIZING OFFICIAL. The supervisory employee of the Police Department, Town Manager or other designated town official, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

JUNKED VEHICLE.

- (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 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 or safety hazard and a public nuisance by the Town Council.

(Ord. passed 12-3-2002)

§ 90.02 ADMINISTRATION.

The Police Department, Town Manager or other designated town official shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town, and on property owned by the town. The Town Manager, Chief of Police or other designated town official 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 of powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. passed 12-3-2002)

§ 90.03 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

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

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

(Ord. passed 12-3-2002) Penalty, see § 10.99

§ 90.04 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

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

(B) Upon investigation, the Town Manger, Chief of Police or other designated town official may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

(Ord. passed 12-3-2002) Penalty, see § 10.99

§ 90.05 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

(A) It shall be unlawful for a 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. Single, permitted junked motor vehicles 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 for the owner, lessee or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(D) Subject to the provisions of division (E) below, upon investigation, the Town Manager, Chief of Police or other designated town official may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner.

(1) Such finding shall be based on 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.

(2) The following among other relevant factors may be considered:

- (a) Protection of property values;
- (b) Promotion of tourism and other economic development opportunities;
- (c) Indirect protection of public health and safety;
- (d) Preservation of the character and integrity of the community; and
- (e) Promotion of the comfort, happiness and emotional stability of area residents.

(E) Permitted concealment or enclosure of a junked motor vehicle is subject to the following.

(1) One junked motor vehicle, in its entirety can be located in the rear yard as defined by the town's zoning ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering. The Town Manager, Chief of Police or other designated town official has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.

(2) More than one junked motor vehicle: any other junked motor vehicle must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle 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 zoning compliance and building permit and which has been constructed in accordance with all zoning and building code requirements.

(Ord. passed 12-3-2002) Penalty, see § 10.99

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

(A) Except as set forth in § 90.07, an abandoned, nuisance or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city 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.

(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, such appeal shall be made to the Town Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. (Ord. passed 12-3-2002)

§ 90.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) The requirement of this chapter that notices 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. Such 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 the streets.* For vehicles left on the public streets and highways, the Town Council hereby determines that immediate removal of such vehicles may be warranted when they are:

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

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, such 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, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Ord. passed 12-3-2002)

§ 90.08 REMOVAL OF VEHICLES, POST-TOWING NOTICE REQUIREMENTS.

(A) (1) Any abandoned nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed by the tow truck operator or towing business contracted to perform such services for the town.

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(2) Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle; such notice shall include the following:

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

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

(C) If the vehicle is registered in this 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.

(D) Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(2)(a) through (A)(2)(e) above.

(Ord. passed 12-3-2002)

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

(A) 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 a probable cause existed for removing the vehicle.

(B) A request for hearing must be filed in writing with the county magistrate designated by the Chief District Court Judge to receive such hearing with 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.

(Ord. passed 12-3-2002)

§ 90.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

(A) At any state 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 such fees and charges to the Town Clerk.

(B) Upon regaining possession of a vehicle, the owner or person entitled to possession of the vehicle shall not engage in further violation of this chapter.
(Ord. passed 12-3-2002)

§ 90.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator of towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. Ch. 44A, Art. 1 (G.S. §§ 44A-1 et seq).
(Ord. passed 12-3-2002)

§ 90.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof.
(Ord. passed 12-3-2002)

§ 90.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter.
(Ord. passed 12-3-2002)

§ 90.14 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle:

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

(B) Which is in an enclosed building;

(C) Which, is on the premises of a business enterprise being operated in a lawful place and manner 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.
(Ord. passed 12-3-2002)

§ 90.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

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

(Ord. passed 12-3-2002) Penalty, see § 10.99

CHAPTER 91: ANIMAL REGULATIONS

Section

- 91.01 Domesticated animals
- 91.02 Vaccinations and tags
- 91.03 Dogs running at large
- 91.04 Nuisance animal
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- 91.07 Exceptions
- 91.08 Hearings on dangerous/vicious determination
- 91.09 Impoundment and reclaiming
- 91.10 Livestock
- 91.11 Non-domesticated animals

- 91.99 Penalty

§ 91.01 DOMESTICATED ANIMALS.

A *DOMESTICATED ANIMAL* shall be intended to mean any canine, feline or other domesticated animal permitted under the laws of the state, both male and female.
(Ord. passed - -)

§ 91.02 VACCINATIONS AND TAGS.

(A) All dogs and cats in the town are required to be vaccinated against rabies and distemper.

(B) It shall be unlawful for any dog to appear or to be on any street, park or public place in town unless the dog is wearing a collar or harness to which is attached a current rabies vaccination tag.
(Ord. passed - -) Penalty, see § 91.99

§ 91.03 DOGS RUNNING AT LARGE.

(A) *AT LARGE* means a dog off the premises of its owner, without being on a leash or restraint held by its owner or other person.

(B) It shall be unlawful for any owner/keeper of any dog to permit the animal to run at large in the town. All dogs not on their owner's/keeper's premises must be under control of a competent person and restrained by chain or leash or other adequate physical control.

(C) Any dog found running at large in the town may be impounded.

(D) The owner of any dog found running at large in the town, even if the animal running at large cannot be caught by the police, will be issued a civil penalty referenced in § 91.99.
(Ord. passed - -) Penalty, see § 91.99

§ 91.04 NUISANCE ANIMAL.

(A) *Generally.* An animal shall be determined by the Police Chief or his or her designee to be a public nuisance when it commits any of the following or combination of the following, more than one time.

(1) Habitually or repeatedly chases, snaps at, attacks or barks in such a manner to disturb the reasonable use and enjoyment by neighboring residents;

(2) Without provocation, off owner's premises inflicts serious injury;

(3) Damages personal property;

(4) Turning over garbage containers;

(5) Damages gardens or other foliage;

(6) Causes unsanitary conditions of its enclosure or surroundings; or

(6) By way of odor, noise or attraction of pests disturbs the reasonable use and enjoyment by neighboring residents.

(B) *Complaints of nuisance animals.* Complaints may be submitted to the Police Department. Upon receiving the complaint, a representative of the Police Department shall notify the owner against whom the complaint is directed and issue them a warning. Such person shall have 48 hours to abate the declared nuisance.

(C) *Second complaint of nuisance animal.* Upon the second offense, the animal shall be declared a nuisance and the animal owner is issued a citation for \$50. All subsequent offenses may be fined at \$100 each and/or animal impounded by the Police Department. The animal may be redeemed by the owner after providing proof of vaccination, paying all fines and penalties, under the condition that the animal is removed from the town limits.
(Ord. passed - -) Penalty, see § 91.99

§ 91.05 DANGEROUS DOGS.

(A) A dog may be determined dangerous by the Police Chief or his or her designee if:

(1) Without provocation has inflicted serious injury on a person;

(2) Without provocation chases or approaches a person not on the owners premises in a menacing or terrorizing manner in an apparent attitude of attack; or

(3) Kills or inflicts serious injury upon a domestic animal when not on the owner's premises.

(B) For the animal to be declared dangerous by the Police Chief or his or her designee, he or she must notify the owner/keeper in writing, giving the reason for his or her determination.

(C) (1) All dangerous dogs shall be securely confined indoors or in an enclosed and locked pen upon the owner's premises. All pens must be secure and provide humane treatment of the animal.

(2) The owner of a dangerous dog shall not allow the dog to go outside the structure unless the dog is muzzled and restrained on a leash by a competent person.

(3) The owner of a dangerous dog must display signs in prominent places on the owner's premises indication there is a dangerous dog on the premises.

(4) The owner or keeper of a dog deemed dangerous shall report immediately to the Police Department if the dog gets loose or is otherwise unconfined or if it attacks a person or another animal.

(D) Any dangerous dog found at large within the town after the owner has been presented notice that such dog is dangerous may be destroyed by the police or any such person acting under the direction of the police. (Ord. passed - -) Penalty, see § 91.99

§ 91.06 VICIOUS ANIMALS.

(A) A *VICIOUS ANIMAL* shall mean any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.

(B) Any animal may be declared vicious by the Police Chief after the owner/keeper has been notified in writing, stating the reasons for his or her determination.

(C) It shall be unlawful for any person to own, keep, possess or in any way maintain a vicious animal within the corporate limits of the town. After determination by the designated agent that a particular animal is vicious, the owner or keeper of such animal shall have it humanely destroyed or shall otherwise remove it from within the corporate limits of the town.

(D) Each vicious animal and each day's continued violation shall constitute a separate and distinct violation. (Ord. passed - -) Penalty, see § 91.99

§ 91.07 EXCEPTIONS.

(A) This chapter shall not apply to dogs used by a Police Department or other law enforcement agency or animals use to assist disabled persons.

(B) No dog may be declared dangerous when injury or damage is sustained by a person who was committing a willful trespass or other tort upon the premises of the dog's owner.

(C) No animal may be declared dangerous for injury or damage sustained by a person who was teasing, tormenting, abusing or assaulting the animal.

(D) Any animal being used for promotional or educational purposes, entertainment, exhibition or show shall be exempt from § 91.03 provided the owner is issued clearance from the Town Manager or Police Chief.
(Ord. passed - -) Penalty, see § 91.99

§ 91.08 HEARINGS ON DANGEROUS/VICIOUS DETERMINATION.

(A) Once an owner/keeper has received written notification that their animal has been determined dangerous or vicious, they may appeal the determination by giving written notice of appeal to the Town Manager within three days of receiving their determination notice.

(B) Within ten days of receiving the notice of appeal, the Town Manager will schedule an informal hearing where evidence and witnesses may be presented. The Town Manager will make a ruling within the following five days and notify the owner of the decision in writing.

(C) If the dangerous or vicious determination is upheld, the owner must comply with all requirements and conditions listed in this chapter.
(Ord. passed - -) Penalty, see § 91.99

§ 91.09 IMPOUNDMENT AND RECLAIMING.

(A) Any animal may be impounded if:

- (1) It is found running at large in the town limits;
- (2) Its owner has failed to have the animal vaccinated for rabies and distemper;
- (3) It appears in public without a current rabies vaccination tag; or
- (4) Its owner has received two or more citations for animal being declared a nuisance.

(B) Once an animal has been impounded there will be posted a "notice of impounded animal" at the Police Department and the town hall, specifying the date of apprehension and the deadline by which the dog must be retrieved before it is turned over to the County Animal Control. Animals will be held at the pound for three days before contacting Animal Control to pickup the animal.

(C) Owners must pay all fines and penalties, and show proof the animal has been vaccinated and tagged before animal may be reclaimed.

(D) It shall be unlawful for any person interfering with the capture or impoundment of animal by the town, including but not limited to the prevention of an animal being trapped, the release of a trapped animal or the unlawful release of an impounded animal.
(Ord. passed - -) Penalty, see § 91.99

§ 91.10 LIVESTOCK.

(A) *Definition. LIVESTOCK* is a domestic animal normally kept for use on a farm and/or raised for sale or profit.

(B) *Generally.* It shall be unlawful for any person, firm or corporation to keep ponies, horses, mules, goats, cows, swine, sheep, poultry or other livestock in the town.

(C) *Exceptions; domesticated hens.* Up to ten hens may be kept in any single lot or tract in the town as long as the fowl do not, by reason of noise, odor, or attraction of flies, become a nuisance of health hazard, and the following conditions are met:

(1) Hens are only allowed by a single family detached home;

(2) No roosters are allowed in town;

(3) No hens will be permitted to free roan, and must be kept in a secure enclosed pen and or chicken house or coop of suitable construction and size for the number of hens maintained in it;

(4) All pens or coops, regardless of number of hens shall be cleaned and sprayed with a suitable disinfectant as often as needed. All waste material removed from the pen or coop shall be disposed of in a manner that does not cause odor or attract flies;

(5) No pen or coop shall be erected within the front or side yard, and not within 50 feet of another residence or principal building and must meet all regulation of the town zoning ordinance;

(6) Domestic hens shall only before personal use. No resale of fowl or eggs shall be permitted in town;

(7) No backyard slaughter is allowed within the town; and

(8) A violation of any provision of this section is hereby declared to be prejudicial to the public health or safety and to constitute a public nuisance. Such nuisance animal shall be abated as set forth in § 91.04. (Ord. passed - -) Penalty, see § 91.99

§ 91.11 NON-DOMESTICATED ANIMALS.

(A) *Definition. NON-DOMESTICATED ANIMAL* is any wild animal, reptile or fowl which is not naturally tame or gentle, but is of a wild nature or disposition, and which, because of its size, vicious nature, or other characteristics would constitute a danger to human life or property. The term includes animals and birds, the keeping of which is licensed by the state or federal government. By way of example and not of limitation, the term includes: snakes, eagles, bobcats, deer and alligators.

(B) *Prohibited animals.* No person, firm or corporation shall keep, maintain or harbor within the town any of the following animals:

(1) Any animal or species prohibited by federal or state law;

(2) Any large cat of the Felidae such as lions, tigers, jaguars, cougars, except commonly domesticated house cats;

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- (3) Any member of the family Canidae, such as wolves, foxes, coyotes, except domesticated dogs;
- (4) Any crossbreed such as crossbreeds between dogs and coyotes, or dogs and wolves;
- (5) Any poisonous snake or pit viper such as a rattlesnake, coral snake, water moccasin, copperhead or cobra.
- (6) Any raccoon;
- (7) Any other animal which is not listed explicitly above, but which can reasonably be defined by the terms in § 91.10, including bears, and badgers.

(C) *Exceptions.* The following non-domesticated animals shall be exempt from the provision of division (B) of this section:

- (1) Non-domesticated animals brought into the town for entertainment, exhibition, show, promotional or educational purposes, provided such animals are kept within an enclosure or other secure method of storage; and
- (2) Non-poisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas or lizards and similar small animals.

(D) *Existing non-domesticated animals.* Any person keeping or maintaining any non-domesticated animal in violation of this chapter at the time this chapter has been adopted will be required to remove the animal within 60 days of its passage.

(E) *Impounding of non-domesticated animals.* Any non-domesticated animal kept in violation of this chapter may be impounded by the town, and after three days or more without being reclaimed by the owner, may be sold or destroyed. The owner may reclaim the animal by paying all fines and penalties, under the condition that the animal is removed from the town limits.
(Ord. passed - -) Penalty, see § 91.99

§ 91.99 PENALTY.

(A) Any violation of §§ 91.01 through 91.09 shall subject the offender to a civil penalty in the amount stated in this section. Violators shall be issued a written citation which must be paid at the town hall within five days. Fines are as follows:

- (1) Animal running at large (1st violation): \$ 50;
- (2) Animal running at large (2nd and subsequent violations): \$100;
- (3) Nuisance animal (1st violation): \$ 50;
- (4) Nuisance animal (2nd and subsequent violations): \$100;
- (5) Dangerous dog: \$ 50;

(6) Vicious dog: \$ 50; and

(7) Interfering with capture or impoundment: \$50.

(B) The owner of each impounded animal will be charged a maintenance and care fee of \$10 per day. The impound fee must be paid before any animal may be reclaimed by its owner.

(C) Violation of §§ 91.01 through 91.09 may also constitute a misdemeanor punishable upon conviction by a fine not to exceed \$100 or imprisonment for not more than 30 days as provided by G.S. § 14-4.

(C) Alternatively, the town may apply to the appropriate court for an injunction and order of abatement requiring a violator to correct any unlawful condition relating to §§ 91.01 through 91.09 existing on his or her property, pursuant to G.S. § 160A-175.

(D) Unless this code of ordinances provides otherwise, any violation of §§ 91.10 or 91.11 shall subject the offender to a civil penalty in the amount stated in this section. Violators shall be issued a written citation which must be paid at the town hall within five days. Fines are as follows:

(1) Any violation of §§ 91.10 or 91.11: \$50; and

(2) The owner of each impounded animal will be charged a maintenance and care fee of \$10 per day. The impound fee must be paid before any animal may be reclaimed by its owner.

(Ord. passed - -)

CHAPTER 92: CEMETERY

Section

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- 92.06 Certificate to bury dead body
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- 92.13 Duties of Public Works Director
- 92.14 Schedule of cemetery lot charges

Statutory references:

Municipal authority to establish and operate cemeteries, see G.S. § 160A-341
Regulation of city cemeteries, see G.S. § 160A-348

§ 92.01 BETHEL CEMETERY.

The name of the cemetery shall be Bethel Cemetery, which shall be maintained by the Public Works Director.
(Prior Code, § 22-111)

§ 92.02 MAP OF CEMETERY.

The Town Clerk shall keep a map of the cemetery, showing thereon all burial plots or squares which are offered for sale, together with those sold, indicating the exact location of each.
(Prior Code, § 22-112)

§ 92.03 DEED TO LOT.

It shall be the duty of the Clerk to prepare and deliver to the purchaser a deed to any plot or square in the cemetery after the full purchase price has been paid.
(Prior Code, § 22-113)

§ 92.04 PAUPER GRAVES.

It shall be the duty of the Public Works Director to authorize the digging of all graves for paupers on plots designated for that purpose.
(Prior Code, § 22-114)

§ 92.05 DIGGING GRAVES.

No person shall dig any grave in the cemetery without permission.
(Prior Code, § 22-115) Penalty, see § 10.99

§ 92.06 CERTIFICATE TO BURY DEAD BODY.

It shall be unlawful to bury any dead body without first securing a certificate from the Health Officer or some licensed physician. Such certificate shall give the name and residence of the deceased, the name of the nearest relative and the time, place and cause of death.
(Prior Code, § 22-116) Penalty, see § 10.99

§ 92.07 DISINTERMENTS.

No disinterments shall be made except by cemetery employees, with the consent of the Public Works Director and upon written consent of the lot owner or nearest of kin.
(Prior Code, § 22-117) Penalty, see § 10.99

§ 92.08 INJURING PROPERTY IN CEMETERY.

It shall be unlawful to damage, destroy or injure any property in or belonging to the cemetery.
(Prior Code, § 22-118) Penalty, see § 10.99

§ 92.09 ONE INTERMENT IN GRAVE; EXCEPTION.

Only one interment shall be made in a grave, except a mother and infant, or two children, in one coffin.
(Prior Code, § 22-119) Penalty, see § 10.99

§ 92.10 STOCK.

No stock shall be allowed to graze or roam in the cemetery.
(Prior Code, § 22-120) Penalty, see § 10.99

§ 92.11 PLANTING TREES AND HIGH SHRUBS.

No person shall plant trees or high shrubs on any lot or drive in the cemetery. Any tree or high shrub planted or now growing in said cemetery shall be cut down or trimmed to a reasonable height not to exceed three feet by the Public Works Director.

(Prior Code, § 22-121) Penalty, see § 10.99

§ 92.12 CEMETERY EXTENSIONS; REGULATIONS.

In any extension of the Bethel Cemetery made after this date, no owners of lots in any extension of said cemetery shall be permitted to place therein or thereon any objects, thing, plant or shrub above the level of the ground, except headstones and mausoleums in front of which, and in that location only, small flowers may be grown; and no owners of lots in said cemetery extension shall place any object, thing, plant or shrub on said lots or open grave on any said lots without first obtaining the written permission of the Public Works Director.

(Prior Code, § 22-122) Penalty, see § 10.99

§ 92.13 DUTIES OF PUBLIC WORKS DIRECTOR.

The Public Works Director shall have full power and authority, and he or she is hereby directed to remove from all lots, all objects, things, plants or shrubs placed there in violation of § 92.12.

(Prior Code, § 22-123)

§ 92.14 SCHEDULE OF CEMETERY LOT CHARGES.

Charges collected by the town for the sale of cemetery lots shall be as set out in the schedule of cemetery lot charges, hereby made a part hereof, which is on file in the town office.

(Prior Code, § 22-124) (Ord. passed 4-3-1984)

CHAPTER 93: FAIR HOUSING

Section

93.01 Adopted by reference

§ 93.01 TITLE.

G.S. Ch. 41A is hereby adopted by reference and the statute statutes are to be used for the Town of Bethel Fair Housing Ordinance.
(Ord. passed 11-3-2015)

CHAPTER 94: FIRE PROTECTION AND PREVENTION

Section

- 94.01 Organization
- 94.02 Chief in command
- 94.03 Chief and Assistant Chief vested with police powers
- 94.04 False alarms
- 94.05 Interfering with firefighters or equipment
- 94.06 Right-of-way
- 94.07 Traffic must stop
- 94.08 Driving over fire hose
- 94.09 Riding fire trucks
- 94.10 Fire apparatus not to leave town
- 94.11 Fire inspections
- 94.12 Wood shavings placed out of doors
- 94.13 Open burning prohibited without permit
- 94.14 Storage of explosives regulated
- 94.15 Congregating at fires
- 94.16 Blasting
- 94.17 Building to conform with specifications
- 94.18 Lights regulated where explosives are stored
- 94.19 Combustible material under stairways
- 94.20 Chimneys
- 94.21 Fire exits encumbered
- 94.22 Exit signs in theaters
- 94.23 Passageways in churches and other public places to be kept lighted and unobstructed
- 94.24 Fire extinguishers
- 94.25 Storage of gasoline regulated
- 94.26 Oil plants defined
- 94.27 Oil plant requirements
- 94.28 Oil plants to be kept clean
- 94.29 Underground tank regulations
- 94.30 Approval and installation of tanks

- 94.99 Penalty

Statutory references:

Town authority to establish Fire Department and appoint Chief, see G.S. § 160A-291

Duties of Chief, see G.S. § 160A-292

Municipal authority to regulate or prohibit explosive and corrosive substances, see G.S. § 160A-183

Municipalities authorized to install and maintain water mains and hydrants, see G.S. § 160A-293

§ 94.01 ORGANIZATION.

The Fire Department shall consist of a Chief, any Assistant Chief and other officers and personnel and members of each company.
(Prior Code, § 18-1)

§ 94.02 CHIEF IN COMMAND.

The Chief, or in his or her absence, the Assistant Chief, shall command the Fire Department and their orders shall be obeyed; and for any willful disobedience of the orders of the officer in command, the offending party shall be dismissed from the Department by the Town Fire Association.
(Prior Code, § 18-2)

§ 94.03 CHIEF AND ASSISTANT CHIEF VESTED WITH POLICE POWERS.

The Chief and Assistant Chief shall have authority to arrest anyone who interferes with the proper performance of the Department.
(Prior Code, § 18-3)

§ 94.04 FALSE ALARMS.

It shall be unlawful for any person to give or cause to be given any false alarm of fire.
(Prior Code, § 18-4) Penalty, see § 94.99

§ 94.05 INTERFERING WITH FIREFIGHTERS OR EQUIPMENT.

It shall be unlawful for any person to interfere with a firefighter in the discharge of his or her duty or to meddle with any fire apparatus.
(Prior Code, § 18-5) Penalty, see § 94.99

§ 94.06 RIGHT-OF-WAY.

In the event of an alarm of fire, the apparatus of the Department shall have the right-of-way in and upon the streets, lanes, alleys, squares and railroad crossings in going to any fire. No person shall obstruct or neglect to make way for such apparatus.
(Prior Code, § 18-6) Penalty, see § 94.99

§ 94.07 TRAFFIC MUST STOP.

Whenever a fire alarm shall be given, all vehicles shall immediately drive to the right as near as possible to the curb at the point where they may be at the time; provided, however, the driver of any conveyance, upon

request of the members of the fire company, may take such members to the fire without observing the regulation herein provided.

(Prior Code, § 18-7)

§ 94.08 DRIVING OVER FIRE HOSE.

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

(Prior Code, § 18-8) Penalty, see § 94.99

§ 94.09 RIDING FIRE TRUCKS.

It shall be unlawful for any person to enter upon or ride on the fire truck without the consent or invitation of the person in charge of said truck.

(Prior Code, § 18-9) Penalty, see § 94.99

§ 94.10 FIRE APPARATUS NOT TO LEAVE TOWN.

No engine, truck, hook and ladder, wagon, reel or other apparatus of the Fire Department shall leave town except with the consent of the Mayor, Town Manager or the Chief of the Fire Department upon urgent call in case of fire, and no apparatus or property of the Fire Department shall be used for other than fire, sanitary and life-saving purposes.

(Prior Code, § 18-10) Penalty, see § 94.99

§ 94.11 FIRE INSPECTIONS.

Fire inspections shall be done by the office of the County Fire Marshal.

(Prior Code, § 18-11)

§ 94.12 WOOD SHAVINGS PLACED OUT OF DOORS.

No person shall deposit wood shavings in any place out of doors within 30 yards of any building; provided, however, this shall not apply to buildings under construction or repair.

(Prior Code, § 18-12) Penalty, see § 94.99

§ 94.13 OPEN BURNING PROHIBITED WITHOUT PERMIT.

(A) No person shall burn or cause to be burned any leaves, yard trimmings, tree limbs or branches, litter, refuse, tires, lumber, wood or wood products, shavings, paper or paper products, or cause the uncontrolled burning of any other material of any kind whatsoever, outside of any house and in or upon any street, alley, sidewalk, lot, yard or other property at any time, unless a permit has been issued for the same by the Town Manager.

(B) Permits may be issued for the burning activities set forth below upon the written request of a citizen of the town with such burning to be in accordance with the terms and conditions set forth in the issued permit and in accordance with the open burning regulations set forth in state law:

(1) Campfires and fires used solely for outdoor cooking or for ceremonial occasions;

(2) Fires purposely set for the instruction and training of firefighting personnel in training programs after the same have been submitted to and have been approved by the appropriate county and state officials, but these fires will not be permitted if the primary purpose in setting the fire is refuse disposal. Factors which may be considered in the determination of primary purpose include type, amount and nature of combustible substance; and

(3) Open burning for land clearing or right-of-way maintenance in areas other than those zoned solely residential or used primarily for residential purposes only in those instances where there are no other practicable or feasible methods of disposal and under conditions set forth in state law and only after approval of said burning by the appropriate county and state officials.

(C) Any permit is subject to revocation when the permit holder fails to comply with the conditions stated in the permit, the reasons for the permit have changed or the conditions including weather have changed. (Prior Code, § 18-13) (Res. passed 10-2-1990; Ord. 23, passed 10-2-1990; Ord. 06-O-04, passed 6-6-2006)

§ 94.14 STORAGE OF EXPLOSIVES REGULATED.

It shall be unlawful for any person to store any dynamite, dynamite caps or blasting powder unless stored in a fireproof magazine, especially constructed therefor, and used only for that purpose, and which said magazine shall be built and constructed not less than 200 feet from any other building.

(Prior Code, § 18-14) Penalty, see § 94.99

§ 94.15 CONGREGATING AT FIRES.

It shall be unlawful to congregate on the streets, alleys or blocks next to a fire in such manner as will interfere with the Fire Department.

(Prior Code, § 18-15) Penalty, see § 94.99

§ 94.16 BLASTING.

It shall be unlawful to do any blasting without first having secured a permit from the Fire Inspector. (Prior Code, § 18-16) Penalty, see § 94.99

§ 94.17 BUILDING TO CONFORM WITH SPECIFICATIONS.

The Fire Inspector shall diligently assist in seeing that all buildings erected conform to specifications approved therefor, in order that all fire hazards may be reduced to a minimum.

(Prior Code, § 18-17)

§ 94.18 LIGHTS REGULATED WHERE EXPLOSIVES ARE STORED.

It shall be unlawful to turn on any open lights in any building where combustibles or explosives are stored, without first having secured a permit from the Fire Inspector.

(Prior Code, § 18-18) Penalty, see § 94.99

§ 94.19 COMBUSTIBLE MATERIAL UNDER STAIRWAYS.

It shall be unlawful to store under any stairway, or other means of egress, any combustible or explosive material.

(Prior Code, § 18-19) Penalty, see § 94.99

§ 94.20 CHIMNEYS.

All chimneys, smokestacks or similar devices for conveying smoke or gases to the outer air, from stoves, furnaces, fireboxes or ovens, shall be constructed in accordance with the town's building regulations, and shall be maintained in such manner as not to create a fire hazard and endanger adjacent property.

(Prior Code, § 18-20) Penalty, see § 94.99

§ 94.21 FIRE EXITS ENCUMBERED.

It shall be unlawful to encumber any fire escape, balcony or ladder which is intended as a means of escape from fire. It shall be the duty of all police officers and firefighters who shall discover such encumbered fire escapes to report the same, through the Department to the Chief of the Fire Department, who shall immediately notify the owner, agent or tenant to vacate or remove such encumbrance immediately.

(Prior Code, § 18-21) Penalty, see § 94.99

§ 94.22 EXIT SIGNS IN THEATERS.

It shall be the duty of the Fire Inspector to see that every theater or motion picture house shall have a sign which is kept well lighted throughout each performance bearing the word "Exit".

(Prior Code, § 18-22)

§ 94.23 PASSAGEWAYS IN CHURCHES AND OTHER PUBLIC PLACES TO BE KEPT LIGHTED AND UNOBSTRUCTED.

All doors, aisles and passageways within and leading into or out of theaters, churches and other places of public assemblage shall be lighted during the entire time in which any show, performance, service, exhibition, lecture, concert, ball or other assemblage is taking place, and shall be free from signs, easels, chairs, sofas, benches and any other article that might obstruct or delay the exit of the audience.

(Prior Code, § 18-23) Penalty, see § 94.99

§ 94.24 FIRE EXTINGUISHERS.

Hand or other portable fire extinguishers shall be installed and maintained in every store, factory, garage or other public building.

(Prior Code, § 18-24) Penalty, see § 94.99

§ 94.25 STORAGE OF GASOLINE REGULATED.

The storage of gasoline and other inflammable liquids for private use in tanks above the ground or other receptacles holding over five gallons is hereby declared a nuisance, dangerous to life and property, and therefore is prohibited.

(Prior Code, § 18-25) Penalty, see § 94.99

§ 94.26 OIL PLANTS DEFINED.

An *OIL PLANT*, within the meaning of this chapter, is any place where gasoline or other highly inflammable or explosive petroleum or other products are received in tank cars or other bulk quantities, stored and delivered by tank wagon or otherwise to dealers, consumers or places outside such plant.

(Prior Code, § 18-26)

§ 94.27 OIL PLANT REQUIREMENTS.

No oil plant shall be established or located within the business or fire district or in or near a mercantile or manufacturing section, nor shall an oil plant be established or located within any other part of the town, unless its arrangement, construction, equipment and location conform to the following requirements.

(A) Each tank for storage of such products shall be of steel or reinforced concrete, shall conform to the specifications of the state fire prevention code, and shall rest on noncombustible supports of ample strength and stability, with not less than a safety factor of five. The shutoff gate valves shall be of gate type, and all vents shall be equipped with two or more layers of nickel gauze separated one-half inch or more, and of not larger than 40 mesh to the inch. All tank supports shall be of brick or concrete or properly protected steel work and all valves, vents and pumps shall be of such improved design, make or specification and location as are approved by the state Fire Prevention Code.

(B) All such tanks shall be thoroughly and effectively grounded as protection against lightning and static electricity, and no such tank shall be located nearer than 25 feet to the boundary line of the land occupied by the oil plant (except it be the line of a railroad or common carrier) nor nearer than 50 feet to any building not a part of such plant; provided, that in case of large storage tanks (25,000 gallons capacity or over) the distance shall not be less than is prescribed by the rules and regulations of the State Fire Prevention Code.

(C) Oil tanks shall not be located on land sloping towards combustible property or in proximity to streams, drainage ditches or water fronts where escaping oil can reach combustible property. In locations where aboveground tanks are liable in case of breakage or overflow to endanger surrounding property, each tank shall be protected by an embankment or dike. Such dikes shall have a capacity of not less than one and one-fourth times

the capacity of the tank surrounded, and shall be at least four feet high, but in no case higher than one-fourth the height of tank when height of tank exceeds 16 feet.

(Prior Code, § 18-27) Penalty, see § 94.99

§ 94.28 OIL PLANTS TO BE KEPT CLEAN.

Every such oil plant shall at all times be kept in proper shape and repair and clean and free from such conditions by reason of rubbish, litter and waste oils as will render it unnecessarily hazardous and a menace to life and property.

(Prior Code, § 18-28) Penalty, see § 94.99

§ 94.29 UNDERGROUND TANK REGULATIONS.

All underground tanks for the storage of gasoline, whether under the streets, sidewalks or private property, shall be buried at least three feet below the level of the lowest point of the street adjacent to or within ten feet of the location of the tank, or, if location is on private property more than ten feet from any street, said tank shall be buried at least three feet below the natural surface of the ground, and no tank shall be located within 20 feet of any basement or excavation.

(Prior Code, § 18-29) Penalty, see § 94.99

§ 94.30 APPROVAL AND INSTALLATION OF TANKS.

All tanks, pumps and fittings connected with or being a part of a system of storage of gasoline shall be approved by either the United States Bureau of Standards or the National Board of Laboratories.

(Prior Code, § 18-30) Penalty, see § 94.99

§ 94.99 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 violation of the provisions of § 94.13 shall subject the offender to a civil penalty in the amount of \$50. Violators shall be issued a written citation, which must be paid within 72 hours. If the person fails to pay the civil penalty within 72 hours, the town may recover the penalty including all costs and attorney's fees by riling a civil action in the general court of justice in the nature of a suit to collect a debt.

(Ord. 06-O-04, passed 6-6-2006)

CHAPTER 95: HEALTH AND SANITATION

Section

General Provisions

- 95.01 Offal or refuse thrown on streets
- 95.02 Stagnant water; drainage, oiling and the like
- 95.03 Privies prohibited
- 95.04 Septic tanks regulated

Public Nuisances

- 95.15 Enforcement
- 95.16 Nuisances declared
- 95.17 Maintenance of exterior of premises required
- 95.18 Notification of property owner
- 95.19 Right of entry to abate; appeals
- 95.20 Costs of abatement; lien
- 95.21 Chronic violators

- 95.99 Penalty

Statutory references:

Abatement of imminent hazard, see G.S. § 130A-20

Abatement of public health nuisance, see G.S. § 130A-19

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

GENERAL PROVISIONS

§ 95.01 OFFAL OR REFUSE THROWN ON STREETS.

No house offal or refuse of any kind shall be thrown upon the streets or left exposed, and 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, and all putrid or decaying animal or vegetable matter must be removed from all cellars and outbuildings 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.

(Prior Code, § 22-1) Penalty, see § 95.99

§ 95.02 STAGNANT WATER; DRAINAGE, OILING AND THE LIKE.

It shall be unlawful for any owner, lessee, tenant or occupant of any building or premises to keep or permit thereon any standing water, matter or substance injurious to health or offensively odorous. All cellars, excavations, ditches or open spaces wherein water at any time stagnates or arises, or which are damp, and in which foul and unwholesome gases are generated, and all premises whereon water shall pond, shall upon written notification by or through the Health Officer, be provided with proper drainage by the owner thereof, or be filled with sand, gravel or some other imperishable material, but not in such manner as to obstruct proper drainage of water. All property owners when required so to do shall provide underground drainage for water passing over their premises. Cisterns, tanks, vats, fire buckets and other receptacles used to contain water, shall be screened or oiled whenever, in the opinion of the Board of Health, such screening or oiling is necessary to prevent the breeding of mosquitoes.

(Prior Code, § 22-2) Penalty, see § 95.99

§ 95.03 PRIVIES PROHIBITED.

No person, group of persons, firm or corporation shall build or remodel any structure used for human habitation or occupancy within the town which is not provided with water-carried sewage facilities connected to a public sewerage system or septic tank constructed in accordance with the requirements of the state division of environmental health.

(Prior Code, § 22-3) Penalty, see § 95.99

§ 95.04 SEPTIC TANKS REGULATED.

It shall be the responsibility of the property owner to maintain all septic tanks installed within the town in good repair and working order. Whenever any septic tank becomes overloaded or gets out of order or when any connections thereto become stopped up or broken or when any condition exists which creates or is likely to create a hazard detrimental to the public health, the owner shall, within 36 hours after being notified by the town, repair or replace such septic tank or connection thereto. Any property owner failing or refusing to comply with this section after having been notified by the town shall be guilty of violating this subchapter.

(Prior Code, § 22-4) Penalty, see § 95.99

PUBLIC NUISANCES**§ 95.15 ENFORCEMENT.**

The Town Manager shall act as or appoint an individual as the enforcement officer for this subchapter. The individual so appointed shall have the duty of full enforcement of this subchapter, and any enforcement officer shall be clothed with full power and authority imposed by this subchapter, and is hereby authorized and directed to proceed to carry out the provisions of this subchapter.

(Ord. passed 11-3-2015)

§ 95.16 NUISANCES DECLARED.

(A) The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the same may exist, and the creation, maintenance or failure to abate the nuisances is hereby declared unlawful:

- (1) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests;
- (2) A place of heavy growth of weeds or other noxious vegetation over 12 inches in height. This shall include the area between a property line and the edge of pavement of any abutting street, and to the centerline of any abutting alleyway;
- (3) An open place of collection of water where insects tend to breed;
- (4) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags or any other combustible materials or objects of a like nature;
- (5) An open place of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind; or
- (6) Any furniture, appliance or other metal product of any kind or nature openly kept, which has jagged edges of metal or glass, or areas of confinement.

(B) Any other condition not enumerated in division (A) above may be specifically declared to be a danger to the public health, safety, morals and general welfare of the inhabitants of the town and a public nuisance by the Town Council, which proceeding may be initiated by the enforcement officer before the Town Council after giving written notice in conformity with § 95.18, which notice will state the condition existing, the location and that the Town Council will be requested on a day certain, after a public hearing at which the person notified may appear and be heard, to declare that the conditions existing constitute a danger to the public health, safety, morals and general welfare of the inhabitants of the town and a public nuisance and that, after the declaration by the Town Council in the form of an ordinance, the condition will be abated as provided for in § 95.18, provided that no appeal shall lie from a proceeding initiated by the enforcement officer before the Town Council as provided in § 95.18.

(Ord. passed 11-3-2015) Penalty, see § 95.99

Statutory reference:

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

§ 95.17 MAINTENANCE OF EXTERIOR OF PREMISES REQUIRED.

(A) It shall be unlawful for any person to keep on their front porch furniture designed for interior use, waste, lumber, junk, trash, debris, abandoned objects, bedding, packing boxes, cans, containers, accumulation of substantial quantities of loose earth, rocks, pieces of concrete or cement or pieces of metal, appliances, automotive machine parts or any collection of materials that can be considered combustible or that can harbor rats or other pests. After notice of violation of this section as per § 95.18, it shall be unlawful to allow the items to remain on the porch of the occupant or owner for a period longer than ten days.

(B) It shall be unlawful for any person to have on their premises material that creates a littered condition, such as dilapidated furniture, discarded appliances, broken machinery, dilapidated building materials, discarded automotive parts, tires or any other similar items which are not completely enclosed within a building or dwelling. After notice of violation of this section as per § 95.18, it shall be unlawful to allow the items to remain on the property of the occupant or owner for a period longer than ten days. This shall not apply to authorized junk dealers or establishments licensed to engage in repair, rebuilding, reconditioning or salvaging of equipment. (Ord. passed 11-3-2015) Penalty, see § 95.99

§ 95.18 NOTIFICATION OF PROPERTY OWNER.

When any public nuisance is found to exist on any property within the town, the enforcement officer shall notify the owner of the premises where the nuisance is located that conditions exist which constitute a public nuisance and that, unless the condition is abated by the property owner by the number of days listed below from the mailing of the notice or by personal delivery, which shall be sent by certified mail, return receipt requested, the conditions constituting a nuisance will be abated by the town and the cost of abatement shall constitute a lien against the premises.

(A) Ten days: A place of heavy growth of weeds or other noxious vegetation over 12 inches in height. This shall include the area between a property line and the edge of pavement of any abutting street, and to the centerline of any abutting alleyway;

(B) Fifteen days: all other nuisances listed in this chapter.
(Ord. passed 11-3-2015)

§ 95.19 RIGHT OF ENTRY TO ABATE; APPEALS.

(A) The enforcement officer is hereby given full power and authority to enter upon the premises involved for the purpose of abating any nuisance found to exist as set out in this chapter and such nuisance will be abated by town forces or an outside contractor.

(B) Within the period mentioned in § 95.18, the owner of the property where the nuisance exists may appeal the findings of the enforcement officer made pursuant to § 95.16 to the Town Council by giving written notice of appeal to the enforcement officer, the appeal to stay the abatement of the nuisances by the enforcement officer until a final determination by the Town Council. In the event no appeal is taken, the enforcement officer may proceed to abate the nuisance.

(C) The Town Council, in the event an appeal is taken as provided in division (B) above, may, after hearing all interested persons and reviewing the findings of the enforcement officer, reverse the finding made pursuant to § 95.16 but if the Town Council shall determine that the findings of the enforcement officer made pursuant to the section are correct and proper, it shall adopt an ordinance specifically declaring the condition 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 enforcement officer to cause the conditions to be abated.
(Ord. passed 11-3-2015)

§ 95.20 COSTS OF ABATEMENT; LIEN.

After the abatement of any nuisance as provided in this subchapter, the cost of the abatement shall be a charge against the owner and a lien on the premises upon confirmation of the cost thereof by the Town Council, which confirmation shall take place only after ten days' written notice to the owner of the premises where the nuisance existed of the proposed confirmation. Upon confirmation, the cost of abatement shall be a lien against the premises from which the nuisance was abated, the same to be recorded as provided in G.S. §§ 160A-193 et seq., and to be collected as unpaid taxes.

(Ord. passed 11-3-2015)

§ 95.21 CHRONIC VIOLATORS.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

CHRONIC VIOLATOR. A person or entity who owns property whereupon in the previous calendar year, the town gave notice to abate at least three times under any provision of this subchapter, and the owner failed to abate the property and where the town came in and abated the property. A notice of being classified as a **CHRONIC VIOLATOR** will be sent via certified mail to the owner on or about the beginning of the new calendar year.

(B) *Action taken.* Upon determination of a chronic violator and where a property is found to be in violation of this subchapter, the town may, without further notice in the calendar year in which the notice to abate is given, take action to remedy the violation, and the expense of such action shall become a lien upon the property and shall be collected as unpaid taxes. The owner would receive an annual notice via certified mail.

(Ord. passed 11-3-2015)

§ 95.99 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, firm or corporation violating any of the provisions of this chapter for which no other penalty is provided, or failing, neglecting or refusing to comply with the same shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$50 or imprisonment not to exceed 30 days, and each day that any of the provisions of this chapter are violated shall constitute a separate offense.

(G.S. § 14-4(a)) (Ord. passed 11-3-2015)

CHAPTER 96: NOISE REGULATIONS

Section

96.01	Definitions
96.02	Standards
96.03	Maximum permitted sound levels
96.04	Prohibited noise
96.05	Exceptions
96.06	Motor vehicle noise
96.07	Mufflers
96.08	Animal noises prohibited
96.09	Permits
96.99	Penalty

§ 96.01 DEFINITIONS.

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

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated Db(A).

DECIBEL (Db). A unit for describing the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

HOLIDAY. For the purposes of this chapter, the following days will be recognized as holidays for the purpose of granting permits to exceed maximum sound levels: St. Patrick's Day, Memorial Day, Independence Day, Labor Day, Halloween and December 31.

MUFFLER. An apparatus consisting of a series of chambers of baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

NOISE. Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

OUTDOOR AMPLIFIED SOUND. Any sound using amplifying equipment whose source is outside or whose source is inside and the sound propagates to the outside through open doors or windows or other opening in the building.

PERSON. Any individual, association, partnership or corporation, including any officer, employee, department, agency or instrumentality of the United States, the state or any political subdivision thereof.

PLAINLY AUDIBLE. Any sound produced by a sound amplification system which can be clearly heard at a distance of 75 feet or more. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberations are included.

SLOW RESPONSE. A measuring technique to obtain an average value when measuring a noise level that fluctuates over a range of four Db or more. By way of illustration only, a sound-level meter set on **SLOW RESPONSE** would record a sound level between two and six decibels less than the reading for a steady signal of the same frequency and amplitude when a tone of 1,000 Hz and for a duration of 0.5 seconds is applied.

SOUND. An oscillation in pressure particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of **SOUND** may include any characteristic of such sound, including duration, intensity and frequency.

SOUND AMPLIFICATION SYSTEM. Any radio, tape player, compact disc player, loud speaker or other electronic device used for the amplification of sound.

SOUND LEVEL. The weighted sound pressure level obtained by the use of a sound-level meter and frequency weighting network, such as A, B or C as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-1971 or the latest approved version of thereof). If the frequency weighting employed is not indicated, the A-weighting shall also apply.

SOUND LEVEL METER. An instrument which includes a microphone, amplifier, RSM detector, integrator or time averager, output meter and weighting network used to measure sound pressure levels.

SOUND PRESSURE LEVEL . Twenty times the logarithms to the base 10 of the ratio of the root mean squared (RMS) sound pressure to the reference pressure of 20 micronewtons per square meter.
(Ord. passed 10-8-2002)

§ 96.02 STANDARDS.

(A) Standards, instrumentation, personnel, measurement procedures and reporting procedures to be used in the measurement of sound shall be as specified in this section and in administrative directives issued by the Town Manager.

(B) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on "slow response".

(C) Sound level meters shall be at least Type II meeting American National Standards Institute (ANSI) S1.4-1971 requirements.
(Ord. passed 10-8-2002)

§ 96.03 MAXIMUM PERMITTED SOUND LEVELS.

(A) The use of sound amplifying equipment is limited to the conditions specified in this section.

(B) Outdoor amplified sound, including a live musical group or individual using sound amplifying equipment, may be produced only if an authorized agent of the sponsoring business, organization or group has been granted an outdoor amplified sound permit. This permit must be signed by a representative of the business, organization or group holding or sponsoring the event at which the outdoor amplified sound will be produced.

(C) Except as allowed in division (D) below, no person shall operate or cause to be operated by any source of sound in such a manner as to create a sound level, which at its peak exceeds the limits set forth for the use occupancy categories in Table 1 when measured at or beyond the property line of the property from which the sound originates. For purposes of measurement, the back of the curb, the outside edges of driveways, fences, hedges or other physical features commonly associated with property boundaries are presumed to be at a point which is at or beyond the property line. In all cases, the maximum sound level permitted by use occupancy shall be determined on the basis of the use occupancy of the property from which the sound originates, and not by the use occupancy of any surrounding property. Sound which originates from a dwelling unit in a duplex or other multi-family housing unit shall be measured from any point which is at least 25 lineal feet, whether inside or outside a building, from the nearest point of the enclosed or habitable space of the dwelling unit from which the sound originates.

<i>Table 1: Sound Levels by Use Occupancy</i>		
<i>Use Occupancy Category</i>	<i>Time</i>	<i>Sound Level Limit (Db(A))</i>
Manufacturing, industrial or agricultural	At all times	75
Public space, commercial or business	7:00a.m. to 10:00 p.m.	65
	10:00 p.m. to 7:00 a.m.	60
Residential	7:00 a.m. to 10:00 p.m.	60
	10:00 p.m. to 7:00 a.m.	55

(D) Sound levels in excess of the limits established in Table 1 will be permitted in public space, commercial or business space, manufacturing, industrial or agricultural space, but not in residential space, as follows:

<i>Table 2</i>		
	<i>Without Permit (Db(A))</i>	<i>With Permit to Exceed (Db(A))</i>
Friday and Saturday evenings (5:00 p.m. to 11:00 p.m.)	70	80
Holidays (as defined) (noon to 11:00 p.m.)	70	80

(Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.04 PROHIBITED NOISE.

(A) The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this section, but such enumeration shall not be deemed exclusive:

(1) *Loud and boisterous individuals.* The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort of repose of any person in the vicinity;

(2) *Noises near schools, churches, courts, hospitals and the like.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library or court while the same is in session, or adjacent to any church during church services, which interferes with work or worship in any such place or institution, provided conspicuous signs are displayed on such street indicating that the same is school, church, library, court or hospital;

(3) *Loading and unloading operations.* The creation of loud and excessive noises in connection with loading or unloading any vehicle, or repairing any vehicle, or opening and destroying bales, boxes, crates, and containers this includes the collection of garbage, recycling materials and yard waste. Activity is permitted between the hours of 7:00 a.m. and 7:00 p.m.;

(4) *Hawking, peddling, soliciting.* Shouting, loud talking, crying or soliciting by peddlers, hawkers, taxi drivers, solicitors and vendors, which disturbs the quiet and peace of the neighborhood or any person therein; and

(5) *Business noise at night near residences.* The operation of any garage, filling station, auto repair business, plant, store, factory, night club, restaurant or any other place of business, between the hours of 7:00 p.m. and 7:00 a.m., in such a manner as to create loud and disturbing noises of such frequency or such volume as to annoy or disturb the quiet and comfort of any citizen, and particularly the creating of disturbing noises of such frequency and volume as to annoy or disturb the quiet, comfort, peace or repose of any person in any dwelling, hotel, boardinghouse or other type of residence.

(B) (1) It shall be unlawful for any person or persons to play, use or permit to be played any loud sound amplification system if it is located in any of the following:

(a) Any public property, including any public street, highway, building, sidewalk, park or thoroughfare;

(b) Any motor vehicle on a public street, highway, public space or commercial space; or

(c) Any commercial space or place of business;

(2) And if the sound generated registers a sound level which exceeds the limits in Table 1 when measured at a distance of 25 feet from the device producing sound, unless authorized or exempted by any other section of this chapter.

(C) Possession by a person or persons of any machines or devices which may be classified as a loud sound amplification system enumerated in division (A) above shall be prima facie evidence that such person or those persons operated the machine or device.

(Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.05 EXCEPTIONS.

The following are exempt from the provisions of Table 1 and Table 2 in § 96.03:

(A) Sound emanating from scheduled outdoors athletic events;

(B) Building operations. The erection, including excavating, demolition, alteration or repair of any building in a residential district other than between the hours of 7:00 a.m. and 7:00 p.m. on weekdays, except as said hours may be modified during the summer (May through September) and except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Manager, which permit may be renewed for a period of three days or less while the emergency continues. All equipment must be operated in accord with the manufacturer's specifications and are maintained in proper operating condition;

(C) Noise of safety signals, warning devices, emergency pressure relief valves and all church bells;

(D) Noise resulting from any authorized emergency vehicle;

(E) Noise resulting from parades, lawful picketing or other public demonstrations protected by the U.S. Constitution or federal law, or for which a local permit has been granted by the town, provided such activity is of a temporary duration lasting no longer than two hours during any 24-hour period. Regulation of noise emanating from activities under permit shall be according to the conditions and limits stated in this chapter and according to any additional conditions stated on the permit;

(F) Unamplified and amplified sound at street fairs conducted, sponsored or sanctioned by the town;

(G) All noises coming from the normal operations of properly equipped aircraft (not including scale-model aircraft);

(H) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to G.S. §§ 14-410 et seq.;

(J) Lawn mowers and agricultural equipment used between daylight hours 7:00 a.m. and 9:00 p.m. when operated with all manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition;

(J) Unamplified and amplified sound at community concerts conducted, sponsored or sanctioned by the town;

(K) Practice sessions or a performance by marching bands;

(L) Noise from trains and associated railroad rolling stock when operated in proper repair and manner; and

(M) Emergency work, as defined in § 96.01.
(Ord. passed 10-8-2002)

§ 96.06 MOTOR VEHICLE NOISE.

It shall be unlawful for any person or persons to play, use or permit to be played any loud sound amplification system in a motor vehicle on any public street, highway, public space or commercial space where the sound generated is plainly audible at a distance of 75 feet from the device producing sound, unless authorized or exempted by any other section of this chapter. Measurement standards shall be the auditory senses, based upon the direct line of sight. Words or phrases need not be discernible and bass reverberation are included. (Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.07 MUFFLERS.

(A) It shall be unlawful for any person to operate or cause to be operated a motor vehicle unless the exhaust system is free from defects, which affect sound reduction.

(B) No person shall remove or render inoperative, or cause to be removed or rendered inoperative, other than for purposes of maintenance, repair or replacement, any muffler or sound dissipative device on a motor vehicle.

(C) It shall be unlawful for any person to modify the exhaust system of a motor vehicle by the installation of a muffler cut-out or bypass, and no person shall operate a motor vehicle which has been modified. (Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.08 ANIMAL NOISES PROHIBITED.

It shall be a violation of this chapter for any person to keep or maintain, or permit the keeping of, on premises owned, leased, occupied or controlled by such person, any animal or fowl, the keeping of which is otherwise lawful, which by habitual or frequent sound, cry, howling, barking, squawking or other noise, shall disturb the quiet, comfort or repose of any person. (Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.09 PERMITS.

(A) *Who may apply.* A person or group of persons may produce or cause to be produced sound in excess of the limits set in Table 1 only if a permit to exceed has been obtained. With a permit granted pursuant to this section, maximum sound levels shall be as set out in Table 2.

(B) *Application for permit.* Any person or group of persons desiring an outdoor amplified sound permit or "permit to exceed" shall apply as provided in this section, and shall provide information concerning the nature of the scheduled event; failure to comply with this requirement shall be grounds for denying the permit.

(C) *Action by Town Manager.* The Town Manager or his or her designee shall act upon all requests for permits. In considering and acting on all requests for permits pursuant to this chapter, the Town Manager shall consider, but shall not be limited to, the following in issuing or denying such permit: the vicinity of the location proposed; the frequency of applications by the applicant; the cultural or social benefits of the proposed activity; the effect of the activity on and residential area of the town; and previous violations, if any, of the applicant.

(D) *Fee for permit.* Every application for permit shall require a \$15 administrative fee.

(E) *Conditions on permits.*

(1) Permits to exceed and outdoor amplified sound permits shall specify the duration for which noncompliance shall be permitted and shall prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood.

(2) The Town Manager or his or her designee may require, but shall not be limited to the following.

(a) No sound speakers may be set up more than ten feet off the ground.

(b) The permit holder change the arrangement of amplifying equipment or sound instruments upon the request of any police officer so as to minimize the disturbance to others resulting from the positioning or orientation of the amplifying equipment or from atmospherically or geographically caused dispersal of sound beyond the property lines.

(c) Adjoining property owners surrounding the location proposed as the site of the permitted event be notified by the applicant at least 72 hours prior to the scheduled event, and also advised of the time by which cleanup of the area will be accomplished. Notice to the adjoining property owners shall include a statement indicating that comments or concerns regarding the issuance of a permit at the proposed location may be made to the Town Manager.

(d) No permitted event may last more than four hours in duration. This is a mandatory condition.

(e) No event may extend beyond 12:00 a.m. This is a mandatory condition.

(f) The site of the event, and the area surrounding the site of the event, will be cleaned by the applicant, of all the trash, litter and debris by 10:00 a.m. the following day, or by sunset of the day of the event if the event ends at least four hours before sunset.

(g) The signer for the permit must be available at the site of the event during the entire time for which a permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the signer of a permit to be present or to assist the police in complying with this chapter will be cause for immediate revocation of the permit.

(Ord. passed 10-8-2002) Penalty, see § 96.99

§ 96.99 PENALTY.

(A) Any violation of this chapter shall subject the offender to a civil penalty in the amount of \$50, which may provide for a \$15 delinquency charge if said penalty is not paid within 20 days of issuance, and which penalty and delinquency charge may be recovered by the town in a civil action. The violation is payable to the Town Clerk at the Town Hall.

(B) Each day's continuing violation shall be a separate and distinct offense.

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(C) Notwithstanding division (A) above, provisions of this chapter may be enforced through equitable remedies issued by a court of competent

(D) In addition to or in lieu of remedies authorized in divisions (A) and (C) above, violations of this chapter may be prosecuted as a misdemeanor in accordance with G.S. §§ 14-4 and 160A-175. The penalty for a misdemeanor offense shall be \$150, and may be made upon issuance of a citation or if the violator fails to pay the civil penalty.

(Ord. passed 10-8-2002)

CHAPTER 97: STREETS AND SIDEWALKS

Section

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97.999 Penalty

Statutory references:

Town may regulate direction of traffic flow and construction of driveway connections to streets, see G.S. § 160A-307

General town authority over all public streets, sidewalks and public passages in town limits, see G.S. § 160A-296

DAMAGING STREETS AND SIDEWALKS**§ 97.001 PERMIT REQUIRED.**

No person shall make any excavations, cut or make any other opening in any of the streets or sidewalks of the town, without first having obtained a permit.

(Prior Code, § 46-11) Penalty, see § 97.999

§ 97.002 FEES FOR CUTTING STREETS OR SIDEWALKS.

Any person cutting, excavating or opening any of the streets or sidewalks in the town shall pay for all damages and repairs in such an amount as the Street Committee shall deem reasonable.

(Prior Code, § 46-12)

§ 97.003 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 in the first instance for the opening or cut.

(Prior Code, § 46-13)

§ 97.004 DISPOSITION OF FEES.

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

(Prior Code, § 46-14)

§ 97.005 SIDEWALK CONSTRUCTION.

No sidewalk of any description shall be built by any individual, firm or corporation, of any brick, wood or other material without a written permit from the town.

(Prior Code, § 46-15) Penalty, see § 97.999

§ 97.006 WHEN OPENING TO BE FILLED BY PROPERTY OWNER AND TOWN.

All openings made in any street or sidewalk under the provision herein contained 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 said street or sidewalk. Each day any opening is left unfilled, when such opening is required to be refilled by the applicant, and each day the applicant shall fail to notify the town to refill any hard surface, macadam or asphalt required by this section to be replaced by the town shall constitute a separate offense.

(Prior Code, § 46-16) Penalty, see § 97.999

§ 97.007 PROTECTION OF OPENINGS.

It shall be unlawful for any person, firm or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with plank or place ropes around the same three feet from the ground or to fail to place a sufficient number of red lights around such excavation before dark and to keep lights burning all night every night such excavation shall be open.

(Prior Code, § 46-17) Penalty, see § 97.999

§ 97.008 STREETS NOT TO BE DAMAGED.

It shall be unlawful for any person, firm or corporation to drag, or run, or cause to be dragged or run any harrow or other implement, engine, machine or tool upon any asphalt, bitulitic, warrenite or other type of permanently paved street of the town which shall be liable, in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

(Prior Code, § 46-18) Penalty, see § 97.999

§ 97.009 HOUSE MOVING.

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Town Council, and the deposit of a good and sufficient bond in the sum of \$500 to cover damage done to such street or sidewalk or to any property of any person.

(Prior Code, § 46-19) Penalty, see § 97.999

§ 97.010 DAMAGE TO LIGHTS AND SIGNS.

No person shall injure, tamper with, remove or paint upon or deface any sign, sign post, street light, traffic signal or bulletin board or other municipal property upon the streets and sidewalks, except employees of the town in performance of their duties.

(Prior Code, § 46-20) Penalty, see § 97.999

§ 97.011 PERMIT REQUIRED FOR PLACING POLES.

No poles for electric, telegraph, telephone or other purposes shall be placed on any street, without a permit.
(Prior Code, § 46-21) Penalty, see § 97.999

§ 97.012 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 of such street for the purpose of supporting electric, telephone or telegraph wires.

(Prior Code, § 46-22)

§ 97.013 SEPARATE LINES OR WIRES ON SAME POLES BY AGREEMENT.

Whenever any electric, telephone or telegraph company shall desire to place line or wires along any particular street upon which it does not have a line of poles, but upon which said street there exists a line of poles owned by another company, then such company may maintain its wires upon the same poles. If an agreement cannot be reached between the company owning the poles and the company desiring to place wires thereon, then the said companies may submit the question of compensation to three disinterested persons for arbitration or they may submit the same to the Council for determination. This section shall apply to poles owned by the town as well as poles owned by companies operating under franchises from the town.

(Prior Code, § 46-23)

§ 97.014 CARE AND 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.

(Prior Code, § 46-24) Penalty, see § 97.999

§ 97.015 USE OF POLES AND UNDERGROUND CONDUITS FOR TOWN PURPOSES.

One duct in all underground conduit systems shall be provided for the town, free of charge, for the town police or fire alarm telegraph system when required, and the town shall have the use of any and all poles on streets for the same purposes.

(Prior Code, § 46-25)

§ 97.016 DAMAGING TOWN PROPERTY FORBIDDEN.

No person shall willfully or wantonly injure any of the public bridges, pavements, sidewalks or property belonging to the town.

(Prior Code, § 46-26) Penalty, see § 97.999

§ 97.017 SHRUBS AND BUSHES.

(A) In order to protect the life and limb of persons in the town and to remove the hazards caused to traffic and pedestrians by the overgrowth of shrubs and bushes at street intersections within the town, it is deemed desirable that such hazards be removed.

(B) It shall be unlawful for any owner of property in the town to permit the growth of shrubs and bushes to extend into any intersection, to overhang any street, or to grow to such height and to such size as to obstruct the clear view of approaching traffic in any direction at an intersection of any public street within the town. Whenever in the opinion of the Street Committee of the Council such a condition as above described shall exist at any street intersection within the town, the same shall be removed after first warning the property owner to remove the same by order of the Street Committee provided the landowner fails and refuses to comply with the request of the Street Committee. The removal of such hazardous condition as herein described shall be performed under the supervision of the Street Committee of the Council.

(C) Any property owner within the town who refuses to remove the hazard herein described when requested to do so by the Street Committee of the Council shall be responsible for the cost of removing said hazard and such sum as may be necessary to expend to remove the hazard shall be a lien against the property of the said property owner and shall be payable upon demand unto the town.

(Prior Code, § 46-27) (Ord. passed 10-16-1973) Penalty, see § 97.999

OBSTRUCTING STREETS AND SIDEWALKS**§ 97.030 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, and any person who refuses to obey the warning of the officer shall be deemed to violate this section.

(Prior Code, § 46-38) Penalty, see § 97.999

§ 97.031 PARADES AND DEMONSTRATIONS; DEFINITIONS.

For the purpose of §§ 97.031 through 97.039, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BLOCK. The portion of any street lying between its intersections with other streets.

GROUP DEMONSTRATION. Any assembly together or concert of action between or among two or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention of such assembly.

PARADE. Any assemblage of two or more persons participating in or operating any vehicle in any march, ceremony, show, exhibition or procession of any kind in or upon the public streets, sidewalks, alleys, parks or other public grounds or places.

PERSON. Any person, firm, corporation, partnership, association or other organization, whether formal or informal.

PICKET LINE. Any two or more persons formed together for the purpose of making known any position or promotion of such persons, or on behalf of any organization or class of persons.
(Prior Code, § 46-39)

§ 97.032 PERMIT REQUIRED.

It shall be unlawful for any person to organize, conduct or participate in any parade, picket line or group demonstration in or upon any street, sidewalk, alley or other public place within the town unless a permit therefor has been issued by the town in accordance with the provisions of this subchapter.
(Prior Code, § 46-40) Penalty, see § 97.999

§ 97.033 STANDARDS.

The Chief of Police shall issue a permit for the proposed parade, unless he or she finds that:

(A) Such parades, picket lines or group demonstrations are to commence before 6:00 a.m. or terminate after 5:00 p.m.;

(B) Such parades or group demonstrations are to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the Chief of Police or his or her designee;

(C) The conduct of the parade will substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(D) The conduct of the parade will require the diversion of so great a number of police officers of the town to properly police the line of movement of the parade and of contiguous areas that adequate police protection cannot be provided the remainder of the town;

(E) The conduct of the parade will require the diversion of so great a number of ambulances that adequate ambulance service to portions of the town not occupied by the parade and contiguous areas will be prevented;

(F) The concentration of persons, animals and vehicles at assembly points of the parade will substantially interfere with adequate fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;

(G) The conduct of the parade is reasonably likely to result in violence to persons or property, causing serious harm to the public;

(H) The parade is to be held for the primary purposes of advertising a product, good or event, and is designed to be held primarily for private profit; or

(I) The conduct of the parade will interfere with the movement of firefighting equipment to such an extent that adequate fire protection cannot be provided to the town.
(Prior Code, § 46-41)

§ 97.034 REQUIREMENTS AND ISSUANCE OF PERMITS.

The Chief of Police, or his or her designee, shall issue permits as required in the preceding section, and in the issuance thereof he or she shall require:

(A) A written application for permit to be filed not less than 24 hours in advance of such parade, picket line or group demonstration, which application shall specify the time and place for the commencement of any such picket line and the time, place, route and duration of any such parade or group demonstration;

(B) The application for a permit specify whether or not minors below the age of 18 years will be permitted to participate; and

(C) The application for a permit shall specify and the permit shall designate the person or persons in charge of the activity. Such person shall be required to accompany the parade, picket line or group demonstration and shall carry such permit with him or her at that time. Such permit shall not be valid in the possession of any other person.

(Prior Code, § 46-42) Penalty, see § 97.999

§ 97.035 CERTAIN ACTIVITIES PROHIBITED.

The following acts or activities, when performed or undertaken in conjunction with or as a part of any parade, picket line or group demonstration, are hereby prohibited and declared unlawful:

(A) The carrying on or about the person any firearm, or any weapon or article, including, but not limited to, blackjacks, nightsticks or flashlights which by their use might constitute a deadly weapon; and

(B) The taking or keeping of any dog or other vicious animal, whether leashed or unleashed.
(Prior Code, § 46-43) Penalty, see § 97.999

§ 97.036 REVOCATION OF PERMIT.

The Chief of Police shall revoke any permit granted for a parade, picket line or group demonstration for any of the following causes:

(A) The violation by any participant of § 97.035; or

(B) The failure to comply with the terms and conditions of the permit.
(Prior Code, § 46-44)

§ 97.037 INTERFERENCE PROHIBITED.

No person shall hamper, obstruct, impede or interfere with any parade, picket line or group demonstration being conducted under authority of a permit duly issued by the Chief of Police.
(Prior Code, § 46-45) Penalty, see § 97.999

§ 97.038 ADDITIONAL REGULATIONS APPLICABLE TO PICKETING.

Picket lines and picketing shall be subject to the following additional regulations.

(A) Picketing may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic.

(B) Not more than ten pickets promoting the same objective shall be permitted to use either of the two sidewalks within a single block at any one time.

(C) Pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in length promoting the objective for which the picketing is done; provided, the words used are not derogatory or defamatory in nature.

(D) Pickets must march in single file and not abreast and must not march closer together than 15 feet, except in passing one another. Pickets shall not be allowed to walk more than five feet from the curbline and shall be in continuous motion.

(E) If pickets promoting different objectives desire to use the same sidewalk for picketing and such use would result in the presence of more than ten pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.
(Prior Code, § 46-46) Penalty, see § 97.999

§ 97.039 EXCEPTIONS.

Sections 97.031 through 97.038 shall not apply to:

(A) Funeral processions; or

(B) Any governmental agency acting within the scope of its functions.
(Prior Code, § 46-47)

§ 97.040 DISPLAY OF GOODS PROHIBITED.

No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of the town.

(Prior Code, § 46-48) Penalty, see § 97.999

§ 97.041 PLACING OBJECTS ON STREETS AND SIDEWALKS.

No brick, stone or wood or other substances obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets or other routes of the town, nor shall any person place on or in any of the streets, sidewalks or alleyways of the town any boxes, crates, casks or barrels of any description, or any other obstruction of any kind. Any person erecting a building may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

(Prior Code, § 46-49) Penalty, see § 97.999

§ 97.042 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.

(Prior Code, § 46-50) Penalty, see § 97.999

§ 97.043 SHEDS AND 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, this section 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.

(Prior Code, § 46-51) Penalty, see § 97.999

§ 97.044 ENCROACHMENTS ON STREETS.

It shall be the duty of the Town Manager to notify all persons about to erect any building, sidewalk, wall or fence near the street or any public way or alley not to encroach upon such street or public alley, and if in the opinion of the Mayor any such obstruction is being, or has been, constructed on any street or public alley, the mayor shall cause a survey of the line of said street or alley to be made by a competent surveyor, and if such survey shall show that the street or alley is obstructed by any such building, sidewalk, wall or fence, the owner shall be required to pay the costs of the survey, and shall be required to remove all obstructions at once, and every person who shall be found to have encroached on any street or public way or alley by any such building, sidewalk, wall or fence and refuses or neglects to remove the same upon notice from the Town Manager within ten days from the date thereof shall, upon conviction, be guilty of a misdemeanor.

(Prior Code, § 46-52) (Ord. passed 2-4-1986) Penalty, see § 97.999

§ 97.045 RAILROAD CROSSINGS; REGULATION.

(A) The Council may direct, control and prohibit the laying of railroad tracks and switches in public streets and alleys. All railroad tracks, crossings and bridges shall be constructed so as not to interfere with drainage patterns or with the ordinary travel and use of the public streets and alleys.

(B) The costs of constructing, reconstructing and improving public streets and alleys, including the widening thereof, within areas covered by railroad cross-ties, including cross timbers, shall be borne equally by the town and the railroad company. The costs of maintaining and repairing such areas after construction shall be borne by the railroad company.

(C) At each railroad grade crossing hereinafter designated in this section, the railroad operating trains or locomotives or rolling stock of any kind over such crossing shall maintain at all times suitable crossing gates, which shall be closed when any train, locomotive or other rolling stock is passing over, or approaching near to the crossing for the purpose of passing over, the same. The grade crossings at which crossing gates shall be so maintained are located as shall be designated by the Town Council from time to time. In lieu of the foregoing, the railroad may install and maintain highway grade crossing automatic flashing light signals with or without short arm gates.

(D) At each railroad grade crossing hereinafter designated in this section, the railroad operating trains, locomotives or rolling stock of any kind over the same shall either:

(1) Give timely warning of the approach of each train, locomotive or other rolling stock, by a crossing watchman then on duty; or

(2) Cause each train, locomotive or other rolling stock to be brought to a stop before entering onto the crossing and to be preceded by a flagger on foot who shall give timely warning that it is about to enter upon the crossing.

(E) At each railroad grade crossing hereinafter designated in this section, the railroad operating trains, locomotives or other rolling stock of any kind over the same may install and maintain highway grade crossing automatic flashing light signals, and such railroad operating trains, locomotives or rolling stock of any kind over said crossing shall either:

(1) Give timely warning of the approach of each train, locomotive or other rolling stock by a crossing watchman then on duty;

(2) Cause each train, locomotive or other rolling stock to be brought to a stop before entering on such crossing and to be preceded by a flagger on foot who shall give timely warning that it is about to enter upon the crossing; or

(3) Install and maintain highway grade crossing automatic flashing light signals with or without short arm gates.

(F) The town shall bear 90% of the costs of warning signs, gates, lights and other safety devices at grade crossings, and the railroad company shall bear 10% of the costs. The costs of maintaining warning signs, gates, lights and other safety devices installed after January 1, 1972, shall be borne equally by the town and the railroad company. The maintenance shall be performed by the railroad company and the town shall pay annually to the

railroad company 50% of these costs. In maintaining maintenance cost records and determining such costs, the town and the railroad company shall use the same methods and procedures as are now or may hereafter be used by the Board of Transportation.

(Prior Code, § 46-53) Penalty, see § 97.999

Statutory reference:

Municipal powers concerning railroad crossings, see G.S. § 160A-298

§ 97.046 BRIDGES AND UNDERPASSES.

(A) The Council may require that a grade crossing be eliminated and replaced by a railroad bridge or by a railroad underpass, if the Board finds as a fact that the grade crossing constitutes an unreasonable hazard to vehicular or pedestrian traffic. In such event, the town shall bear 90% of the costs, and the railroad company shall bear 10% of the costs.

(1) If the town constructs a new street which requires a grade separation and which does not replace an existing street, the town shall bear all of the costs.

(2) If a railroad company constructs a new track across at grade, or under, or over an existing street, the railroad company shall pay the entire cost thereof.

(3) The town shall pay the costs of maintaining street bridges which cross over railroads. Railroad companies shall pay the cost of maintaining railroad bridges over streets, except that the town shall pay the costs of maintaining street pavement, sidewalks, street drainage and street lighting where streets cross under railroads.

(B) Whenever the widening, improving or other changes in a street require that a railroad bridge be relocated, enlarged, heightened or otherwise reconstructed, the town shall bear 90% of the costs and the railroad company shall bear 10% of the costs.

(Prior Code, § 46-54)

USE AND CLEANLINESS OF STREETS AND SIDEWALKS

§ 97.060 THROWING OR BURNING TRASH ON STREET PROHIBITED.

No paper, straw, lemon peel, banana peel, watermelon rind or any trash of any kind shall be thrown or swept upon any sidewalk or street of the town, nor shall any trash, refuse or rubbish be burned thereon.

(Prior Code, § 46-82) (Ord. 06-O-05, passed 7-11-2006) Penalty, see § 10.99

§ 97.061 TREE TRIMMINGS.

It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery on any street or sidewalk.

(Prior Code, § 46-83) (Ord. 06-O-06, passed 7-11-2006) Penalty, see § 97.999

§ 97.062 SNOW AND ICE REMOVAL.

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

(Prior Code, § 46-84) Penalty, see § 97.999

§ 97.063 BICYCLES ON SIDEWALKS PROHIBITED.

It shall be unlawful for any person to ride a bicycle on any sidewalk in the business district of the town.

(Prior Code, § 46-85) Penalty, see § 97.999

§ 97.064 PLAYING BALL ON STREETS PROHIBITED.

No person shall play ball or bat or catch balls on any of the streets of the town.

(Prior Code, § 46-86) Penalty, see § 97.999

§ 97.065 USE OF NAILS AND TACKS RESTRICTED.

It is hereby declared unlawful for any person to drive any nails or tacks in the telephone, telegraph or electric light poles, or in any house or store situated on any sidewalk or streets of the town, except with the permission of the owner first had and obtained.

(Prior Code, § 46-87) Penalty, see § 97.999

§ 97.066 DRIVING THROUGH STREET BARRICADE.

No person shall drive any vehicle into or upon any alley or street when said street or alley has been barricaded by an employee of the town.

(Prior Code, § 46-88) Penalty, see § 97.999

§ 97.067 REMOVING BARRICADE FORBIDDEN.

No person, other than an employee of the town shall remove, tear down or destroy any barricade which has been erected by the town.

(Prior Code, § 46-89) Penalty, see § 97.999

§ 97.068 REGULATING THE MOVING OF BUILDINGS.

It shall be unlawful for any person to move or cause to be removed any building along, through or across any street or alley in the town, or while engaged in moving same or causing same to be removed, to allow same to remain stationary for a period exceeding six hours, without first obtaining permission; or when engaged in moving or causing to be moved any building through, along or across any street or alley in said town, to tear

down, injure, damage or deface any electric light or telephone wires, cables, poles or fixtures or any fence or bridge without replacing and leaving same, within 24 hours, in as good condition as found.

(Prior Code, § 46-90) Penalty, see § 97.999

§ 97.069 TRACTORS AND THE LIKE NOT ALLOWED ON TOWN STREETS.

No person shall drive or permit to be driven over any hard surfaced, asphalt or paved street any agricultural machinery, such as harrows and the like, with sharp blades, discs or spikes that will drag on the pavement, or any traction engine with caterpillar wheels or any heavy piece of machinery that will in any way damage or injure the paving.

(Prior Code, § 46-91) Penalty, see § 97.999

§ 97.070 DEDICATION OF STREETS.

(A) No street will be accepted as dedicated to public use by the town and no improvements made thereto by the town, unless said street shall be at least 50 feet wide, measuring 25 feet on either side from the center thereof.

(B) In all cases where streets are dedicated by any person, firm or corporation and the town is requested to accept the dedication and make improvements to said street and no map of said street has been properly registered in the Public Registry of the county, then those persons, firms or corporations seeking to dedicate said street shall execute and deliver to the town a deed for the area to be included in the proposed street to be dedicated.

(Prior Code, § 46-92) Penalty, see § 97.999

§ 97.999 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 violation of the provisions of § 97.060 shall subject the offender to a civil penalty in the amount of \$50. Violators shall be issued a written citation, which must be paid within 72 hours. If the person fails to pay the civil penalty within 72 hours, the town may recover the penalty including all costs and attorney's fees by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

(C) Any violation of the provisions of § 97.061 shall subject the offender to a civil penalty in the amount of \$50. Violators shall be issued a written citation, which must be paid within 72 hours. If the person fails to pay the civil penalty within 72 hours, the town may recover the penalty, including all costs and attorney's fees by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

(Ord. 06-O-05, passed 7-11-2006; Ord. 06-O-06, passed 7-11-2006)

