

## **TITLE IX: GENERAL REGULATIONS**

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## CHAPTER 90: ABANDONED AND JUNKED MOTOR VEHICLES

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### § 90.01 STATEMENT OF POLICY.

The Town Board has found it necessary and desirable to promote or enhance:

- (A) The quality of urban attractiveness and the aesthetic appearance of the town;
- (B) The protection of property values throughout the town;
- (C) The preservation of the livability and attractiveness of neighborhoods;
- (D) The promotion of tourism, conventions, and other opportunities for economic development for the town;

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

(F) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

(Ord. passed 4-27-2015)

### § 90.02 DEFINITIONS.

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

***ABANDONED VEHICLE.*** As authorized and defined in G.S. § 160A-303, means one 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 public official), respectively, designated by the Town Manager to authorize the removal of vehicles under the provisions of this chapter.

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

- (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.*** A machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

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

- (1) A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
  - (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
  - (3) A point of collection of pools or ponds of water;
  - (4) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
  - (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like;
  - (6) So situated or located that there is a danger of it falling or turning over;
  - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
  - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
  - (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Board of Commissioners.
- (Ord. passed 4-27-2015)

**§ 90.03 ADMINISTRATION.**

(A) The Town Manager (or his or her designee) shall be responsible for the administration and enforcement of this chapter. The County Sheriff's Department (acting on behalf of the town) 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.

(B) The Town Manager (or his or her designee) 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.

(C) Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the County Sheriff's Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. passed 4-27-2015)

**§ 90.04 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 4-27-2015) Penalty, see § 10.99

**§ 90.05 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.**

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

(B) Upon investigation, the Town Code Enforcement Officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle and order the vehicle removed.

(Ord. passed 4-27-2015) Penalty, see § 10.99

**§ 90.06 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.**

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

(B) It shall be unlawful to have a junked motor vehicle on the premises of public or private property.

(C) Upon investigation, the Town Code Enforcement Officer may order the removal of a junked motor vehicle after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following among other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;

(4) Preservation of the character and integrity of the community; and

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

(Ord. passed 4-27-2015) Penalty, see § 10.99

**§ 90.07 REMOVAL OF VEHICLE; PRE-TOWING NOTICE REQUIREMENTS.**

(A) An abandoned, nuisance, or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the vehicle or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first-class mail. The person who mails the notice 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 town on a specified date, no sooner than seven days after the notice is affixed. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(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 Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Town Board of Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Ord. passed 4-27-2015)

**§ 90.08 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.**

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

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(1) *Vehicles abandoned on the streets.* For vehicles left on public streets and highways, the Board of Commissioners 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 a loading zone;
- (e) Parked in a bus zone; or
- (f) Parked in violation of a temporary parking restriction imposed under this code.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways and on private property, 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 4-27-2015)

**§ 90.09 REMOVAL OF VEHICLE; POST-TOWING NOTICE REQUIREMENTS.**

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

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



(B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in divisions (A)(1) through (A)(4) of this section, 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 the state, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(D) Whenever an abandoned, nuisance, or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(1) through (A)(4) of this section.

(Ord. passed 4-27-2015)

**§ 90.10 RIGHT TO HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.**

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11.

(Ord. passed 4-27-2015)

**§ 90.11 REDEMPTION OF VEHICLE DURING PROCEEDINGS.**

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

(Ord. passed 4-27-2015)

**§ 90.12 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 town or tow truck operator or towing business having

custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. Chapter 44A, Article 1.

(Ord. passed 4-27-2015)

#### **§ 90.13 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 Code Enforcement Officer. 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 4-27-2015)

#### **§ 90.14 PROTECTION AGAINST 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 4-27-2015)

#### **§ 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 4-27-2015) Penalty, see § 10.99

#### **§ 90.16 EXCEPTIONS.**

Nothing in this chapter shall apply to any vehicle:

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

(B) Which is in an enclosed building;

(C) Which is on the premises of 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 4-27-2015)

**§ 90.17 FEES AND CHARGES.**

The fees and charges for the removal and storage of abandoned or junked motor vehicles shall be determined from time to time by the Board and listed in the schedule of fees and charges maintained in the Clerk's office.

(Ord. passed 4-27-2015)

**§ 90.18 STORAGE OF UNLICENSED MOTOR VEHICLES.**

(A) No person may cause, suffer, or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:

(1) The restrictions of this section shall not apply to any person until 45 days after the Administrator initially notifies the responsible person that a permit is required under this section; and

(2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.

(B) An application or an initial permit under this section shall be made to the Administrator on a form prescribed by the town within 30 days after the Administrator notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of six months from the date of issuance. The Administrator shall send to the permittee an application for a renewal permit at least 30 days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the Administrator at least 15 days prior to expiration of the permit.

(C) Any person who submits a completed permit application pursuant to division (B) of this section shall be issued a permit under this section if:

(1) The applicant pays a semi-annual permit fee of \$50;

(2) (a) The applicant demonstrates to the reasonable satisfaction of the Administrator either that:

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1. The vehicle is operable; or

2. The vehicle is capable of being made operable and the applicant is in the process of repairing the vehicle such that it will be made operable within a period of not more than six months.

(b) When a vehicle has remained inoperable for a continuous period of six months or more after the issuance pursuant to this division (C) of a permit that was premised upon a finding of compliance with division (C)(2)(a)2. of this section, the Administrator shall regard this in subsequent applications as conclusive evidence of the applicant's inability to satisfy division (C)(2)(a)2. of this section; and

(3) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the owner or lessee of such property to store the vehicle at that location.

(D) If the Administrator denies an application for an initial or renewal permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of six months, the applicant may appeal this determination to the Board of Commissioners. The Board may find that a vehicle is capable of being made operable within a period of six months or more after the issuance of a previous permit under this section.

(E) For purposes of this section, the **ADMINISTRATOR** shall be the Town Manager or any person designated by the Town Manager to perform the functions and exercise the responsibilities assigned by this section to the Administrator.

(F) The provisions of this section shall not apply to a vehicle determined by the Administrator to be a junked motor vehicle or a nuisance motor vehicle.

(G) A violation of the provisions of this section shall subject the violator to a civil penalty.  
(Ord. passed 4-27-2015) Penalty, see § 10.99

## CHAPTER 91: ANIMALS

### Section

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*Municipal regulation of animals, see G.S. §§ 160A-182, 160A-186 et seq.*

*Protection of animals, see G.S. Chapter 19A*

**GENERAL PROVISIONS****§ 91.01 DEFINITIONS.**

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

**ADMINISTRATOR.** The person designated by the Town Manager to perform the functions assigned by this chapter to the Administrator.

**ANIMAL.** Any live, vertebrate creature.

**DOMESTIC ANIMAL.** An animal that typically is found in a domesticated or tame state and usually is kept as a pet. This definition includes but is not limited to dogs and cats.

**LIVESTOCK.** An animal that typically is kept principally for productive or useful purposes, rather than as a pet. The definition includes but is not limited to horses, cows, pigs, goats, sheep, mules, and chickens.

**RUNS AT LARGE.** An animal is off the premises of the owner and is not under the immediate and effective constraint of the owner or other competent person in charge of the animal.

**WILD ANIMAL.** An animal that typically is found in a nondomesticated state and that poses or reasonably appears to pose a potential danger to persons, other animals, or property.  
(1999 Code, § 91.01)

**§ 91.02 INTERFERENCE WITH ADMINISTRATOR PROHIBITED.**

(A) No person may obstruct, interfere with, hinder, or molest the Administrator in the lawful performance of any duty authorized by this chapter.

(B) No person may release or attempt to release any animal that is in the custody of the Administrator without permission from the Administrator.  
(1999 Code, § 91.02) Penalty, see § 91.99

**§ 91.03 IMPOUNDMENT PROVISIONS.**

(A) The Administrator may impound any animal that is:

- (1) Found running at large.

(2) In accordance with § 91.36, suspected of having rabies; or

(3) Found to be without proper care because of the incapacitation or absence of its owner.

(B) Whenever an animal is impounded or whenever an animal otherwise lawfully comes into the possession of the Administrator, that animal shall be taken to the county animal control shelter until released or destroyed in accordance with the provisions of this section.

(C) Whenever an animal is impounded or otherwise comes into the possession of the Administrator, the Administrator shall make reasonable efforts to identify the owner, notify him or her of the impoundment, and advise him or her of the conditions under which the animal may be reclaimed.

(D) An animal taken to the county animal control shelter shall be reclaimed by the owners or adopted by others or destroyed in accordance with the policies and procedures adopted by the county for the administration of the animal control shelter.

(1999 Code, § 91.03)

**Statutory reference:**

*Municipal animal shelters, see G.S. § 160A-493*

### **CARE AND CONTROL OF ANIMALS**

#### **§ 91.15 CARE REQUIRED; ABANDONMENT PROHIBITED.**

(A) No owner may fail to provide his or her animals with sufficient good and wholesome food and water, proper shelter and protection from the weather, and veterinary care when needed to prevent suffering.

(B) No owner of an animal may abandon such animal.

(1999 Code, § 91.15) Penalty, see § 91.99

**Statutory reference:**

*Abandonment of animals, see G.S. § 14-361.1*

#### **§ 91.16 CRUELTY TO ANIMALS.**

In accordance with G.S. § 14-360, no person shall willfully overdrive, overload, wound, injure, torture, cruelly beat, needlessly mutilate, or kill any animal or cause or procure the same.

(1999 Code, § 91.16) Penalty, see § 91.99

**Statutory reference:**

*Cruelty to animals, see G.S. §§ 14-360 et seq.*

**§ 91.17 RESPONSIBILITY OF PERSON INJURING ANIMAL.**

(A) Any person who, as the operator of a motor vehicle or bicycle, strikes and injures a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report the incident to the animal's owner.

(B) If the owner cannot be ascertained or located with reasonable effort, the operator shall notify the Administrator by contacting the town.

(1999 Code, § 91.17) Penalty, see § 91.99

**§ 91.18 RUNNING AT LARGE PROHIBITED.**

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

(B) As provided in G.S. § 67-2, no person owning or having any bitch may allow her to run at large while the bitch is in heat.

(C) As provided in G.S. § 67-12, no person may allow his or her dog over six months old to run at large at night unaccompanied by the owner or some person acting on his or her behalf.

(1999 Code, § 91.18) Penalty, see § 91.99

**§ 91.19 ANIMALS CREATING A NUISANCE.**

No person may have or keep within the town any animal that:

(A) Habitually or repeatedly, without provocation, chases, snaps at, or attacks pedestrians, bicycles, or vehicles;

(B) Causes serious annoyance to neighboring residents and interferes with the reasonable use and enjoyment of their property by habitual barking, howling, or whining;

(C) Repeatedly turns over garbage pails, damages gardens, flowers, shrubs, or vegetables; or

(D) Habitually trespasses upon neighboring properties and carries off articles or objects not belonging to the animal's owner.

(1999 Code, § 91.19) Penalty, see § 91.99



**§ 91.20 KEEPING CERTAIN ANIMALS PROHIBITED.**

No person may have or keep within the town any livestock or wild animals.  
(1999 Code, § 91.20) Penalty, see § 91.99

**§ 91.21 VICIOUS ANIMALS.**

As provided in G.S. § 130A-200, when an animal becomes vicious or a menace to the public health, the owner of such animal or person harboring such animal may not permit such animal to leave the premises on which kept unless on leash in the care of a responsible person.  
(1999 Code, § 91.21) Penalty, see § 91.99

**§ 91.22 LOCATION AND MAINTENANCE OF ANIMAL PENS AND ENCLOSURES.**

(A) Lots, pens, coops, and other enclosures where animals are kept or fed shall be located such distance from dwellings and places of concentrated human activity and at such distance from sources of water or food supply or food preparation as may be necessary to protect the public health.

(B) All such lots, pens, coops, and other enclosures shall be maintained at all times in a sufficiently clean and sanitary manner to protect adjacent properties from offensive odors.  
(1999 Code, § 91.22) Penalty, see § 91.99

**§ 91.23 DESTRUCTION OF RODENTS, SQUIRRELS, PIGEONS, AND THE LIKE.**

The use of firearms in the destruction of rodents, squirrels, pigeons, or similar animals or reptiles that are considered a menace to public health or property may be permitted by special permission of and after issuance of a special permit by the jurisdictional law enforcement agency.  
(Ord. passed 11-21-2014)

**§ 91.24 REMOVAL OF FECES DEPOSITED BY DOGS REQUIRED.**

(A) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any public property, including but not limited to parks, trails, streets, sidewalks, and school grounds, unless such person removes all feces and other animal waste so deposited by such animal before leaving the immediate premises.

(B) It shall be unlawful for any person walking or in control of any dog to allow or permit such animal to defecate upon any private property not owned by or in the possession of the person that owns such dog, unless such person removes all feces and other animal waste so deposited by such animal

before leaving the immediate premises; provided that this restriction shall not apply if the owner or other person in possession of such private property has in writing authorized the dog to be walked on such property without the removal of feces so deposited.

(C) This section shall not apply to dog being walked by persons with visual or other physical disabilities that substantially interfere with the ability of such persons to comply with its provisions.

(D) All feces removed in accordance with the provisions of this section shall be:

(1) Properly wrapped or packaged to contain odors and protect the public health, and deposited in a trash container where the person making the deposit is otherwise authorized to deposit trash; or

(2) Disposed of in another sanitary manner.

(Ord. passed 2-23-2015) Penalty, see § 91.99

### ***RABIES CONTROL***

#### **§ 91.35 ADMINISTRATOR TO COOPERATE IN VACCINATION PROGRAMS.**

The Administrator shall cooperate with and assist the county animal control officers in their efforts to see that all animals are vaccinated against rabies in accordance with the provisions of G.S. §§ 130A-184 through 130A-200.

(1999 Code, § 91.35)

#### **§ 91.36 QUARANTINE OF ANIMALS SUSPECTED OF HAVING RABIES.**

(A) As provided in G.S. §§ 130A-196 and 130A-198, every dog or cat (except a vaccinated police dog) that has bitten any person or that shows symptoms of rabies shall be securely confined for a period of at least ten days.

(B) As provided in G.S. §§ 130A-196 and 130A-198, the owner of an animal that has bitten any person or that shows symptoms of rabies shall report the same immediately to the local health director. In addition any person bitten by an animal shall immediately report the incident to the local health director.

(C) As provided in G.S. §§ 130A-196 and 130A-198, animals quarantined in accordance with this section shall be confined in a place designated by the local health director.

(D) If rabies does not develop during the period of confinement, the animal may be released. If rabies does develop, the animal shall be disposed of as provided in § 91.37.  
(1999 Code, § 91.36)

**§ 91.37 DISPOSITION OF RABID ANIMALS.**

(A) As provided in G.S. § 130A-199, an animal diagnosed as having rabies by a licensed veterinarian shall be destroyed and its head sent to the state laboratory of public health. The heads of all dogs and cats that die during the ten-day confinement period required by G.S. § 130A-196 shall be immediately sent to the state laboratory of public health for rabies diagnosis.

(B) As provided in G.S. §§ 130A-197 and 130A-198:

(1) A dog or cat bitten by a proven rabid animal or animal suspected of having rabies that is not available for laboratory diagnosis shall be destroyed immediately by its owner, the county animal control officer, or a peace officer unless the dog or cat has been vaccinated against rabies in accordance with G.S. §§ 130A-184 et seq. and the rules of the state commission for health services more than three weeks prior to being bitten, and is given a booster dose of rabies vaccine within three days of the bite; and

(2) A person who owns or has possession of an animal which is suspected of having rabies shall immediately notify the local health director or county animal control officer and shall securely confine the animal in a place designated by the local health director. Dogs and cats shall be confined for a period of ten days. Other animals may be destroyed at the discretion of the state public health veterinarian.

(C) At the end of the confinement period under division (B)(2) of this section, the animal may be released from confinement if declared free from rabies by a licensed veterinarian or an animal control officer designated in accordance with G.S. § 130A-184(1).  
(1999 Code, § 91.37)

***LICENSING***

**§ 91.50 LICENSE REQUIRED.**

(A) Every person who keeps within the town any dog or cat over four months of age shall obtain from the town a license authorizing him or her to keep the animal.

(B) The Administrator shall issue the license required by this section upon the payment of a tax of \$1 for male dogs and cats and \$2 for female dogs and cats.  
(1999 Code, § 91.50) Penalty, see § 91.99

**§ 91.51 ISSUANCE OF LICENSE AND TAG.**

(A) The license issued pursuant to this subchapter shall contain the name, address, and telephone number of the owner and shall adequately describe the animal covered.

(B) The Administrator shall issue to each license recipient a tag for each animal covered under a license. The tag shall be of a size and construction that allow it to be easily fastened to an animal's collar or halter and shall indicate the year for which the tag is issued.  
(1999 Code, § 91.51)

**§ 91.52 DURATION OF LICENSE; PAYMENT OF TAX.**

(A) The license issued pursuant to this subchapter shall be obtained annually by January 31 of each year and shall be valid for the period running from January 1 to December 31 of the year in which obtained.

(B) After January 31 a late payment charge of 5% per month or any part thereof shall be added to the tax set forth in § 91.50. However, no civil penalty shall be assessed in accordance with § 91.99 if the license is obtained solely at the initiative of the owner and not as the result of the enforcement efforts of the Administrator.

(C) Persons moving to the town shall have 30 days in which to comply with this subchapter. The tax charged shall be prorated according to the number of months remaining in the calendar year.

(D) Persons acquiring animals after January 31 in any year or persons whose animals become four months old after January 31 in any year shall comply with this subchapter within the succeeding 30 days. The tax charged shall be prorated, according to the number of months remaining in the calendar year.  
(1999 Code, § 91.52)

**§ 91.99 PENALTY.**

(A) A violation of any of the provisions of this chapter shall constitute a misdemeanor punishable by a fine of not more than \$50 or imprisonment for not more than 30 days, or both.

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$10. The penalty for a second violation of § 91.18(A) shall be \$15 and for a third violation and subsequent violations, the penalty shall be \$25. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the town in a civil action in the nature of a debt.

(C) Each day that any violation continues, after a person has been notified that such violation exists and that he or she is subject to the penalties specified in divisions (A) and (B) of this section, shall constitute a separate offense.

(D) This chapter may also be enforced by an appropriate equitable action, including injunctions or orders of abatement.

(E) The town may enforce this chapter by any one or any combination of the remedies set out in this section.

(1999 Code, § 91.99)



## CHAPTER 92: FIRE PREVENTION

### Section

- 92.01 Fire Chief defined
- 92.02 Fire limits
- 92.03 Interference with firefighters
- 92.04 False alarms; damaging equipment
- 92.05 Riding on Fire Department apparatus
- 92.06 Congregating at fires
- 92.07 Inspection of premises for fire hazards
- 92.08 Blocking or obstructing exits
- 92.09 Marking and lighting of exits
- 92.10 Maximum occupancy of rooms
- 92.11 Fire extinguishers required in nonresidential premises
- 92.12 Open burning

- 92.99 Penalty

#### **Statutory reference:**

*Fire protection in municipalities, see G.S. §§ 160A-291 et seq.*  
*Setting fires unlawfully, see G.S. §§ 14-136 et seq.*

### **§ 92.01 FIRE CHIEF DEFINED.**

When used in this chapter, the term **FIRE CHIEF** refers to the Town Fire Chief, the chief of any fire department that the town has contracted with to provide fire service to the town, or to any other person designated by the Town Manager to perform the duties assigned to the Fire Chief by this chapter. (1999 Code, § 92.01)

#### **Statutory reference:**

*Duties of the Fire Chief, see G.S. § 160A-292*

### **§ 92.02 FIRE LIMITS.**

(A) The primary fire limits shall be shown on the fire zone map as approved and modified from time to time by the Board of Commissioners. A copy of this map shall be maintained in the office of the Town Clerk.

(B) As provided in G.S. § 160A-436, within the primary fire zone no frame or wooden building or structure or addition thereto may be erected, altered, repaired, or moved (either into the limits or from one place to another within the limits) except in accordance with a building permit issued by the town and approved by the State Commissioner of Insurance.

(1999 Code, § 92.02) Penalty, see § 92.99

### **§ 92.03 INTERFERENCE WITH FIREFIGHTERS.**

As provided in G.S. § 58-82-1, no person may willfully interfere in any manner with firefighters engaged in the performance of their duties.

(1999 Code, § 92.03) Penalty, see § 92.99

### **§ 92.04 FALSE ALARMS; DAMAGING EQUIPMENT.**

As provided in G.S. § 14-286, no person may wantonly and willfully give a false alarm of fire or damage fire alarm, detection, or extinguishing equipment.

(1999 Code, § 92.04) Penalty, see § 92.99

***Statutory reference:***

*Blocking fire-fighting equipment, see G.S. § 20-157*

### **§ 92.05 RIDING ON FIRE DEPARTMENT APPARATUS.**

No person other than a member of the Fire Department may mount or ride upon any fire engine, wagon, or apparatus before it leaves the station or while on its way to or from a fire or at any other time, except by permission of the driver or officer in command.

(1999 Code, § 92.05) Penalty, see § 92.99

### **§ 92.06 CONGREGATING AT FIRES.**

It shall be unlawful for persons to congregate on the streets, sidewalks, or other areas adjacent to a fire so as to interfere with the operations of members of the Fire Department.

(1999 Code, § 92.06) Penalty, see § 92.99

### **§ 92.07 INSPECTION OF PREMISES FOR FIRE HAZARDS.**

(A) As provided in G.S. § 58-79-20, the Fire Chief may enter into all buildings and premises during reasonable hours to inspect for combustible materials or inflammable conditions dangerous to the safety of such building or premises.



(B) When any officer making an inspection in accordance with division (A) of this section discovers combustible materials or inflammable conditions, he or she shall order the occupant or person in charge of the premises to remove or remedy such materials or conditions. Unless the person to whom the order is directed appeals to the State Commissioner of Insurance within 24 hours, as provided in G.S. § 58-79-20, the order shall be complied with forthwith.  
(1999 Code, § 92.07)

**§ 92.08 BLOCKING OR OBSTRUCTING EXITS.**

(A) No person may block or obstruct (partially or totally) any fire escape, balcony, hallway, stairway, aisle, corridor, ramp, or other passageway or means of egress from any building, other than a single-family residence, during the hours such building is occupied.

(B) No person having control over any fire escape or other area listed in division (A) of this section may cause, suffer, or permit any such area to be blocked or obstructed (partially or totally) while the building to which these areas relate is occupied.

(C) No person may lock doors in means of egress against the path of exit travel when the building served by the means of egress is occupied.  
(1999 Code, § 92.08) Penalty, see § 92.99

**§ 92.09 MARKING AND LIGHTING OF EXITS.**

(A) In rooms accommodating or designed to accommodate more than 50 persons, doorways (other than those normally used for entrance or clearly visible from all points in the room) shall be marked by exit signs approved by the Fire Chief that are sufficiently illuminated to be readily visible when the room or space is occupied.

(B) Where the exit doorways are not visible from all locations in public corridors, directional signs approved by the Fire Chief, pursuant to uniform standards, shall be placed on walls or otherwise displayed in conspicuous locations to direct occupants to exit doorways.

(C) Fire escapes, stairways, hallways, and other means of egress shall be adequately lighted (not less than one footcandle on walking surfaces) at all times that the building served thereby is occupied.  
(1999 Code, § 92.09) Penalty, see § 92.99

**§ 92.10 MAXIMUM OCCUPANCY OF ROOMS.**

(A) All rooms accommodating or designed to accommodate 50 or more persons shall be posted with a legible sign, conspicuously located, stating the maximum number of persons permitted in that room.

(B) The owner or other person having control of the assembly of persons in any room where a sign is posted pursuant to division (A) of this section shall prevent occupancy of that room by more people than is authorized.

(C) The number of permitted occupants shall be determined by the Fire Chief, pursuant to uniform standards.

(1999 Code, § 92.10) Penalty, see § 92.99

#### **§ 92.11 FIRE EXTINGUISHERS REQUIRED IN NONRESIDENTIAL PREMISES.**

The owner or other person in charge of all premises used for nonresidential purposes shall install sufficient portable fire extinguishers, of a kind and in locations prescribed by the Fire Chief, to afford reasonable protection to persons and property.

(1999 Code, § 92.11) Penalty, see § 92.99

#### **§ 92.12 OPEN BURNING.**

(A) Except as provided in division (D) of this section, no person may burn or cause to be burned any material outside of a building without a permit issued by the Fire Chief.

(B) The Fire Chief shall issue the permit, authorizing the named applicant to burn specified materials at a designated location on a specified date, if he or she finds that the applicant will comply with the requirements of division (C) of this section and that no atmospheric conditions or other local circumstances exist that would make the requested burning hazardous.

(C) Burning shall be permitted only on property owned or occupied by the person doing the burning, or his or her agent, and only in accordance with the terms of the permit. Burning shall not be allowed within 50 feet of any structure, except as provided in division (D) of this section. No outside burning shall be allowed within the primary fire district. Outdoor fires shall be constantly attended, and the person in charge shall have a garden hose or other fire extinguishing equipment readily available for use.

(D) Outdoor burning of trash, leaves, grass, and the like on property owned or occupied by the person doing the burning is permissible without a permit if done within a container approved by the Fire Chief, so long as the container is located not less than 15 feet from any structure.

(E) Nothing in this section shall relieve any person of the requirements of any other provision of law governing outdoor burning or pollution from burning.

(1999 Code, § 92.12) Penalty, see § 92.99

**§ 92.99 PENALTY.**

(A) A violation of any of the following sections shall constitute a misdemeanor punishable by a fine of not more than \$25 or imprisonment for not more than 30 days, or both: §§ 92.05, 92.06, or 92.08 through 92.12.

(B) A violation of any of the sections listed in division (A) of this section shall also subject the offender to a civil penalty of \$25. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(C) The town may seek to enforce this chapter through any appropriate equitable action.

(D) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(E) The town may seek to enforce this chapter by using any one or any combination of the remedies set out in this section.  
(1999 Code, § 92.99)



## CHAPTER 93: NUISANCES

### Section

- 93.01 Definitions
- 93.02 Summary abatement
- 93.03 Abatement in other cases; notice and the like
- 93.04 Abatement by owner
- 93.05 Appeal procedures; hearing
- 93.06 Abatement by town
- 93.07 Notice of assessment; appeal of charges
- 93.08 Personal liability of owner
- 93.09 Cost of abatement; low income and elderly persons
- 93.10 Overhead charge; civil penalties
- 93.11 Vegetation
- 93.12 Loud and disturbing noise
  
- 93.99 Penalty

### § 93.01 DEFINITIONS.

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

**ABATEMENT.** The removal, stoppage, prostration, or destruction of that which causes or constitutes a nuisance, whether by breaking or pulling it down, or otherwise destroying, or effacing it.

**OWNER.** The owner of record or any person with legal, financial, or equitable interest in the property on which the alleged public nuisance exists at the time of the violation.

**PROPERTY.** Any real property, premises, structure, or location on which a public nuisance is alleged to exist.

**PUBLIC NUISANCE.** Any fence, wall, shed, deck, house, garage, building, structure, or any part of any of the aforesaid; or any tree, pole, smokestack; or any excavation, hole, pit, basement, cellar, sidewalk subspace, dock, wharf, or landing dock; or any lot, land, yard, premises, or location which

in its entirety, or in any part thereof, by reason of the condition in which the same is found or permitted to be or remain, shall or may endanger the health, safety, life, limb, or property, or cause any hurt, harm, inconvenience, discomfort, damage, or injury to any one or more individuals in the town, in any one or more of the following particulars:

(1) By reason of being a menace, threat, and/or hazard to the general health and safety of the community;

(2) By reason of being a fire hazard;

(3) By reason of being unsafe for occupancy, or use on, in, upon, about, or around the aforesaid property; and/or

(4) By reason of lack of sufficient or adequate maintenance of the property, and/or being vacant, any of which depreciates the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such property is situated or such condition exists.

***SUMMARY ABATEMENT.*** Abatement of the nuisance by the town, or a contractor employed by the town, by removal, repair, or other acts without notice to the owner, agent, or occupant of the property except for the notice required by this chapter.  
(1999 Code, § 93.01)

#### **§ 93.02 SUMMARY ABATEMENT.**

(A) (1) Whenever a complaint is made to the Public Works Department of the existence of a public nuisance, as defined in § 93.01, the Public Works Department shall promptly cause to be inspected the property on which it is alleged that such public nuisance exists. Should the Public Works Department find that a public nuisance exists and that the public health, safety, or welfare may be in immediate danger, then summary abatement procedures shall be implemented and the Public Works Department may cause the nuisance to be removed or abated. The Public Works Department may notify the town if the public nuisance involves a building that appears structurally unsafe.

(2) The town, upon being notified by the Public Works Department, shall cause the building on which it is alleged such public nuisance exists to be inspected and submit a written report of such inspection and the findings to the Public Works Department.

(B) When summary abatement is authorized, notice to the owner, agent, or occupant of the property is not required. Following summary abatement, the Public Works Department shall cause to be posted on the property liable for the abatement a notice describing the action taken to abate the nuisance.  
(1999 Code, § 93.02)

**§ 93.03 ABATEMENT IN OTHER CASES; NOTICE AND THE LIKE.**

(A) If, after inspecting the property on which the nuisance is reported, the Public Works Department declares the existence of a public nuisance, but the nature thereof is not such as to require the summary abatement of such nuisance, then regular abatement procedures shall be followed. Photographs and reports of the findings and inspections shall be made and filed with the Public Works Department.

(B) The Public Works Department shall determine the individual, firm, or corporation who appears to be the titled owner of the aforesaid property and immediately cause a written notice to be served on such individual, firm, or corporation by personal service or by leaving a copy of the notice at the usual place of residence or business of such owner, or address of such owner, or by copy mailed to such owner at such place or address by United States certified mail return receipt. If service of such written notice is unable to be perfected by any of the methods described above, the Public Works Department shall cause a copy of the aforesaid notice to be published in a newspaper of general circulation in the town, once a week for two consecutive weeks, and shall further cause a copy of the aforesaid notice to be left with the individual, if any, in possession of such property on which it is alleged such public nuisance exists, or if there is no individual in possession thereof, the Public Works Department shall cause a copy of the notice to be posted at such structure, location, or premises. The Public Works Department shall also determine who the lienholder of the property, if any, is and cause a written notice to be served on such lienholder by United States mail return receipt.

(C) The aforesaid notice to the owner, and lienholder, if any, of the property shall state clearly and concisely the findings of the Public Works Department with respect to the existence of a public nuisance. The notice shall further state that unless the owner thereof shall cause the abatement of the public nuisance, pursuant to the orders contained in the Public Works Department's notice, the public nuisance shall be abated by the town at the expense of the owner.

(D) Any person who is the record owner of the premises, location, or structure at the time an order pursuant to this chapter is issued and served upon him or her, shall be responsible for complying with that order, and liable for any costs incurred by the town therewith, notwithstanding the fact that he or she conveys interests in the property to another after such order was issued and served.

(E) It shall not be a defense to the determination that a public nuisance exists that the property is boarded up or otherwise enclosed.

(1999 Code, § 93.03)

**§ 93.04 ABATEMENT BY OWNER.**

(A) Within 30 days after the posting and mailing of a notice to abate a nuisance, the owner, agent of the owner, or individual in possession of the affected property shall remove and abate such nuisance or show that no nuisance in fact exists. Such showing shall be made by filing a written statement that no nuisance exists. The statement shall be filed with the Public Works Department.

(B) The Public Works Department, upon written application by the owner within the 30-day period after the notice has been served, may grant additional time for the owner to effect the abatement of the public nuisance, provided that such extension is limited to a specific time period.  
(1999 Code, § 93.04)

### **§ 93.05 APPEAL PROCEDURES; HEARING.**

(A) The owner or occupant of the property who has been served with a notice pursuant to this chapter that a public nuisance exists and that it must be abated within 30 days, may, within seven calendar days after receipt of such notice, make a written demand to the Public Works Department for a hearing on the question of whether a public nuisance in fact exists. The hearing shall be held within seven calendar days following receipt by the Public Works Department of the written demand and at least two days' notice of the hearing shall be given to the individual who made the written demand for the hearing.

(B) The hearing shall be conducted by the Board of Commissioners. The Board may amend or modify the notice and/or order or extend the time for compliance with the Public Works Department's order by the owner by such date as the majority of the Board may determine.

(C) The owner, agent of the owner, occupant, and lienholder, if any, of the subject property shall be given the opportunity to present evidence to the Board in the course of the hearing.

(D) In those instances where the nuisance has been abated by the town, the Board shall have discretion to waive the cost of abating a nuisance, in whole or in part, if, in the course of the hearing reviewing the decision, the Board finds that any of the following did not conform to the provisions of this chapter:

- (1) The notice to remove the nuisance;
- (2) The work performed in abating the nuisance; or
- (3) The computation of charges.

(1999 Code, § 93.05)

### **§ 93.06 ABATEMENT BY TOWN.**

(A) Should any public nuisance not be abated at the expiration of time stated in the notice/order or within such additional time as the Public Works Department or Board of Commissioners may grant, the Public Works Department shall have the authority to enter upon the property and abate the public nuisance found thereon. In abating such nuisance, the Public Works Department may go to whatever extent may be necessary to complete the abatement of the public nuisance and should it be practicable



to salvage any material derived in the aforesaid abatement, the Public Works Department may sell the salvaged material at private or public sale at the best price obtainable and shall keep an accounting of the proceeds thereof.

(B) The proceeds, if any, obtained from the sale of any material salvaged as a result of an abatement of a public nuisance by the Public Works Department shall be deposited to the General Fund of the town and any deficit between the amount so received and the cost of the abatement may be levied as an assessment against the property in question by the Board of Commissioners and collected as any other assessment by the town; however, any other alternative collection method may be utilized by the town to recoup the deficit. Should the proceeds of the sale of such salvaged material exceed the cost of abatement, the surplus, if any, shall be paid to the owner of the property from which the public nuisance was abated when a proper claim to the excess is established.

(C) In abating a public nuisance, the Public Works Department may call upon any of the town departments or divisions for whatever assistance shall be deemed necessary or may by private contract cause the abatement of the public nuisance.

(D) The Public Works Department shall, after completing the removal and abatement, file a statement of costs with the Town Auditor.  
(1999 Code, § 93.06)

### **§ 93.07 NOTICE OF ASSESSMENT; APPEAL OF CHARGES.**

(A) Upon receipt of the statement of costs from the Public Works Department, the Auditor shall mail to the owner of the property upon which the public nuisance has been abated notice of the amounts set forth in the statement plus an additional amount sufficient to defray the costs of the notice and stating that the town proposes to assess against the property the amount set forth in the notice and that objections to the proposed assessment must be made in writing and received by the Auditor within 20 days from the date of mailing such notice. Upon the expiration of the 20-day period, if no objections have been received by the Auditor, the Auditor shall enter that amount in the town liens docket which shall therefore constitute a lien against the property.

(B) If objections of either the property owner or his or her representative are received by the Auditor prior to the expiration of the 20-day period, the Auditor shall refer the matter to the Public Works Department for administrative review.

(C) Upon conclusion of administrative review, the Public Works Department shall make a written determination that the amount of the charges shall be canceled, reduced, or remain the same. A copy of this determination shall be furnished to the person making the objections together with a notice of such person's right to appeal to the Board of Commissioners.

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(D) If no appeal of a determination by the Public Works Department is filed within the time period allowed, a copy of the determination will be furnished to the Auditor who shall then enter a lien in the amount determined by the Public Works Department in the town liens docket as provided in division (A) of this section.

(E) If a timely appeal is received by the Board of Commissioners, a hearing shall be scheduled and held on the matter.

(1) If, after the hearing, the Board determines that the proposed assessment does not comply with division (G) herein, the Board shall so certify to the Auditor and the proposed assessment shall be canceled.

(2) If, after the hearing, it is determined that the proposed assessment or any part of it is proper and authorized, the Board shall so certify to the Auditor who shall enter a lien in such amount as determined appropriate by the Board, in the lien docket as provided in division (A) of this section.

(F) The determination of the Board is a final administrative decision.

(G) (1) The Public Works Department, in administrative review, or the Board, on appeal, may reduce or cancel a proposed assessment if it is determined that:

(a) Any of the following did not conform to the provisions of this chapter:

1. The notice to remove the nuisance;
2. The work performed in abating the nuisance; or
3. The computation of charges.

(b) The owner of the property was eligible for a waiver of costs under § 93.09.

(2) The Public Works Department, in administrative review, or the Board, on appeal, may reduce a proposed assessment by eliminating the civil penalty portion of the invoice if it is determined that:

(a) The current owner was not in possession of the property at the time the notice required in § 93.03 was posted; or

(b) The owner did not receive the notice to remove the nuisance, did not have knowledge of the nuisance and could not, with the exercise of reasonable diligence, have had such knowledge.

(H) If, after a lien has been entered in the docket of town liens, there is a written request of an owner who alleges that the owner did not receive notice of the proposed assessment, the Auditor shall refer the matter for review pursuant to division (B) of this section.

(I) The lien may be canceled or reduced by the Public Works Department, in administrative review, or the Board, on appeal, if it is determined that the owner did not receive notice of the proposed assessment, did not previously have knowledge of the lien or of the nuisance abatement work constituting the basis of the lien, could not, in the exercise of reasonable care or diligence, have had such knowledge, and in addition, that the circumstances are such that a reduction or cancellation of the charges would have been appropriate had the matter been reviewed pursuant to this section prior to assessment. Upon receipt of a certification from the Board, pursuant to division (E) of this section, the Auditor shall cancel or reduce the lien if required by the determination of the Public Works Department and/or Board.  
(1999 Code, § 93.07)

#### **§ 93.08 PERSONAL LIABILITY OF OWNER.**

The person who is the owner of the property at the time at which the notice required under § 93.03 of this chapter is posted shall be personally liable for the amount of the assessment including all interest, civil penalties, and other charges.  
(1999 Code, § 93.08)

#### **§ 93.09 COST OF ABATEMENT; LOW INCOME AND ELDERLY PERSONS.**

(A) Notwithstanding the other provisions of this chapter, the cost of abating a nuisance shall be waived for low income and elderly persons, if upon application it appears to the Public Works Department that the conditions set forth in division (B) of this section are met.

(B) To be eligible for waiver of nuisance abatement costs a person must:

- (1) Be classified as “low income,” as defined by the Public Works Department; or
- (2) Be more than 65 years of age and:

(a) A person living alone, whose total income for the preceding calendar year did not exceed one and one-half times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld; or

(b) The head of a household which household received a total income for the preceding calendar year that did not exceed two and one-quarter times the maximum amount a Social Security recipient at age 65 may have earned in that year without having any benefits withheld.

(C) Additionally, all persons wishing to qualify for waiver of nuisance abatement costs must:

(1) Furnish proof of the age and/or income requirements as set forth above in the manner and form designated by the Public Works Department;

(2) Own, or be in the process of purchasing, the property from which the nuisance is abated;  
and

(3) Be living on the property from which the nuisance is abated.

(D) The removal of the nuisance in question must have been required by the Public Works Department and the person requesting the waiver of costs must have been officially notified by the Public Works Department to remove the nuisance.

(E) Applications for waiver of nuisance abatement costs shall be filed with the Public Works Department, on forms supplied by the town, within ten days after receipt of a notice to remove a nuisance or a work order notice unless the Public Works Department extends the time for good cause shown. All information required to be given on such form shall be supplied and verified by the applicant.

(F) The maximum amount that may be waived under this section for any one parcel of real property or any one person shall be \$500 per calendar year.

(G) No overhead charge or civil penalty shall be imposed for any real property for which a waiver, pursuant to this section, shall have been approved.  
(1999 Code, § 93.09)

#### **§ 93.10 OVERHEAD CHARGE; CIVIL PENALTIES.**

(A) Whenever a nuisance is abated by the town, the Public Works Department shall keep an accurate account of all expenses incurred, including an overhead charge of 25% for administration and a civil penalty of \$200 for each nuisance abated.

(B) When the town has abated a nuisance maintained by any owner of real property, for each subsequent nuisance that is abated by the town within two consecutive calendar years concerning real property, owned by the same person, an additional civil penalty of 50%, minimum of \$50, of the cost of abatement shall be added to the costs, charges, and civil penalties provided for in division (A). The civil penalty shall be imposed without regard to whether the nuisances abated by the town involve the same real property or are of the same character.  
(1999 Code, § 93.10)

**§ 93.11 VEGETATION.***(A) General provisions.*

(1) It shall be unlawful for any owner, lessee, or occupant or any agent, servant, representative, or employee of any such owner, lessee, or occupant having control of any lot or land or any part thereof in the town to permit or maintain on any such lot or land or on or along the sidewalk, street, or alley adjacent to the lot or land between the property line and the curb or middle of the alley or for ten feet outside the property line, if there is no curb, any growth of weeds, grass, or other rank vegetation to a greater height than eight inches, on the average, or any accumulation of dead weeds, grass, or brush.

(2) It shall be unlawful for any such person to cause, suffer, or allow poison ivy, ragweed, or other poisonous plants or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, cover, overhang, or border any public place or to allow seed, pollen, or other poisonous particles or emanations therefrom to be carried through the air into any public place.

*(B) Duty of owner or occupant of property.* It shall be the duty of any owner, lessee, or occupant of any lot or land to cut and remove or cause to be cut and removed all weeds, grass, or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this section.

*(C) Notice upon failure of owner to abate.* If the provisions of this section are not complied with, a person designated by the Town Manager shall serve written notice upon the owner, lessee, or occupant or any person having care and control of any such lot or land to comply therewith.

*(D) Abatement by town.* If the person upon whom the notice provided for in this section is served fails, neglects, or refuses to cut and remove or to cause to be cut and removed such weeds, grass, or other vegetation within ten days after receipt of such notice or if no person can be found in the town who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the person designated by the Town Manager may cause such weeds, grass, or other vegetation to be cut and removed.

*(E) Recovery of town's cost of abatement.* The actual cost of the cutting and removing of weeds, grass, or other vegetation by the town, plus \$50 for inspection and other additional costs in connection therewith, shall be certified by the person designated by the Town Manager to the County Tax Collector and shall thereupon become and be a lien upon the property upon which such weeds, grass, and other vegetation were located and shall be added to and become and form a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes as provided for in G.S. §§ 105-374 and 105-375. Interest shall accrue at 0.5% per month or fraction thereof from the date of completion of

the work if the bill is not paid within 30 days after completion. A lien shall attach as of the date of completion of the work and shall be settled or paid before any unpaid taxes or taxes of subsequent levies. (Ord. passed 8-25-2014) Penalty, see § 93.99

### § 93.12 LOUD AND DISTURBING NOISE.

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

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

(1) The use of any loud, boisterous, or raucous language or shouting so as to annoy or disturb the quiet, comfort, or repose of any reasonable person of ordinary sensibilities in the vicinity;

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

(3) The playing of any radio, phonograph, musical instrument, or sound production or amplifying equipment in such manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort, or repose of any reasonable person of ordinary sensibilities in any dwelling, hotel, or other type of residence in the vicinity;

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

(5) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such manner as to create loud grating, grinding, rattling, or other noise.

(C) *Noise limit.* No person shall cause, allow, or permit the operating or playing of any radio, tape player, or similar device that reproduces or amplifies sound in such a manner as to create noise at 100 feet from the device or vehicle containing that device when the device or vehicle is being operated in or on a public right-of-way or public space.

(D) *Exception.* This section shall not apply to town-sponsored or sanctioned events. (Ord. passed - -) Penalty, see § 93.99

**Statutory reference:**

*Authority to regulate, restrict, or prohibit noise, see G.S. § 153A-133*

**§ 93.99 PENALTY.**

(A) *General.* A violation of this chapter for which no other penalty is provided shall be subject to penalties as provided in § 10.99.

(B) *Noise.* A violation of § 93.12, or any part thereof, shall constitute a misdemeanor and shall subject the offender to a fine of not more than \$500 or imprisonment for not more than 30 days.  
(Ord. passed - -)





## CHAPTER 94: STREETS AND SIDEWALKS

### Section

#### *General Provisions*

- 94.01 Administrator defined
- 94.02 Damaging street surfaces, street signs, other facilities
- 94.03 House and building numbers

#### *Obstructions*

- 94.15 Obstructions prohibited
- 94.16 Overhanging or protruding trees, shrubs, fences, and the like
- 94.17 Drainage-related interference with sidewalks
- 94.18 Barricades and warning devices

#### *Driveways and Excavations*

- 94.30 Driveways
- 94.31 Excavations
- 94.32 Indemnification of town

#### *Street Event Permits*

- 94.45 Application of subchapter
- 94.46 Permit required
- 94.47 Application
- 94.48 Staff review
- 94.49 Insurance
- 94.50 Permit fee
- 94.51 Standards for issuance
- 94.52 Street closings
- 94.53 Event sponsor responsible for cleanup

- 94.99 Penalty

#### ***Charter-reference:***

*Street improvements and assessments, see Charter, Article V*

**GENERAL PROVISIONS****§ 94.01 ADMINISTRATOR DEFINED.**

As used in this chapter, the term **ADMINISTRATOR** refers to the Public Works Director or any other person designated by the Town Manager to perform the responsibilities assigned to the Administrator by this chapter.

(1999 Code, § 94.01)

**§ 94.02 DAMAGING STREET SURFACES, STREET SIGNS, OTHER FACILITIES.**

(A) No person may intentionally mutilate, deface, remove, damage, or in any manner interfere with any of the street name signs, traffic-control signs and devices, and other signs erected by any public body.

(B) No person may drag, run, or cause to be dragged or run upon any public street any harrow or other implement, machine, or tool likely to injure or cut the surface of such street.

(C) No person may intentionally damage, injure, obstruct, or otherwise interfere with any street, sidewalk, bridge, culvert, ditch, or drain owned or maintained by the town.

(1999 Code, § 94.02) Penalty, see § 94.99

**§ 94.03 HOUSE AND BUILDING NUMBERS.**

The owner of every house and every principal building shall display or cause to be displayed on the front thereof, or on the grounds in a position easily observed from the street, the number assigned to his or her house or building by the Administrator. No person may display or cause to be displayed on any house or building any number other than the number assigned by the Administrator. No person may remove, obliterate, or destroy any number displayed in accordance with division (A) of this section.

(1999 Code, § 94.03) Penalty, see § 94.99

**OBSTRUCTIONS****§ 94.15 OBSTRUCTIONS PROHIBITED.**

(A) Except as otherwise authorized by statute or ordinance including §§ 94.30 and 94.31 and except to the extent required by the performance of some function authorized or mandated by a statute or

ordinance, no person may obstruct or impede travel in the public streets or sidewalks within the town by placing or leaving any object within the traveled portion of the public right-of-way.

(B) The prohibition of division (A) of this section applies but is not limited to goods, wares, or merchandise displayed for sale.

(C) Division (A) of this section shall not apply to temporary obstructions caused by persons engaged in construction work on abutting property when proper warning devices are maintained in accordance with § 94.18.

(1999 Code, § 94.15) Penalty, see § 94.99

***Statutory reference:***

*Keeping streets, sidewalks, and the like free from unnecessary obstructions, see G.S. § 160A-296(a)(2)*

**§ 94.16 OVERHANGING OR PROTRUDING TREES, SHRUBS, FENCES, AND THE LIKE.**

(A) No person may cause or allow (from property under his or her control) any tree limb, bush, shrub, or other growth or any trellis, fence, or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or a public sidewalk at a distance of less than seven feet above such sidewalk.

(B) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under his or her control over, onto, or across any public street or sidewalk.

(C) Any violation of division (A) or (B) of this section is declared to be a public nuisance, and if not corrected by the responsible person within three days after the person is notified of the violation by the Administrator, the town may summarily abate such nuisance as provided in § 93.02.

(1999 Code, § 94.16) Penalty, see § 94.99

**§ 94.17 DRAINAGE-RELATED INTERFERENCE WITH SIDEWALKS.**

(A) No person may cause or permit gutters, ditches, ducts, or drain pipes to be constructed or placed on property under his or her control in such a manner that the water from such gutters, ditches, ducts, or drain pipes empties onto or runs across a public sidewalk.

(B) All owners of property abutting concrete, brick, or other permanently improved public sidewalks shall grade such property or construct a retaining wall in such a manner as to prevent the washing of dirt, grass, gravel, or other material upon the town sidewalks.

(1999 Code, § 94.17) Penalty, see § 94.99

**§ 94.18 BARRICADES AND WARNING DEVICES.**

All persons engaged in doing work that creates any dangerous condition or obstruction in the public right-of-way of any street or sidewalk shall take whatever action is necessary, including the placement of barricades and warning signs or devices, to warn the traveling public of the condition or obstruction. No person may remove, destroy, injure, or tamper with any barricade, sign, lantern, torch, or other device placed in any street or sidewalk to warn or give notice to the traveling public of any dangerous condition or obstruction.

(1999 Code, § 94.18) Penalty, see § 94.99

***DRIVEWAYS AND EXCAVATIONS*****§ 94.30 DRIVEWAYS.**

(A) Except as otherwise provided in this section, no person may open, construct, alter, or relocate any driveway across any public sidewalk or into any street, or cut any curb for such purpose, without having obtained a written permit from the Administrator.

(B) Any person who receives a permit under this section shall be responsible for repairing any damage to the sidewalk or street (including curb and gutter) caused by the driveway construction.

(C) The Administrator shall review the driveway construction and design plans and shall issue the permit unless he or she finds the driveway, if constructed as proposed, will substantially interfere with or pose a danger to persons using the street or sidewalk intersected by the driveway, or to public facilities (including utility poles, traffic signal standards, and the like), or will fail to comply with any of the provisions of this section.

(D) No driveway may be constructed closer than three feet to a fire hydrant or catch basin or closer than 30 feet to the right-of-way line of a street that intersects with the street the driveway opens onto.

(E) If the driveway crosses a drainage ditch on a lot that abuts a street without curb or gutter, then piping of sufficient size and strength (as approved by the Administrator) shall be installed beneath the driveway surface so that the drainage capability of the drainage ditch is not materially impaired.

(F) This section shall not apply to driveways that open into state-maintained streets to the extent that the state has approved the driveway, nor shall a person be required to obtain a permit under this section to the extent that the driveway is being constructed in accordance with plans approved pursuant to a review process authorized by a zoning or subdivision ordinance.

(1999 Code, § 94.30) Penalty, see § 94.99

***Statutory reference:***

*Excavations, placing pipes, and the like, see G.S. § 160A-296*

**§ 94.31 EXCAVATIONS.**

(A) Except as otherwise provided in this section, no person may dig in or excavate any street or sidewalk within the town without having obtained a written permit from the Administrator.

(B) Any person who receives a permit in accordance with this section shall be responsible for putting the street or sidewalk where any excavation is made in as good a condition as it was prior to the excavation.

(C) Before granting a permit pursuant to this section, the Administrator shall determine that the applicant has made arrangements to comply with division (B) of this section, and if the town is to do the necessary repair work, the permit shall not be issued until the applicant makes a deposit equal to the estimated costs of repair.

(D) This section shall not apply to any utility to the extent that the same subject matter is covered in a franchise ordinance applicable to that utility, nor shall this section apply to any excavation made in a state-maintained street to the extent that the state has given its permission for such an excavation to be made, except that the person making the excavation shall still be responsible for notifying the Administrator of the intended excavation 48 hours before the work begins.

(1999 Code, § 94.31) Penalty, see § 94.99

**§ 94.32 INDEMNIFICATION OF TOWN.**

Any person obtaining a permit authorized by §§ 94.30 and 94.31 agrees as a condition of the permit to indemnify the town for and hold the town harmless from any expense including but not limited to attorneys' fees, litigation costs, and judgments incurred as a result of claims made for damages arising out of operations conducted by the permit recipient pursuant to the permit.

(1999 Code, § 94.32) Penalty, see § 94.99

***STREET EVENT PERMITS***

**§ 94.45 APPLICATION OF SUBCHAPTER.**

This subchapter applies to all street fairs, festivals, carnivals, parades, marches, rallies, demonstrations, and other activities or public events that require the temporary closing or obstruction of all or a portion of any street or other public right-of-way or that substantially hinder or prevent the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any such activity covered by this subchapter shall be referred to herein as "the event." The requirements of this subchapter shall not apply to town-sponsored events.

(Ord. passed - -)

**§ 94.46 PERMIT REQUIRED.**

No person may run, operate, or sponsor any event in any public street or right-of-way without a permit obtained from the Board of Commissioners in accordance with this subchapter.

(Ord. passed - -) Penalty, see § 94.99

***Cross-reference:***

*Permit fee, see § 94.50*

**§ 94.47 APPLICATION.**

Application for the permit authorized by this subchapter shall be submitted in writing to the Administrator at least 45 days prior to the start of the planned event and shall contain the following information:

(A) Name, address, and telephone number of the person, organization, or entity seeking to conduct or sponsor the event;

(B) Name, address, and telephone number of the individual in charge of the event;

(C) The proposed date and time period when the event will be conducted;

(D) A sketch map showing:

(1) The area where the event is to take place;

(2) Any streets to be closed or obstructed;

(3) Any barriers or traffic-control devices to be erected;

(4) The location of any concession stand, booth, or other temporary structures or facilities; and

(5) The location of proposed fences, stands, platforms, benches, or bleachers.

(E) The approximate number of people expected to attend the event;

(F) Sufficient proof of liability insurance in accordance with § 94.49;

(G) A description of the security and traffic control plan;

(H) A petition signed by all residents of the section of street to be closed whereby all residents agree to the street closing; and

(I) Any other information determined by the Administrator to be necessary to ensure compliance with this subchapter.

(Ord. passed - -)

**§ 94.48 STAFF REVIEW.**

Upon receipt of the permit application under this subchapter, the Administrator shall circulate it to the Sheriff's Department, the Fire Chief, the Public Works Director, and other appropriate persons for their comment. The Administrator may arrange to have a conference on the application with the applicant and one or more department heads.

(Ord. passed - -)

**§ 94.49 INSURANCE.**

Before a special event permit is issued under the provisions of this chapter, the entity that will actually conduct the activity for which the permit is sought shall give evidence of liability insurance of not less than \$1,000,000 and further evidence that this liability insurance shall also afford coverage to the sponsoring entity for the specified event.

(Ord. passed - -)

**§ 94.50 PERMIT FEE.**

The permit fee is \$50.

(Ord. passed - -)

**§ 94.51 STANDARDS FOR ISSUANCE.**

(A) The Board of Commissioners shall issue the permit authorizing the event unless it finds that:

(1) The event will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be provided throughout the town;

(2) The applicant has failed to obtain any necessary permits or licenses, including any required building permit or privilege, or the applicant is otherwise in violation of any town ordinance;

(3) The event will work a severe hardship on persons occupying property adjacent to the site, location, or route of the event as a result of the denial of access to property or for other substantial reasons;

(4) The event, if held at the time or at the location or along the route proposed, will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or

(5) The applicant has failed to comply with any of the provisions of this subchapter, including the payment of any fees required.

(B) If a permit is issued in accordance with division (A) of this section, the Board may attach to it any reasonable conditions.

(C) If the Board finds that it cannot issue the permit for reasons specified in division (A) of this section, it may request the applicant to modify its application to remove any objections to the issuance of the permit.

(D) Any event conducted pursuant to a permit issued under this section shall be conducted strictly in accordance with the terms of the permit, including any conditions attached hereto.

(Ord. passed - -) Penalty, see § 94.99

#### **§ 94.52 STREET CLOSINGS.**

(A) If the Board of Commissioners finds that the permit should be issued under this subchapter and that, to conduct the event, it is necessary to close a street or to reroute traffic, it may pass a resolution authorizing this to be done. No such resolution shall be passed affecting streets that are part of the state street system without the approval of the State Department of Transportation.

(B) The resolution shall identify the street or portion thereof to be affected and shall indicate the date and time when the street or portion thereof is to be closed or traffic thereon is to be limited in some way. The resolution shall also require that the applicant have appropriate traffic-control devices installed to give notice of the temporary traffic controls.

(C) No person may operate any vehicle contrary to the traffic-control devices installed in accordance with division (B) of this section.

(Ord. passed - -) Penalty, see § 94.99

#### **§ 94.53 EVENT SPONSOR RESPONSIBLE FOR CLEANUP.**

The sponsor of the event shall be responsible for cleaning up any litter caused by the event, for removing all temporary obstructions, and in general returning the area where the event takes place to the condition that existed prior to the event. The Board of Commissioners may require the sponsor to post a bond or other sufficient security to guarantee compliance with this section.

(Ord. passed - -) Penalty, see § 94.99



**§ 94.99 PENALTY.**

(A) A violation of any of the following sections shall constitute a misdemeanor punishable by a fine of not more than \$50 or imprisonment for not more than 30 days, or both: §§ 94.02, 94.03, 94.15 through 94.18, 94.30 through 94.32, 94.46, 94.51(D), 94.52(C), and 94.53.

(B) A violation of any of the sections listed in this subchapter shall also subject the offender to a civil penalty of \$25. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(C) The town may seek to enforce this chapter through any appropriate equitable action.

(D) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(E) The town may seek to enforce this chapter by using any one or any combination of the remedies set out in this section.

(1999 Code, § 94.99) (Ord. passed - -)



## CHAPTER 95: MINIMUM HOUSING STANDARDS

### Section

#### *General Provisions*

- 95.01 Findings; purpose; authority
- 95.02 Definitions
- 95.03 Rules of construction
- 95.04 Applicability
- 95.05 Conflict with other provisions

#### *Minimum Standards*

- 95.15 Compliance
- 95.16 Responsibilities of owners and occupants
- 95.17 Structural conditions
- 95.18 Basic equipment and facilities
- 95.19 Ventilation
- 95.20 Space, use, and location
- 95.21 Safe and sanitary maintenance
- 95.22 Control of insects, rodents, and infestations
- 95.23 Standards applicable to rooming houses; exceptions
- 95.24 Applicability to abandoned structures

#### *Enforcement*

- 95.35 Powers and duties of the Code Enforcement Officer
- 95.36 Inspections; right of entry for making repairs or alterations
- 95.37 Procedure for enforcement
- 95.38 Methods of serving complaints and orders
- 95.39 Costs a lien on premises
- 95.40 Alternative remedies
- 95.41 Planning Board to hear appeals
- 95.42 Violations

- 95.99 Penalty

#### ***Statutory reference:***

*Minimum housing standards, see G.S. §§ 160A-441 et seq.*

**GENERAL PROVISIONS****§ 95.01 FINDINGS; PURPOSE; AUTHORITY.**

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents, and other calamities; lack of ventilation, light, and sanitary facilities; and other conditions, and there exist abandoned structures which constitute health and safety hazards due to the attraction of insects, conditions creating fire hazards, dangerous conditions constituting a threat to children, and frequent use by vagrants, such that these dwellings and abandoned structures are detrimental to the health, safety, and morals and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety, and welfare of the residents of the town as authorized by G.S. Chapter 160A, Article 19, part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, and for all abandoned structures, as expressly authorized by G.S. § 160A-441.

(Ord. passed - -)

**Statutory reference:**

*Authority to adopt and enforce ordinances relating to dwellings that are unfit for human habitation, see G.S. § 160A-443*

**§ 95.02 DEFINITIONS.**

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

**BASEMENT.** A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

**CELLAR.** A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

**CODE ENFORCEMENT OFFICER.** Any agent of the Code Enforcement Officer who is authorized by the Town Manager or his or her designee.

**DETERIORATED.** A dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by the finding of the inspector.

**DILAPIDATED.** A dwelling is unfit for human habitation and cannot be repaired, altered, or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by the finding of the inspector.

**DWELLING.** Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing shall not be regarded as a **DWELLING**.

**DWELLING UNIT.** Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

**EXTERMINATION.** The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the inspector.

**GARBAGE.** The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**HABITABLE ROOM.** A room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets, and storage spaces.

**INFESTATION.** The presence, within or around a dwelling, of any insects, rodents, or other pests in such number as to constitute a menace to the health, safety, or welfare of the occupants or to the public.

**MULTIPLE DWELLING.** Any dwelling containing more than two dwelling units.

**OCCUPANT.** Any person over one year of age living, sleeping, cooking, or eating in or having actual possession of a dwelling unit or rooming unit.

**OPERATOR.** Any person who has charge, care, or control of a building or part thereof in which dwelling units or rooming units are let.

**OWNER.** Any person who alone or jointly or severally with others:

(1) Shall have title to any dwelling unit, with or without accompanying actual possession thereof;

(2) Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent of the owner or as executor, administrator, trustee, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner; or

(3) Is a mortgagee of record with respect to the property where such dwelling is located.

***PARTIES IN INTEREST.*** All individuals, associations, and corporations who have interests of record in a dwelling and any who are in possession thereof.

***PLUMBING.*** Includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

***PUBLIC AUTHORITY.*** The Redevelopment Commission or any officer who is in charge of any department or branch of the government of the town or of the county or the state relating to health, fire, building regulations, or other activities concerning dwellings in the town.

***ROOMING UNIT.*** Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

***ROOMINGHOUSE.*** Any dwelling or that part of any dwelling containing one or more rooming units in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father, or sister or brother of the owner or operator.

***RUBBISH.*** Combustible and noncombustible waste materials, except garbage and ashes, and the word includes paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

***SUPPLIED.*** Paid for, furnished or provided by, or under the control of the owner or operator.

***TEMPORARY HOUSING.*** Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

***UNFIT FOR HUMAN HABITATION.*** Conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

(Ord. passed - -)

### § 95.03 RULES OF CONSTRUCTION.

Whenever the words ***DWELLING***, ***DWELLING UNIT***, ***ROOMINGHOUSE***, ***ROOMING UNIT***, and ***PREMISES*** are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. passed - -)

**§ 95.04 APPLICABILITY.**

This chapter shall be in full force and effect within the town and within the extraterritorial jurisdiction of the town as adopted and defined by the town pursuant to G.S. § 160A-360.  
(Ord. passed - -)

**§ 95.05 CONFLICT WITH OTHER PROVISIONS.**

If any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.  
(Ord. passed - -)

***MINIMUM STANDARDS***

**§ 95.15 COMPLIANCE.**

(A) Every dwelling and dwelling unit used as a human habitation or held out for use as a human habitation shall comply with all of the minimum standards of fitness for human habitation. No person shall occupy as owner-occupant or let to another for occupancy or use as a human habitation any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation.

(B) The Clerk shall not provide nor permit another to provide either public or private utility services such as water, gas, electricity, sewer, and the like, to any dwelling unit found to be substandard under this chapter which becomes vacant until such dwelling unit has been inspected and brought into compliance with this chapter and the applicable building codes.  
(Ord. passed - -) Penalty, see § 95.99

**§ 95.16 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.**

(A) *Public areas.* Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness.* Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls.

(C) *Rubbish and garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures.* Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment, and structure.* No occupant shall willfully destroy, deface, or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit. (Ord. passed - -) Penalty, see § 95.99

#### **§ 95.17 STRUCTURAL CONDITIONS.**

(A) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean, or buckle and shall not be rotted, deteriorated, or damaged and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets, and hallways shall be finished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weathertight and watertight.



(H) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling or in such condition or location as to constitute a fire hazard. There shall be no hanging chimneys or flues.

(I) There shall be no use of the ground for floors or wood floors on the ground.

(J) All minimum standards prescribed by the State Building Code and State Uniform Residential Building Code shall be complied with in all respects.

(Ord. passed - -) Penalty, see § 95.99

**§ 95.18 BASIC EQUIPMENT AND FACILITIES.**

(A) *Plumbing system.* The following are the minimum plumbing standards to meet the requirements of this chapter.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink; lavatory, tub, or shower; water closet; and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All plumbing fixtures shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with the State Building Code.

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms, and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 70°F measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues, or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 70°F measured three feet above the floor during ordinary winter conditions.

(C) *Electrical system.* The following are the minimum electrical standards to meet the requirements of this chapter.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the State Electrical Code. There shall be installed in every kitchen, bedroom, bathroom, water closet room, laundry room, furnace room, corridor or hallway, and porch at least one supplied ceiling or wall-type electric light fixture. If wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles. The electrical system of every dwelling and dwelling unit shall comply with all requirements of the State Electrical Code.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) Every such outlet and fixture shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a safe manner.  
(Ord. passed - -) Penalty, see § 95.99

#### § 95.19 VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required or shall have other approved, equivalent ventilation.

(C) *Bathroom and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

(Ord. passed - -) Penalty, see § 95.99

**§ 95.20 SPACE, USE, AND LOCATION.**

(A) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet, six inches.

(C) *Floor area calculation.* Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area in computing the total area of the room to determine maximum permissible occupancy.

(D) *Cellar.* No cellar shall be used for living purposes.

(E) *Basements.* No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window area, total openable window area, and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well, or accessway.

(Ord. passed - -) Penalty, see § 95.99

**§ 95.21 SAFE AND SANITARY MAINTENANCE.**

(A) *Exterior foundation, walls, and roofs.* Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight and rodentproof, shall be kept in sound condition and good repair, shall be capable of affording privacy, shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

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(B) *Interior floors, walls, and ceilings.* Every floor, interior wall, and ceiling shall be substantially rodentproof, shall be kept in sound condition and good repair, and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors.* Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodentproof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches, and appurtenances.* Every inside and outside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in a clean and sanitary condition.

(F) *Supplied facilities.* Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(G) *Drainage.* Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds.* Every yard and all exterior property areas shall be kept free of species of weeds or plant growths which are noxious or detrimental to health.

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required by the State Building Code.

(Ord. passed - -) Penalty, see § 95.99

**§ 95.22 CONTROL OF INSECTS, RODENTS, AND INFESTATIONS.**

(A) *Screens.* In every dwelling unit, for protection against mosquitoes, flies, and other insects, every door opening directly from a dwelling unit to outdoor space shall have supplied and installed screens and a self-closing device, and every window or other device with openings to outdoor space used or intended to be used for ventilation shall likewise be supplied with screens installed.

(B) *Rodent control.* Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(C) *Infestation.* Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises, and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodentproof or reasonably insectproof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinance, and the owner, operator, or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by town ordinances.

(Ord. passed - -) Penalty, see § 95.99

### **§ 95.23 STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.**

All of the provisions of this chapter shall be applicable to roominghouses and to every person who operates a roominghouse or who occupies or lets to another for occupancy any rooming unit in any roominghouse, except as follows.

(A) *Water closet, hand lavatory, and bath facilities.* At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a roominghouse wherever the facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes.* Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors, and ceilings and for the sanitary maintenance of every other part of the roominghouse, and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the roominghouse is contained is leased or occupied by the operator.

(D) *Sanitary facilities.* Every water closet, flush urinal, lavatory basin, and bathtub or shower required by division (A) of this section shall be located within the roominghouse and within a room or rooms which afford privacy and are separate from the habitable rooms and which are accessible from a common hall and without going outside the roominghouse or through any other room therein.

(Ord. passed - -) Penalty, see § 95.99

#### **§ 95.24 APPLICABILITY TO ABANDONED STRUCTURES.**

The procedures and minimum standards for the regulation of dwellings and dwelling units set out in this chapter shall apply to abandoned structures in the town, except that abandoned structures are not required to meet minimum standards that are uniquely applicable to occupied dwellings and dwelling units, such as standards for heating systems and minimum room sizes.

(Ord. passed - -)

### ***ENFORCEMENT***

#### **§ 95.35 POWERS AND DUTIES OF THE CODE ENFORCEMENT OFFICER.**

(A) *Duties.* The Code Enforcement Officer, as appointed by the Town Manager, is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers prescribed. It shall be the duty of the Code Enforcement Officer to:

(1) Investigate the dwelling conditions and to inspect dwellings and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;

(2) Take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) Keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness prescribed in this chapter; and

(4) Perform such other duties as may be prescribed in this chapter.

(B) *Powers.* The Code Enforcement Officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the powers, in addition to others granted, to:

(1) Investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(2) Administer oaths and affirmations, examine witnesses, and receive evidence;

(3) Enter upon premises, subject to constitutional limitations, for the purpose of making examinations and inspections; provided such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and

(4) Appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of this chapter.

(Ord. passed - -)

#### **§ 95.36 INSPECTIONS; RIGHT OF ENTRY FOR MAKING REPAIRS OR ALTERATIONS.**

(A) Subject to constitutional limitations, for the purpose of making inspections, the Code Enforcement Officer is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units, and premises. The owner or occupant of every dwelling, dwelling unit, or rooming unit or the person in charge thereof shall give the Code Enforcement Officer free access to such dwelling, dwelling unit, or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination, and survey.

(B) Subject to constitutional limitations, every occupant of a dwelling or dwelling unit shall give the owner thereof or his or her agent or employee access to any part of such dwelling or dwelling unit and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. passed - -) Penalty, see § 95.99

#### **§ 95.37 PROCEDURE FOR ENFORCEMENT.**

(A) (1) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the town by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Code Enforcement Officer, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary

investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten nor more than 30 days after the serving of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the town.

(2) *Lis pendens*. Whenever the Code Enforcement Officer issues a complaint and notice of hearing under division (A)(1) of this section, the Code Enforcement Officer shall file a notice of lis pendens, with a copy of the complaint and notice attached, in the office of the Clerk of Superior Court of the county, all in accordance with G.S. Chapter 1, Article 11.

(B) *Procedure after hearing*. After such notice and hearing, the Code Enforcement Officer shall state in writing his or her determination whether such dwelling or dwelling unit is unfit for human habitation and, if so, whether it is deteriorated or dilapidated.

(1) (a) If the Code Enforcement Officer determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner, within 60 days from the date of such order, either to:

1. Repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter; or
2. Vacate and close such dwelling or dwelling unit.

(b) The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the dwelling subject to the issuance of an unfit order under division (C) of this section.

(2) If the inspector determines that the dwelling or dwelling unit is dilapidated, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner, within 60 days from the date of such order, either to:



(a) Repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter; or

(b) Demolish or remove the dwelling or dwelling unit.

(C) *Failure to comply with order.*

(1) *In personam remedy.* If the owner of any deteriorated dwelling or dwelling unit fails to comply with an order of the town issued under division (B)(1) of this section, or the owner of a dilapidated dwelling or dwelling unit fails to comply with an order of the town issued under division (B)(2) of this section, the Code Enforcement Officer may submit to the Board of Commissioners at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy.* If the owner of a deteriorated or dilapidated dwelling or dwelling unit fails to comply with an order of the town issued under division (B)(1) or (B)(2) of this section, and the inspector has not sought or the Board has not adopted a resolution directing the Town Attorney to seek injunctive relief as provided in division (C)(1) of this section, then the Code Enforcement Officer shall submit to the Board an ordinance directing the Code Enforcement Officer to repair, vacate and close, or to demolish the dwelling or dwelling unit in accordance with the provisions of this division (C).

(a) The Board may adopt an ordinance in accordance with the provisions of this division (C)(2) if, on the date the Board considers such ordinance, the Board concludes that the owner has still failed either to:

1. Repair, alter, or improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or vacate and close the dwelling or dwelling unit; or

2. Demolish or remove the dwelling or dwelling unit.

(b) The ordinance shall identify the property and the owner and shall direct the inspector to repair or vacate and close or to demolish or remove the dwelling or dwelling unit unless the owner has, prior to the adoption of such ordinance, entered into an agreement with the town (as described in division (C)(2)(c) of this section) staying enforcement of the provisions of this chapter, or enters such an agreement within ten days after the adoption of such ordinance. The ordinance shall further provide that the inspector shall enforce the repair, vacation and closure, or demolition or removal order under the circumstances specified in division (C)(2)(d) of this section.

(c) The Town Manager may, on behalf of the town, enter into an agreement staying the enforcement of the minimum housing code if he or she finds that:

1. The property owner subject to an enforcement proceeding under this chapter has obtained a building permit authorizing the work necessary to bring the dwelling or dwelling unit up to the minimum standards of fitness established by this chapter;

2. The agreement includes an itemization of the work necessary to bring the dwelling or dwelling unit up to the minimum standards of fitness established by this chapter, as well as a timetable for the completion of each major element of the work and a completion date for all such work;

3. The property owner has demonstrated to the reasonable satisfaction of the Manager that such party has available the financial and other resources necessary to complete the work in accordance with such schedule; and

4. The agreement is properly executed by the owner of the property that is subject to an enforcement proceeding under this chapter.

(d) If the inspector determines that a property owner who has entered into an agreement staying the enforcement of the minimum housing code has failed to complete at least 25% of the total cost of the work described in the agreement within 50% of the time established in the agreement for the completion of all the work, then the inspector shall so notify the property owner in writing and shall, not less than ten days after the date of such notice, proceed to enforce the repair, vacate and close, or demolition/removal order. If the inspector determines that the property owner has met the foregoing threshold of completion, then the repair, vacate and close, or demolition/removal order shall not be enforced. However, upon expiration of the agreement, if the property owner has still not brought the dwelling or dwelling unit up to the minimum standards of fitness established by this chapter, then the inspector shall invoke the provisions of §§ 95.42 and 95.99 to obtain compliance with the requirements of this chapter, including the levying of daily civil penalties.

(e) A copy of any ordinance adopted under this section shall be recorded in the Office of the Register of Deeds of the county and shall be indexed in the name of the property owner in the grantor index.

(D) *Appeals from order of Code Enforcement Officer.* An appeal from any decision or order of the Code Enforcement Officer may be taken by any person aggrieved thereby. Any appeal from the inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Code Enforcement Officer and with the Board of Commissioners (herein the "Board") a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Code Enforcement Officer requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the board, unless the inspector certifies to the Board,

after the notice of appeal is filed with him or her, that by reason of the facts stated in the certificate, a copy of which shall be furnished the appellant, a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Code Enforcement Officer, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (E) of this section.

(1) The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the inspector, but the concurring vote of four members of the Board shall be necessary to reverse or modify any decision or order of the Code Enforcement Officer. The Board shall have power also in passing upon appeals, if there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(2) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to superior court by owner.* Any person aggrieved by an order issued by the inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the inspector pending a final disposition of the cause, as provided by G.S. § 160A-446(f).

(Ord. passed - -)

### **§ 95.38 METHODS OF SERVING COMPLAINTS AND ORDERS.**

(A) Complaints or orders issued by the town shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Code Enforcement Officer in the exercise of reasonable diligence, the Code Enforcement Officer shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the town.

(B) Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.

(Ord. passed - -)

**§ 95.39 COSTS A LIEN ON PREMISES.**

As provided by G.S. § 160A-443(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition caused to be made or done by the inspector pursuant to § 95.37 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.

(Ord. passed - -)

**§ 95.40 ALTERNATIVE REMEDIES.**

Neither this chapter or any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise or to enforce this chapter by criminal process as authorized by G.S. § 14-4 and this chapter, and the enforcement of any remedy provided in this chapter shall not prevent the enforcement of any other remedy or remedies provided in this chapter or in other ordinances or laws.

(Ord. passed - -)

**§ 95.41 PLANNING BOARD TO HEAR APPEALS.**

All appeals which may be taken from decisions or orders of the town pursuant to this chapter shall be heard and determined by the Planning Board. As the appeals body, the Board shall have power to fix the times and places of its meetings, to adopt necessary rules of procedure and any other rules and regulations which may be necessary for the proper discharge of its duties. The Board shall perform the duties prescribed by this chapter and shall keep an accurate journal of all its proceedings.

(Ord. passed - -)

**§ 95.42 VIOLATIONS; REMEDIES.**

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the dwelling or dwelling unit or to vacate and close and remove or demolish the dwelling or dwelling unit, upon order of the town duly made and served as provided in this chapter, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 95.37 of this chapter, to occupy or permit the occupancy of the dwelling or dwelling unit after the time prescribed in such order for its repair, alteration, or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(Ord. passed - -) Penalty, see § 95.99

**§ 95.99 PENALTY.**

(A) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4, and shall be punishable as provided by the town.

(B) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of \$100. As provided above in § 95.37(C), civil penalties shall not be levied for any period during which an agreement staying the enforcement of the minimum housing code is in effect. However, if such agreement expires and the dwelling or dwelling unit covered by the agreement has still not been brought up to the minimum standards of fitness established by this chapter, then the inspector may begin imposing daily civil penalties until the dwelling or dwelling unit is brought up to the minimum standards of fitness established by this chapter. If the offender does not pay the civil penalty within ten days after being notified of the violation and the amount of the penalty (or within ten days after being notified of the daily accrual of civil penalties), then the town may collect the amount owed to the town in a civil action in the nature of debt.

(Ord. passed - -)



## CHAPTER 96: PARKS AND RECREATION

### Section

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- 96.002 Policies and procedures
- 96.003 Authority to accept grants, gifts, and the like
- 96.004 Third-party use of facilities

#### *Recreation Commission*

- 96.020 Created
- 96.021 Composition; terms of members; vacancies; compensation
- 96.022 Officers; rules and regulations; meetings
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- 96.069 Excavations
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- 96.072 Plant material
- 96.073 Night use
- 96.074 Adoption of rules and policies

***Statutory reference:***

*Parks and recreation, see G.S. §§ 160A-350 et seq.*

### ***GENERAL PROVISIONS***

#### **§ 96.001 DESIGNATION OF TOWN PARKS.**

(A) The Town Board of Commissioners hereby establishes the following town parks to be utilized for the purpose of public recreation:

- (1) Riverside Heritage Park;
- (2) Powell Park; and
- (3) Mutual Park.

(B) The above parks are for use by public through approved recreation programs as authorized by the Town Board of Commissioners and the Town Manager and in accordance with town ordinances and such policies, rules, and regulations as may be adopted pursuant to this chapter.

(Ord. passed - -)

#### **§ 96.002 POLICIES AND PROCEDURES.**

The Board of Commissioners, upon recommendation of the Town Manager, shall adopt from time to time, in addition to the regulations set forth in this chapter, policies and procedures governing the use



of municipal park and recreation facilities. Those policies and procedures, together with the regulations codified of this chapter, shall be made available to the public in an appropriate form as may be determined by the Town Manager.

(Ord. passed - -)

#### **§ 96.003 AUTHORITY TO ACCEPT GRANTS, GIFTS, AND THE LIKE.**

The town may accept any grant, gift, bequest, or donation of any personal property offered or made for recreational purposes and, with the approval of the Board of Commissioners, may accept any grant, gift, or devise of real estate. Any gift, bequest of money, or other personal property grant or devise of real estate shall be held, used, and finally disposed of in accordance with the terms or conditions under which such grant, gift, or devise is made and accepted.

(Ord. passed - -)

#### **§ 96.004 THIRD-PARTY USE OF FACILITIES.**

(A) *Policy.* It is the policy of the Board of Commissioners to make town park and recreation facilities available to as many residents of the town and vicinity as is reasonably possible and to do so in a manner which does not discriminate against any person or group by reason of age, sex, religion, political affiliation, national origin. However, such policy does recognize the obligation of the town to first attempt to meet the needs of its citizens before responding to the requests of nonresident individuals and groups.

(B) *Authorization by Board of Commissioners.* Recognizing the limited availability of town personnel to organize, conduct, and supervise all recreational activities at town facilities, the Board of Commissioners may from time to time, upon recommendation of the Town Manager, authorize such groups or individuals as the Board of Commissioners may deem necessary and appropriate to program activities and events at town parks or recreational facilities.

(C) *Authorization by Town Manager.* The Board of Commissioners may from time to time authorize the Town Manager to authorize the use of town recreation or park facilities by groups or individuals without prior approval by the Board of Commissioners. If such authority is granted to the Manager, the same shall be noted upon the minutes of the Board of Commissioners and among the policies and procedures which may be adopted from time to time pursuant to this chapter.

(D) *Selection.* Selection of groups or individuals who wish to conduct recreational programs and events shall be based upon determinations by the Board of Commissioners that the proposed programs or events are in the best interest of the citizenry, that such programs and events can or will be conducted in accordance with the policies and the intent of this chapter, and that they represent the maximum beneficial use of available facilities.

(E) *Access.* The Board of Commissioners, upon recommendation of the Manager, shall adopt or shall authorize the Manager to adopt policies and procedures governing access to use of town park and recreation facilities. Those policies and procedures shall be consistent with this chapter and may include but not be limited to fees for use of facilities, use of concession stands for sale of food and drink, shared use of facilities, application procedures, and forms for the use of facilities, and related matters.  
(Ord. passed - -)

### ***RECREATION COMMISSION***

#### **§ 96.020 CREATED.**

There is hereby created a commission to be known as the Recreation Commission of the town.  
(Ord. passed - -)

#### **§ 96.021 COMPOSITION; TERMS OF MEMBERS; VACANCIES; COMPENSATION.**

The Recreation Commission shall be appointed by the town and shall consist of five regular members. A plan shall be established whereby staggered appointed terms are implemented with no more than three term expirations in one year. The terms of all appointed members shall be three years with the option to serve an additional three years if approved by the Board of Commissioners. Vacancies in the Commission shall be filled for the unexpired term by appointment by the Board of Commissioners. The members shall serve without compensation.  
(Ord. passed - -)

#### **§ 96.022 OFFICERS; RULES AND REGULATIONS; MEETINGS.**

The Recreation Commission shall appoint from its membership a chairperson and other officers as it may deem necessary for the orderly procedure of its business. The Commission may adopt bylaws, rules, and regulations covering its procedure not inconsistent with the provisions of state law as approved by the Board of Commissioners. The Recreation Commission shall hold regular meetings at such times and places as it may designate.  
(Ord. passed - -)

#### **§ 96.023 POWERS AND DUTIES.**

The powers and duties of the Recreation Commission shall be to:

(A) Plan and recommend by regular and special reports to the Town Manager actions as may be necessary to create and develop an adequate and complete system of parks, playgrounds, and recreation centers and facilities; act as an advisor to the Town Manager concerning the supervision, organization, and management of parks and playgrounds, and activities thereon, recreation and social centers, playfields, swimming pools, and similar facilities in order that the best and most satisfactory provision for supervision for community sports and activities of all kinds will be properly developed; cooperate with individuals, firms, or organizations interested in public recreation; and recommend such clean and wholesome recreation and amusement for the citizens of the town as it shall deem advisable;

(B) Cooperate with any other public authority and aid assist in coordinating recreation activities, pursuant to and in accord with G.S. §§ 160A-350 et seq., and with the provisions of this chapter; and

(C) Carry out the directions of the Town Manager and, subject to the directions of the Town Manager, make recommendations to the Parks and Recreation Director in organizing and directing the use of all playgrounds, facilities, and recreational centers owned, operated, or maintained by the town. (Ord. passed - -)

**§ 96.024 COOPERATION OF TOWN OFFICERS AND DEPARTMENTS.**

All officers, departments, and department heads of the town will cooperate and render reasonable and necessary assistance to the Recreation Commission and to the Parks and Recreation Department. (Ord. passed - -)

**§ 96.025 ANNUAL REPORT.**

The Recreation Commission shall render annually to the Town Manager a full report of its work. (Ord. passed - -)

**§ 96.026 RESTRICTIONS ON ENTERING CONTRACTS AND INCURRING OBLIGATIONS.**

The Recreation Commission shall have no authority to enter into any contract or incur any obligation binding the town, other than current obligations or contracts to be fully executed within the then current fiscal year and all within the budget appropriations made by the Board of Commissioners. (Ord. passed - -)

**§ 96.027 ACQUISITION AND DISPOSITION OF FUNDS.**

The Board of Commissioners may, as its discretion, appropriate such money as it may deem necessary for the purpose of carrying on the activities of the Parks and Recreation Department. The

Recreation Commission shall act in an advisory capacity to the Parks and Recreation Director and the Town Manager in developing the annual budgetary request to be presented for consideration by the Board of Commissioners. Funds received by the Commission or the Parks and Recreation Department shall be used to supplement the Department's budget. The funds shall be paid to the town, shall be disbursed for the purpose for which the funds were accepted, and shall be disbursed in the same manner as other Department funds.

(Ord. passed - -)

#### **§ 96.028 CHARGES AND FEES.**

(A) The town will charge a modest fee for reserving picnic shelter. The fee for town residents is \$15 and the fee for non-town residents is \$20. Town residents must be composed of at least 50% town residents. Fees are subject to change. When you book a reservation, you are only reserving the shelter, not the entire park. The park is open to the general public. Reservations are made through Parks and Recreation Department not more than six months in advance. Shelters may be reserved by telephone, but applicants must either come by the Parks and Recreation Office, or mail in payment within five working days from the date the reservation is made or the reservation will be cancelled. Reservations made less than five days in advance must be made in person and paid for at that time. Policies vary for school groups and nonprofit groups (for fund raisers).

(B) If access for caterers is needed in parks where there is a gate, prior arrangements must be made and a \$5 nonrefundable key deposit paid the evening before you plan to use the shelter. If the shelter is being used on Sunday, the key may be picked up on Friday afternoon. The key must be returned by 12:00 noon on the next working day. Your \$5 deposit will be returned to you upon receipt of the key.

(Ord. passed - -)

#### ***PARKS AND RECREATION DEPARTMENT; DIRECTOR***

#### **§ 96.040 DEPARTMENT AND DIRECTOR CREATED.**

Subject to the general control and supervision of the Town Manager, there is hereby created the Department of Parks and Recreation and the office of Parks and Recreation Director.

(Ord. passed - -)

#### **§ 96.041 APPOINTMENT OF DIRECTOR.**

The Parks and Recreation Director shall be appointed by the Town Manager to serve until his or her successor has been appointed and qualified.

(Ord. passed - -)

**§ 96.042 COMPENSATION.**

The Parks and Recreation Director shall be paid such compensation as may be fixed by the Board of Commissioners.

(Ord. passed - -)

**§ 96.043 SUPERVISION; AUTHORITY.**

(A) The Parks and Recreation Director shall have general supervision, direction, and control, under the direction of the Town Manager, over all matters pertaining to the public recreation, including public playgrounds, public parks, and other public property, used or intended for public, recreational purposes in the town.

(B) (1) It shall be the duty of the Parks and Recreation Director to supervise generally, administer and control the use of all the public playgrounds, public parks, and equipment owned or used by the town within the town, and used or intended for use for public recreation.

(2) The Parks and Recreation Director shall have the duty and authority to promulgate reasonable rules and regulations, not inconsistent with any ordinance adopted by the Board of Commissioners, for the proper and efficient administration of the Parks and Recreation Department and for the wholesome use of such recreational facilities and equipment by the general public.

(C) For the purpose of properly and efficiently carrying out the provisions of this chapter, the Parks and Recreation Director shall have the authority to employ and to discharge, within the limits of the budget and with the approval of the Town Manager, and subject to the personnel code of the town, all play leaders, playground directors, supervisors, recreation specialists, maintenance personnel, and such other employees as the Parks and Recreation Director may deem necessary and proper.

(D) (1) The Parks and Recreation Director shall enforce all ordinances of the town regulating playgrounds and recreational centers and their use and may, in furtherance of such duty, have the power to remove or cause to be removed and excluded from any of playgrounds, amusement facilities, and recreation centers, any person violating any of the ordinances or any rules or regulations concerning their use.

(2) He or she shall have the responsibility for the care and control of all equipment, grounds, and paraphernalia owned or controlled by the town for the use of playground or recreation purposes, and he or she shall be responsible for the custody of such property.

(Ord. passed - -)

***PARK USE REGULATIONS*****§ 96.055 GROUP ACTIVITY; SIGNS.**

(A) *Group activity.* Whenever any group, association, or organization desires to use park facilities for a particular purpose, a representative of the group, association, or organization shall first obtain a permit from the Parks and Recreation Director for such purposes. The Parks and Recreation Director will grant the permit if it appears that the group, association, or organization will not interfere with the general use of the parks and the proposed activity of the group will not unreasonably interfere with or detract from the promotion of public health, safety, and recreation.

(B) *Signs declaring park use regulations.* Signs shall be erected at the entrances to parks setting forth the hours of opening and closing the parks. Other signs regulating the use of the park areas by the public may be established throughout the parks when such regulation has been established in this section. All signs are to be observed by the public and it shall be unlawful for anyone to violate any such posted regulation.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.056 WILDLIFE PROTECTED.**

The shooting or trapping of birds, squirrels, or other game in any park within the town is prohibited. (Ord. passed - -) Penalty, see § 10.99

**§ 96.057 PICNIC SHELTERS.**

(A) Picnic shelters in all town parks are available to churches, clubs, families, and other local groups which shall be set by the Board of Commissioners and published in the Manual of Town Policies and may be reserved by calling the office of the Parks and Recreation Director. This division (A) shall apply only when picnic shelters are to be used for social purposes and no fund-raising activity involved.

(B) Picnic shelters in Powell Park and Riverside Heritage Park shall be available to local groups for fund-raising purposes upon payment of a deposit to the town and upon receipt of a permit from the Parks and Recreation Director.

(C) Picnic shelters shall be available for fund-raising activities to local groups whose membership is at least partially composed of town citizens and whose purpose in renting a picnic shelter for fund-raising is nonprofit. Shelters shall not be available for rent to groups from neighboring towns unless their membership and purpose is countywide in scope. The town reserves the right to decide whether a group qualifies for use of a picnic shelter for fund-raising purposes.

(D) The only fund-raising activity permitted in the picnic shelters shall be the sale of food and drink products except that the sale or use of alcoholic beverages shall be prohibited. Permission to sell food and drink products is contingent upon approval by the appropriate County Health Department, and it is the responsibility of the applicant group to obtain Health Department approval.

(E) Permission to use picnic shelters for fund-raising purposes is contingent upon certification by the Town Clerk that the applicant has arranged for traffic control. If the town determines that increased traffic control measures are necessary, the applicant shall be required to employ the number of off-duty police officers specified by the town at the applicant's expense.

(F) An advance deposit for damage, one cleanup, utilities and other expenses to be determined by the Parks and Recreation Director shall be paid. The unused portion of this deposit (as determined by the Parks and Recreation Director), if any, will be returned provided the shelter and surrounding grounds are cleaned up by 9:00 a.m. the following day to the satisfaction of the Parks and Recreation Department representative. If cleanup is provided by the town, the charge shall be actual payroll plus 27% and actual equipment charges. The amount of the deposit shall be determined by the Board of Commissioners and published in the Manual of Town Policies.

(G) If the group desires to rent the shelter for longer than two hours, health regulations relative to restroom facilities must be followed.

(H) If an application for permit under this section is denied, the applicant may appeal to the Town Manager.

(I) Permits for the use of picnic shelters for fund-raising purposes are nontransferable.  
(Ord. passed - -)

**§ 96.058 VEHICLES.**

It shall be unlawful for any person to drive or propel any motor vehicle or other vehicle in, over, or through any park, except along and upon regularly-established roadways and parking lots. It shall be unlawful for any person to park or permit to be parked any vehicle anywhere except upon designated parking areas authorized by the Town Manager. The term *MOTOR VEHICLE* is hereby defined to include but is not limited to automobiles, trucks, minibikes, go-carts, motorbikes, motorcycles, or any other self-propelled, motorized vehicle. The term *OTHER VEHICLE* is defined to include but is not limited to bicycles.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.059 ADVERTISING.**

It shall be unlawful for any person to place or erect any structure, sign, bulletin board, post, pole, or advertising device of any kind whatever in any park; to attach any notice, bill, poster, sign, wire, or

cord to any tree, shrub, fence, railing, post, or structure within any park except as they may be authorized by the Town Manager.

(Ord. passed - -) Penalty, see § 10.99

#### **§ 96.060 DESTRUCTION OF PARK PROPERTY.**

It shall be unlawful for any person to remove, destroy, mutilate, or deface any structure, monument, statue, planter, fountain, wall, fence, railing, vehicle, bench, tree, plant, or any other property in any park.

(Ord. passed - -) Penalty, see § 10.99

#### **§ 96.061 WEAPONS.**

It shall be unlawful for any person, except duly authorized town employees in the course of their duty, to shoot, fire, or explode or cause to be discharged, shot, fired, or exploded any firearm, including but not limited to toy pistols, toy guns, or other toy arms designed to forcibly hurl a projectile or missile, at any time or under any circumstances within any park. It is unlawful to carry any firearms in any park. Archery equipment, slingshots, or other similar devices may be shot or discharged only in those areas within the parks which may be specifically set aside and so posted for such purpose by the Town Manager.

(Ord. passed - -) Penalty, see § 10.99

#### **§ 96.062 ANIMALS; RUNNING AT LARGE.**

It shall be unlawful for any person to allow or permit any horses, dogs, or other animals to run at large in any park, and it shall be unlawful to ride horses in any park except upon designated and marked bridle trails.

(Ord. passed - -) Penalty, see § 10.99

#### **§ 96.063 ANIMALS; MOLESTING.**

It shall be unlawful for any person to trap, catch, wound, or kill; cause to be injured, treated cruelly, or teased; attempt to trap, catch, wound, kill, injure, or tease any bird or animal; or rob any nest of any bird or any lair, den, or burrow of any animal, in or upon any land owned by the town, except as may be specifically authorized by the Town Manager.

(Ord. passed - -) Penalty, see § 10.99



**§ 96.064 FISH AND AQUATIC LIFE.**

It shall be unlawful to fish in any waters owned or administered by the town, except such portion thereof as may be designated by the Town Manager under such policies and regulations as may be adopted by the town and conforming to the laws of the state. It shall be unlawful for any person to remove or capture or attempt to remove or capture, whether by use of seine, trap, or other device, any fish or other aquatic life in or from any of the waters within any park or park lands.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.065 SELLING, PEDDLING, AND THE LIKE.**

It shall be unlawful for any person to engage in soliciting, peddling, begging, or selling goods or merchandise; to sell, hawk, or vend food or drink within the parks unless written authority is given by the Town Manager; and unless such selling, peddling, soliciting, and the like, is in accordance with other applicable provisions of this code and state and local laws and regulations.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.066 GAMBLING.**

It shall be unlawful for any person to conduct or carry on any game of chance at which money, property, or other thing of value is bet, whether the valuable is in stake or not, in any park.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.067 ALCOHOLIC BEVERAGES.**

It shall be unlawful for any person to consume or to display publicly any alcoholic beverages in any park. It shall be unlawful for any person under the influence of alcoholic beverages to enter or remain in any park. *ALCOHOLIC BEVERAGE* as used in this section is defined the same as the term is defined in G.S. § 18B-101.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.068 GAMES AND SPORTS.**

It shall be unlawful for any person to play football, golf, baseball, or other games of like character in any area in any park where signs are posted in the area specifically prohibiting such games. At no time and under no circumstances shall such games be played in close proximity to playground equipment or park structures so as to threaten harm to persons using the park or damage to the park structures.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.069 EXCAVATIONS.**

It shall be unlawful for any person to make an excavation in any park for any purpose without written permission from the Town Manager.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.070 FIRES.**

It shall be unlawful for any person to make or kindle a fire in any park except in a regularly constructed or appropriate portable fireplace or grill. It shall be unlawful for any person to leave any fire unattended or to fail to completely extinguish a fire and all the embers thereof before leaving the fire.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.071 DUMPING.**

No person shall deposit, dump, throw, cast, lay, or place, or cause to be deposited, dumped, thrown, cast, laid, or placed any ashes, trash, rubbish, soil or earth, paper, garbage, refuse, debris, plant clippings, limbs, or leaves in or upon any park or parklands or in any watercourse, lake, pond, or slough within such parklands.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.072 PLANT MATERIAL.**

It shall be unlawful for any person to dig, cut, debark, mutilate, or cause to be transplanted, cut, bruised, debarked, or mutilated any plant material of all and any description within any parkland without written permission of the Town Manager.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.073 NIGHT USE.**

All parks shall close by sundown until sunrise unless specific authorization is given by the Town Manager. Normal hours of operation of town park and recreation facilities shall be established from time to time by the Town Manager shall be conspicuously posted as may be appropriate. It shall be unlawful for any person to be present on the premises of town park and recreation facilities outside of the posted normal hours of operation, except for town employees conducting town business thereon and for emergency personnel and law enforcement personnel on official business. It shall be unlawful for any person to drive, park, or otherwise operate or leave unattended any type of vehicle on the premises of town park and recreation facilities outside of posted normal hours of operation, except for town

employees conducting town business thereon and for emergency personnel and law enforcement personnel on official business.

(Ord. passed - -) Penalty, see § 10.99

**§ 96.074 ADOPTION OF RULES AND POLICIES.**

The Board of Commissioners, upon the recommendation of the Town Manager, shall adopt such policies, rules, and regulations as may from time to time be required to implement the foregoing provisions, and the Manager shall take such actions as may reasonably be necessary to enforce this subchapter.

(Ord. passed - -)

