

Chapter

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## **CHAPTER 90: ANIMAL CONTROL**

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**§ 90.01 DEFINITIONS.**

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

**ANIMAL.** Every living domestic creature, but does not include humans.

**ANIMAL SHELTER.** Any premises designated by the Board of Commissioners for the purpose of impounding and caring for animals.

**AT LARGE.** An animal shall be deemed to be **AT LARGE** when it is off the property of its owner or keeper and not under physical restraint.

**COMMERCIAL ANIMAL ESTABLISHMENT.** Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, animal exhibition or kennel.

**DANGEROUS DOG.**

(1) As defined in G.S. § 67-4.1, a dog that without provocation has killed or inflicted severe injury on a person; or is determined by the Sheriff or Health Director or person designated by the Sheriff or Health Director to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in division (2) below. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(2) A **POTENTIALLY DANGEROUS DOG** means a dog that the Sheriff or Health Director or the person designated by the Sheriff or Health Director who are responsible for animal control determined to have:

(a) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization;

(b) Killed or inflicted serious injury upon a domestic animal when not on the owner's real property; or

(c) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.

**EXPOSED TO RABIES.** An animal shall be deemed to have been **EXPOSED TO RABIES** if it has been bitten by, or been in the presence of, any animal known or suspected to have been infected with rabies.

**GROOMING SHOP.** Any establishment, whether operated separately or in connection with another business enterprise which provides hair and nail clipping, bathing, and other cosmetic services for animals.

**HEALTH DIRECTOR.** Health Director of the Wilson County Health Department.

**IMPOUNDMENT.** Any animal in custody of a person or animal shelter duly authorized by the County Manager or, when required by the chapter, the Health Director.

**KEEPER.** A person having custody of an animal or who keeps, harbors or fosters an animal. A keeper knowingly permits an animal to remain on or about any premises occupied or controlled by such person.

**KENNEL.** Any premises wherein a person boards, lets for hire, trains for a fee, breeds, buys or sells dogs or cats. This shall not include the ownership of dogs which are part of the

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household or which are maintained adjoining a private residence for hunting, tracking practice, exhibition or the guarding or protection of the owner's property when no more than five dogs per year are sold by the owner.

**NUISANCE.** An animal or group of animals shall be considered a **NUISANCE** if it:

- (1) Damages, soils or defiles public or private property routinely traveled by the public;
- (2) Interferes with, molests, or attacks persons or other domestic animals or pets;
- (3) Is repeatedly at large;
- (4) Causes unsanitary, dangerous or offensive conditions including fouling of the air by odors;
- (5) Chases, snaps at, harasses, or impedes pedestrians, bicyclists or vehicles;
- (6) By virtue of number or type is an offense dangerous to the public health, safety, or welfare; and
- (7) Is diseased or dangerous to the public health.

**OWNER.** Any person or legal entity that has possessory property right in a dog or other animal.

**PET.** Any animal kept for pleasure rather than utility.

**PET SHOP.** Any commercial establishment whether operated separately or in connection with another business enterprise, except for a licensed kennel, that buys, sells or boards any species of animal.

**RIDING SCHOOL or STABLE.** Any place which is available for hire for boarding and or riding instruction any horse, pony, donkey or burro.

**RESTRAINT.** Any animal shall be considered under **RESTRAINT** if it is within the real property limits of its owner, or secured by a leash, lead, or confined.

**SECURITY DOG.** Any dog used, kept, or maintained in the county for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog, sentry dog, or watch dog.

(1) **PATROL DOG.** A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

(2) **SENTRY DOG.** A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

(3) **WATCH DOG.** A dog that barks and threatens to bite any intruder and that has not been specially trained or conditioned for that purpose.

**SERVICE ANIMAL.** An animal certified to provide assistance to a person or persons.

**STRAY.** Any animal not under restraint and found off the property of its owner or keeper.

**SUSPECTED OF HAVING RABIES.** An animal which is unvaccinated against rabies or has bitten a person.

**TETHERING.** For the purpose of this chapter, **TETHERING** is defined as the securing of an animal to an anchor point to confine it to a desired area. There are several types of tethering; fixed and running.

**VETERINARY HOSPITAL.** Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of disease and injuries of animals.

**VICIOUS ANIMALS.** An animal that constitutes a physical threat to human or other domestic animals. An animal is deemed vicious by animal control authorities by the following criteria:

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- (1) Inflicts a bite on a person that results in broken bones or disfiguring lacerations, requiring cosmetic surgery or hospitalization; or
  - (2) Killed or inflicted severe injury upon a domestic animal when not in the owner's real property; or
  - (3) Approaches a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.
- (Ord. passed 3-2-2009)

**§ 90.02 AGENCY AUTHORITY AND RESPONSIBILITY.**

(A) The authority is hereby transferred from the Board of Commissioners to the Wilson County Sheriff's Office to establish and maintain an animal control program, to employ animal control officers and such other employees as shall be determined necessary by the Wilson County Sheriff's Office, and to appoint and compensate animal control officers and such other employees in accordance with the policies of Wilson County Sheriff's Office.

(B) The employees of the animal control program shall under the direction of the Wilson County Sheriff:

(1) Have the responsibility as a law enforcement agency to enforce all laws of North Carolina and all ordinances of Wilson County pertaining to animals and shall cooperate with all law enforcement officers within Wilson County in fulfilling this duty.

(2) Primary responsibility for rabies control is vested in the Health Director by G.S. § 130A-41(10) and related statutes, including G.S. §§ 130A-186, 130A-137, 130A-194, 130A-196, 130A-198 and others. In rabies control matters, the Sheriff of Wilson County shall assist the Health Director, where appropriate.

(3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat involved and suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practicable the occurrence of any such animal bite and condition of any quarantined animal.

(4) Be responsible for the operation of the animal shelter.

(5) Be responsible for the seizure and impoundment, where deemed necessary, of any dog or other animal in Wilson County involved in a violation of this or any other county ordinance or state law.

(6) Investigate cruelty or abuse with regard to animals.

(7) Make sure canvasses of the county, including the homes in the county, as necessary for the purpose of ascertaining compliance with this chapter or state statute.

(8) Keep, or cause to be kept, accurate and detailed records of:

(a) Seizure, impoundment, and disposition of all animals coming in to the custody of the animal control program.

(b) Bite case, violations and complaints, and investigation of the same.

(c) All monies belonging to the county which were derived from fee, penalties, license tags, sales of animals, or other sources.

(d) Any other matters deemed necessary by the Health Director and the Sheriff of Wilson County.

(9) Be empowered to issue notices of violation of this chapter in such form as the Wilson County Sheriff's Office may prescribe.

(Ord. passed 3-2-2009)

**§ 90.03 CRUELTY TO ANIMALS.**

(A) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison, abandon or subject to conditions detrimental to its health or general welfare any animals, or to cause or procure such action. It shall be unlawful for any person other than a licensed veterinarian to cut any part of an animal. This shall include, but not be limited to, ears and/or tails. The words **TORTURE** and **TORMENT** shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animal under the jurisdiction and regulation of the Wildlife Resources Commission; nor to prohibit the animal enforcement officers or persons duly authorized by the Sheriff of Wilson County, or veterinarians from destroying dangerous, unwanted or injured animals in a humane manner; not to prohibit the lawful use of animals in scientific research.

(B) It shall be unlawful for any owner or keeper to fail to provide his or her animal or animals with proper shelter and protection from the weather. Proper shelter for a farm animal shall be a three-sided building with a roof. Proper shelter for a dog shall have a roof, a floor and three sides and be in condition to prevent exposure to the elements. The shelter must be large enough to allow room for the dog to turn in a circle without touching the shelter walls. In the winter months (i.e.: November through March), the shelter shall contain dry bedding at all times. During warm months, the shelter must be positioned to maintain a cooler temperature inside the shelter than outside. For multiple dogs there must be adequate shelter for all dogs within a confined area.

(C) It shall be unlawful for an owner or keeper to fail to provide sufficient and wholesome food and water to keep his or her animal or animals in good health and comfort, the opportunity for vigorous daily exercise, veterinary care when needed to prevent suffering, and humane care treatment.

(D) Dogs that are confined outdoors must be provided with adequate fresh water and appropriate food daily. The water container shall be stabilized and be placed in a position so that it cannot be knocked over. The enclosure must be kept free of excessive accumulation of feces and urine.

(E) Tether:

(1) *Fixed.* Tethered dogs must be attached to a swivelled ground anchor by a coated cable wire not shorter than 15 feet. Chains and ropes are not acceptable types of tethers. All tethers must have swivels attached at both ends to prevent twisting. The tether must be arranged so as to be free from any obstacles that may limit the moveable length of the tether. Shelter and water must be present and always within reach of tethered dog. If a dog cannot reach their shelter or water due to tangled or shortened tethers, the owner will be considered in violation of this chapter. Tethers must be attached to a safe and secure collar. The tether wire not be used as a collar.

(2) *Running.* A strong runner wire (minimum of 15 feet) which is firmly secured to fixed anchor points; posts, trees or fences are acceptable. The tether is attached to the runner wire and must have a swivel to prevent entanglement. Shelter and water must be present

and always within reach of a tethered dog. If a dog cannot reach their shelter or water due to tangled or shortened tethers, the owner will be considered in violation of this chapter. Tethers must be attached a safe and secure collar. The tether wire not be used as a collar.

(F) Dogs contained by an outside pen or fenced-in area shall be provided 100 square feet (ten feet by ten feet square or equivalent) of room for each dog in the enclosure. Facilities regulated by other agencies are exempt.

(G) It shall be unlawful for any person to sell or offer for sale, barter or give away within the county baby chickens, baby ducklings, or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of the baby chickens, ducklings, or other fowl or such rabbits in proper facilities by breeders or stores engaged in the business of selling of the purposes other than for pets or novelties.

(H) It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.

(I) It shall be unlawful for any person to tether any fowl.  
(Ord. passed 3-2-2009) Penalty, see § 90.99

#### **§ 90.04 CONFINEMENT, MUZZLING, AND CONTROL OF VICIOUS OR DANGEROUS DOMESTIC ANIMALS.**

It shall be unlawful for any person to keep any vicious, fierce or dangerous domestic animal within the county unless the animal is confined within a secure building or secure enclosure, or the animal is securely muzzled and under restraint by a competent person who, by means of a leash in hand, has such animal under control at all times.

(Ord. passed 3-2-2009) Penalty, see § 90.99

#### **§ 90.05 ANIMALS CREATING NUISANCE PROHIBITED.**

(A) It shall be unlawful for an owner or keeper to permit an animal or animals to create a nuisance, or to maintain a nuisance created by an animal or animals.

(B) Compliance shall be required as follows:

(1) When an animal enforcement officer, law enforcement officer, or person duly authorized by the Sheriff of Wilson County observes a violation, the owner or keeper will be provided written notification of such violation and be given 48 hours from time of notification to abate the nuisance.

(2) Upon receipt of a written detailed and signed complaint being made to the Sheriff of Wilson County by any person or persons that any other person is maintaining a nuisance as defined in this chapter, the Sheriff of Wilson County shall cause the owner or keeper of the animal, or animals in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be produced in writing.

(3) If the written findings indicate that the complaint is justified, then the Sheriff of Wilson County or person duly authorized by the Sheriff of Wilson County shall cause

the owner or keeper of the animal or animals in question to be so notified in writing, and ordered to abate such nuisance within 48 hours by whatever means may be necessary.

(4) In the event the owner or keeper of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be posted for three working days (72 hours) at the animal shelter. If after three working days, the owner or keeper of the animal or animals remains unknown, the animal may be impounded, transferred to an animal rescue organization or humanely destroyed according to the current North Carolina statute.

(C) It shall be unlawful for a person to fail or refuse to abate the nuisance as required by this chapter.

(Ord. passed 3-2-2009) Penalty, see § 90.99

### **§ 90.06 NOISY ANIMALS.**

It shall be unlawful for any person to own, keep, or have within the county an animal that habitually or repeatedly makes noises or other sounds that tend to annoy, disturb, or frighten its citizens.

(Ord. passed 3-2-2009) Penalty, see § 90.99

### **§ 90.07 DOGS AND CATS RUNNING AT LARGE PROHIBITED.**

Dogs and cats running at large are prohibited.

(A) It shall be unlawful for any owner of a dog/cat to allow it to run at large off the premises of its owner.

(B) Upon an animal control officer's observation of a dog/cat running at large, or off premises of its owner and not under the restraint of a competent person, the officer may at his or her discretion, impound the dog/cat or return it to its owner.

(C) Upon an animal control officer's receipt of a complaint that a dog/cat is running at large or is off the premises of its owner and not under the restraint of a competent person, the officer shall investigate the complaint; and upon finding that there is probably cause that a violation has occurred, the officer may issue a citation or a warning or take any other action contained in this chapter or any state law as the circumstances may require.

(Ord. passed 3-2-2009) Penalty, see § 90.99

### **§ 90.08 LURING, ENTICING, SEIZING, MOLESTING, OR TEASING AN ANIMAL.**

It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on the property of its owner or keeper.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.09 QUARANTINE AND ISOLATION AUTHORITY FOR COMMUNICABLE DISEASE CONTROL.**

(A) The State Health Director and a local health director are empowered to exercise quarantine and isolation authority. Quarantine and isolation authority shall be exercised only when and so long as the public health is endangered, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists.

(B) No person other than a person authorized by the State Health Director or local health director shall enter quarantine or isolation premises. Nothing in this division shall be construed to restrict the access of authorized health care, law enforcement, or emergency medical services personnel to quarantine or isolation premises as necessary in conducting their duties.

(C) Before applying quarantine or isolation authority to livestock or poultry for the purpose of preventing the direct or indirect conveyance of an infectious agent or persons, the State Health Director or a local health director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

(D) When quarantine or isolation limits the freedom of movement of a person or animal or of access to a person or animal whose freedom of movement is limited, the period of limited freedom of movement or access shall not exceed ten calendar days. Any person substantially affected by the county in which the limitation is imposed may request a review to that limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with G.S. Chapter 7A, Article 36 and the rules adopted by the Office of Indigent Defense Services. The court shall reduce the limitation if it determines, by the preponderance of the evidence, that the limitation is not reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others.

(E) If the State Health Director or the local health director determines that a ten-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director or local health director must institute in superior court in the county in which the limitation is imposed an action to obtain an order extending the period of limitation of freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wilson County, the State Health Director must institute the action in superior court in Wilson County. The court shall continue the limitation for a period not to exceed 30 days if it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others. Before the expiration of an order issued under this section, the State Health Director or local health director may move to continue the order for additional periods not to exceed 30 days each.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.10 COMPLIANCE WITH STATE RABIES LAWS, SUPPLEMENT TO STATE RABIES LAWS.**

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(A) It shall be unlawful for any animal owner or other person to fail to comply with the state laws relating to the control of rabies.

(B) It is the purpose of this ordinance to supplement the state laws by providing a procedure for the enforcement of state laws relating to rabies control, in addition to the criminal penalties provided by state law.

(C) The Health Director shall organize or assist the Sheriff of Wilson County in organizing at least one countywide rabies vaccination clinic per year for the purpose of vaccinating dogs and cats. Public notice of the time and place of rabies vaccination clinics shall be published in a newspaper having general circulation within the area.

(Ord. passed 3-2-2009) Penalty, see § 90.99

### **§ 90.11 VACCINATION OF DOGS, CATS, AND OTHER PETS.**

(A) It shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies (hydrophobia) for any dog or cat four months of age or older. Should it be deemed necessary by the Health Director or the Wilson County Animal Enforcement Office that other pets be vaccinated in order to prevent a threatened epidemic or to control an existing epidemic, it shall be unlawful for an owner or keeper to fail to provide current vaccination against rabies for that pet.

(B) A rabies vaccination shall be deemed current for a dog or cat if the first two doses of vaccine are administered 12 months apart and each subsequent booster dose of vaccine administered every three years as per the vaccine manufacturer's recommended schedule.

(C) All antirabic vaccine shall be administered by a licensed veterinarian or a trained and qualified vaccinator.

(Ord. passed 3-2-2009) Penalty, see § 90.99

### **§ 90.12 VACCINATION TAG AND CERTIFICATE.**

(A) Upon complying with the provisions of § 90.10, there shall be issued to the owner or keeper of the dog or cat vaccinated a rabies tag, stamped with a number and the year for which issued, and a rabies vaccination certificate. Owners or keepers must be able to make the vaccination certificate available to an animal control officer upon request.

(B) In addition to all other penalties as prescribed by law, a dog or cat is subject to impoundment in accordance with the provisions of this chapter current vaccination certificate cannot be provided.

(C) It shall be unlawful for any person to use for any animal a rabies vaccination tag issued for an animal other than the one using the tag.

(D) All dogs or cats shipped or otherwise brought into this county, except for exhibition purposes where the dogs or cats are confined and not permitted to run at large, shall be securely confined and vaccinated within one week after entry, unless prior vaccination by a licensed veterinarian or a trained and qualified vaccinator can be provided.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.13 NOTICE TO HEALTH DIRECTOR WHEN PERSON BITTEN;  
CONFINEMENT OF ANIMAL.**

(A) When a person has been bitten by an animal having rabies or suspected of having rabies, it shall be the duty of such person, or his parent or guardian if such person is a minor, and the person owning such animal or having the same in his or her possession or under his or her control, to notify the Wilson County Animal Shelter, the Health Director or person duly authorized by the Health Director immediately and give their names and addresses; and the owner or person having such animal in his or her possession or under his or her control shall immediately securely confine the animal at the animal shelter or a veterinarian of their choice for ten days at the expense of the owner or keeper. It shall be the duty of every physician, after his first professional attendance upon a person bitten by any animal having rabies or suspected of having rabies, to report to the Health Director the name, age and sex of the person so bitten, and precise location of the bite wound, within 24 hours after first having knowledge that the person was bitten. If the owner of, or a person who has in his or her possession or under his or her control, an animal having rabies or suspected of having rabies, refuses to confine the animal as required by this ordinance or by G.S. § 130A-194, the Health Director may order seizure of the animal and its confinement for ten days in such place as the Sheriff of Wilson County designates.

(B) Law enforcement agencies investigating animal bites, shall report such bites immediately to the Health Director or person duly authorized by the Health Director and give the names and addresses of persons bitten and owner of animal.

(C) Animals confined per § 90.12(A) above shall not be released from confinement except by permission from the Sheriff of Wilson County after being examined by a licensed veterinarian at the cost of the owner or keeper.

(D) In the case of an animal suspected of having rabies, whose owner or keeper is not known or if the animal is badly wounded, diseased, or suffering may be humanely destroyed immediately and the head forwarded for examination.

(Ord. passed 3-2-2009)

**§ 90.14 DESTRUCTION OR CONFINEMENT OF ANIMAL BITTEN BY A KNOWN  
RABID ANIMAL.**

Animals not vaccinated against rabies which are bitten by a known rabid animal shall be immediately destroyed, unless the owner or keeper agrees to strict isolation of the animal at a veterinary hospital for a period of six months at the owner's or keeper's expense. If the animal has a current rabies vaccination, it shall be revaccinated and returned to the owner or keeper.

(Ord. passed 3-2-2009)

**§ 90.15 POSTMORTEM DIAGNOSIS.**

(A) If an animal dies while under observation for rabies, the head of such animal shall be submitted to the Health Department for shipment to the Laboratory Section of the North Carolina Division of Health Services for rabies diagnosis.

(B) The carcass of any animal suspected of dying of rabies shall be surrendered to the Health Department. The head of such animal shall be shipped to the laboratory section of the North Carolina Division of Health Services for rabies diagnosis.  
(Ord. passed 3-2-2009)

**§ 90.16 UNLAWFUL KILLING OR RELEASING OF CERTAIN ANIMALS.**

It shall be unlawful for any person to kill or release any animal under observation for rabies, or any animal under observation for biting a human, or to remove such animal from the county without written permission from the Sheriff of Wilson County, provided that a licensed veterinarian, or the Health Director, or persons duly authorized by the Sheriff of Wilson County, may authorize any animal to be killed for rabies diagnosis.  
(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.17 FAILURE TO SURRENDER ANIMAL FOR CONFINEMENT OR DESTRUCTION.**

It shall be unlawful for any person to fail to refuse to surrender any animal for confinement or destruction as required in this chapter when demand is made therefore by the Health Director or the Sheriff of Wilson County.  
(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.18 IMPOUNDMENT.**

(A) Any animal which appears to be lost, stray or unwanted, or not under restraint and off the property of the owner or keeper are in violation of this chapter, and may be seized, impounded, and confined in a humane manner in an animal shelter.  
(B) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this chapter.  
(Ord. passed 3-2-2009)

**§ 90.19 NOTICE TO OWNER OR KEEPER.**

(A) Upon impounding an animal, notice of such impoundment shall be posted for a minimum of 72 hours, beginning with the time the animal enters the animal shelter, or until the animal is disposed of. Reasonable effort shall be made to identify the owner or keeper and inform such owner or keeper of the conditions whereby the animal may be redeemed.  
(B) Such notice shall be prominently displayed on a bulletin board at the animal shelter, and the time and place of the taking of such animal, together with the time and date of posting the notice shall be stated therein.  
(Ord. passed 3-2-2009)

**§ 90.20 REDEMPTION BY OWNER OR KEEPER GENERALLY.**

(A) The owner or keeper of an animal impounded under this chapter may redeem the animal and regain possession thereof within 72 working hours after notice of impoundment is posted as required by this chapter by complying with all applicable provisions of this chapter and paying any applicable fees as determined by the Sheriff of Wilson County.

(B) Any animal whose rabies vaccination can not be verified must be transported to a licensed veterinarian for a physical examination and proper rabies vaccination at the expense of the owner.

(C) No animal owner or keeper may be permitted to adopt his or her own animal under the provisions of this chapter, but he or she must comply with the provisions of this chapter in order to reclaim an animal that has been impounded pursuant to state law or this chapter.

(D) The provisions of this section shall have no application with respect to animals surrendered by the owner or keeper to the Animal Shelter for immediate adoption or destruction as provided for in § 90.23.

(Ord. passed 3-2-2009)

**§ 90.21 DESTRUCTION OR ADOPTION OF UNREDEEMED ANIMAL GENERALLY.**

(A) If an impounded animal is not redeemed by the owner or keeper within the period prescribed in § 90.19, it may be destroyed in a humane manner or shall become the property of the animal shelter(s) and offered for adoption to a responsible adult who is willing to comply with this chapter and with policies set forth by the Sheriff of Wilson County.

(B) No animal which has been impounded by reason of its being a stray, unclaimed by its owner or keeper, shall be allowed to be adopted from the animal shelter during a period of emergency rabies quarantine invoked pursuant to this ordinance, except by special authorization of the Health Director.

(Ord. passed 3-2-2009)

**§ 90.22 PROCEDURE WITH RESPECT TO REDEMPTION OR ADOPTION OF UNVACCINATED DOG OR CAT.**

(A) All animals over four months that are adopted from the shelter will be transported to the veterinarian of their choice for spay/neuter and rabies vaccination according to the fees established by the animal shelter.

(B) An appointment will be made for animals younger than four months of age to be spayed or neutered and vaccinated at an appropriate future date according to the fees established by the animal shelter. The proof of rabies vaccination notice will be completed by the veterinarian and returned to the animal shelter.

(Ord. passed 3-2-2009)

**§ 90.23 IMMEDIATE PLACEMENT FOR ADOPTION OR DESTRUCTION OF OWNER SURRENDERED ANIMALS.**

(A) Any animal surrendered by its owner to the animal shelter may be immediately placed for adoption or humanely destroyed by the Animal Control Officer when:

(1) The owner affirmatively represents in writing that he or she is in fact the legal owner of said animal;

(2) The owner agrees that he or she will indemnify and hold the County of Wilson harmless from any loss or damage it may sustain, including attorneys' fees, by reason of the destruction or placement for adoption of the animal; and

(3) The owner transfers ownership of said animal to the County of Wilson and releases the County from any and all future claims with respect to the animal.

(B) Upon receiving the assurances, the animal shelter may rely on them and place the animal for adoption, or destroy the animal, as it sees fit. The waiting periods provided in §§ 90.19 and 90.20 shall not apply to immediate adoption for destruction as provided for in this section.

(Ord. passed 3-2-2009)

**§ 90.24 DESTRUCTION OF WOUNDED, DISEASED, OR UNWEANED ANIMALS.**

Notwithstanding any other provision of this chapter, any animal seized and impounded which is badly wounded, diseased (not a rabies suspect), or unweaned and has no identification shall be destroyed immediately in a humane manner at the discretion of the animal shelter. If the animal has identification, the Animal Control Officer shall attempt to notify the owner or keeper before disposing of such animal. If the owner or keeper cannot be reached readily, and the animal is suffering, the Animal Control Officer may destroy the animal at its discretion in a humane manner.

(Ord. passed 3-2-2009)

**§ 90.25 DESTRUCTION OF ANIMALS WHICH CANNOT BE SEIZED BY REASONABLE MEANS.**

Notwithstanding any other provision of this chapter, an animal which cannot be seized by reasonable means may be humanely destroyed by order of the Sheriff of Wilson County.

(Ord. passed 3-2-2009)

**§ 90.26 INJURING ANIMALS, NOTICE REQUIRED.**

It shall be unlawful for any person injuring an animal to fail to notify immediately the owner or keeper of the animal, or an animal control agency, or a local humane society.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.27 KEEPING STRAY ANIMALS: REQUIREMENTS, FAILURE TO SURRENDER.**

(A) It shall be unlawful for any person in the county knowingly and intentionally to harbor, feed, keep in possession by confinement, or otherwise allow to remain on his property any animal which does not belong to him or her, unless he has within 72 hours from the time such animal came into his or her possession, notified the Sheriff of Wilson County or person duly authorized by the Sheriff of Wilson County. Upon receiving such notice, the Sheriff of Wilson County or person duly authorized by the Sheriff of Wilson County shall publicly post a description of the animal and location of where the animal was found for 72 hours.

(B) It shall be unlawful for any person to refuse to surrender any such stray animal to the Sheriff of Wilson County or person duly authorized by the Sheriff of Wilson County upon demand.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.28 NON-DOMESTIC ANIMALS, PROHIBITED.**

No person shall possess or harbor any non-domestic animal or animals which are dangerous to persons or property or which have the potential of being dangerous to persons or property. This section shall not apply to bonafide circuses, petting zoos, and other traveling commercial animal exhibitions of limited duration. Licensed wildlife permit holders are exempt from this section.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.29 COLLECTING DOGS AND CATS FOR RESALE, PERMIT REQUIRED.**

(A) It shall be unlawful for any person to collect any dog or cat for the purpose of resale unless a permit for the same shall have been obtained from the Sheriff of Wilson County in accordance with the provisions of this section and unless such permit shall remain unsuspended and unrevoked.

(B) The Sheriff of Wilson County shall promulgate regulations and applicable fee schedule for the issuance of permits and shall include requirements for humane care and transportation of all cats and dogs and for the compliance with the provisions of this chapter and applicable laws. The Sheriff of Wilson County may amend such regulations from time to time as deemed desirable for public health and welfare and for the protection of collected dogs and cats.

(C) The Office of the Sheriff of Wilson County may revoke any permit if the person holding the permit refuses or fails to comply with this chapter, the regulations promulgated by the Sheriff of Wilson County, or any law governing the protection and keeping of animals.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.30 INTERFERENCE WITH ENFORCEMENT.**

It shall be unlawful for any person to interfere with, hinder or molest the Animal Control Officers or persons duly authorized by this chapter, or to seek to release any animal in the

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custody of such persons, except as otherwise specifically provided. It shall be unlawful, and a violation of this chapter for any person to release any animal from a trap or cage, or carry away, interfere with or damage any trap or cage set out or placed by animal control officers.

(Ord. passed 3-2-2009) Penalty, see § 90.99

**§ 90.31 ANIMAL PRIVILEGE FEES.**

An animal owner's privilege fee will be assessed according to the following fee scale. It will be the owner's duty to pay this privilege fee within 30 days of receiving the notice of the fees. It shall be the duty of the Sheriff to deliver the fee notices to animal owners, breeders and other kennels and to collect the fees. If the fees are not paid the owners, breeders and kennel operators will be in violation of this chapter and subject to penalties described in § 90.99.

(A) *Animal privilege fees.*

| <b>Cat/Dog</b>                 |                | <b>Altered</b> | <b>Unaltered</b> |
|--------------------------------|----------------|----------------|------------------|
| Cat/dog under 1 year of age    | 1-year license | \$10           | \$10             |
| Cat/dog 1 year of age or older | 1-year license | \$10           | \$20             |
| Cat/dog 1 year of age or older | 3-year license | \$25           | \$50             |

Any owner of a handicap helper dog, which is used for seeing or hearing purposes and can show proof of spay/neuter, shall receive a license free of charge.

(B) *Annual kennel licenses.*

| <b>Cats/Dogs</b> |         |       |
|------------------|---------|-------|
|                  | 5–10    | \$45  |
|                  | 11–20   | \$70  |
|                  | 21–Over | \$100 |

(C) *Pet kennel.*

- (1) Any combination of dogs and cats.
- (2) All must be neutered or spayed.
- (3) Good for one year (renewable on date of purchase).

(D) *Breeder kennel qualifications.*

- (1) Either dogs or cats.
- (2) Do not have to be spayed/neutered.
- (3) Only good for one year.
- (4) Must show proof of adoption or sales of litters.
- (5) Must be able to show the number born, as well as adopted out or sold.
- (6) Written recommendation from a Wilson County veterinarian

recommending a breeder's kennel license.

(E) *Show kennel.*

- (1) Either dogs or cats.
- (2) Do not have to be neutered or spayed.
- (3) Good for one year (renewable on date of purchase).

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(4) Kennel must participate in three AKC or UKC sanctioned events per year (proof to be shown) or equivalent for cats or six in three years.

(F) *Hunter kennel.*

(1) Dogs only.

(2) Do not have to be spayed or neutered.

(3) Good for one year (renewable on date of purchase).

(4) Kennel must participate in three lawful or sanctioned events per year (proof when possible).  
(Ord. passed 3-2-2009)

**§ 90.32 CONFLICTING REGULATIONS.**

Should there be a conflict between the provisions of this chapter and state or federal law, such provisions of state or federal law shall control.  
(Ord. passed 3-2-2009)

**§ 90.33 EFFECTIVE DATE.**

This ordinance codified herein shall be effective on 3-2-2009.  
(Ord. passed 3-2-2009)

**§ 90.99 PENALTY.**

(A) The violation of any provision of this chapter shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in G.S. § 14-4. Those who violate these ordinances shall be guilty of a class three misdemeanor and shall be fined not more than \$500. Each day's violation of this chapter is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this division does not relieve a person of his or her liability for taxes or fees imposed under this chapter.

(B) In addition, enforcement of this chapter may be by appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to G.S. § 153A-123(d) and (e).

(C) In addition to and not in lieu of the criminal penalties and other sanctions provided in this chapter, a violation of this chapter may also subject the offender to the civil penalties hereinafter set forth.

(1) Such civil penalties may be recovered by Wilson County in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice for such violation.

(2) Such notice shall, among other things:

(a) State upon its face the amount of the penalty if such penalty be paid within 72 hours from and after the issuance of the notice and the late fee of \$50 if paid more than 72 hours after its issuance.

(b) Notify such offender that a failure to pay the penalties within the prescribed time shall subject such offender to a civil action in the nature of debt for the stated penalty plus an additional penalty in the amount of \$50, together with the cost of the action to be taxed by the court.

(c) Further provide that such offender may answer the notice by mailing the notice, and stated penalty to the Sheriff of Wilson County, his or her mailing address, or by making payment to the Sheriff of Wilson County, or to the Office of the Sheriff of Wilson County, and that upon payment, such case or claim and right of action by Wilson County will be deemed compromised and settled.

(d) State that such penalties must be paid within 72 hours from issuance of such notice. Such notice shall further state that if such notice of violation is not paid within said 72-hour period, court action by the filing of a civil complaint for collection of such penalty may be taken.

(3) The Sheriff of Wilson County is authorized to accept such payments in full and final settlement of the claim or claims, right or rights of action which Wilson County may have to enforce such penalty by civil action in the nature of debt. Acceptance of such penalty shall be deemed a full and final release of any and all such claims, or rights of action arising out of such contended violation or violations.

(4) The civil penalty or violation of this chapter is \$100. The penalty shall be paid within 72 hours from and after the issuance of the notice referred to above.

(5) The notice of violation referred to herein may be delivered to the person violating the provisions of this chapter in person, or may be mailed to said person at his or her last know address.

(6) In addition to the penalty prescribed in division (C)(4) above, a \$25 penalty shall be imposed in all those cases in which the above penalty has not been paid within the authorized 72-hour period. Should it become necessary to institute a civil action to collect any penalty hereunder, then the violation shall also be subject to an additional penalty of \$50.

(7) All penalties paid to the Sheriff of Wilson County or as may be recovered in a civil action in the nature of debt as herein provided shall be paid for specific use of animal control.

(Ord. passed 3-2-2009)

## **CHAPTER 91: STREETS AND SIDEWALKS**

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### Section

#### *Damaging Streets and Sidewalks*

- 91.01 Permit to dig in streets
- 91.02 Sidewalk construction
- 91.03 Street repair
- 91.04 Excavations; leaving unprotected
- 91.05 Streets not to be damaged
- 91.06 House moving
- 91.07 Damage to bridges and culverts

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91.08 Damage to lights and signs

***Obstructing Streets and Sidewalks***

91.20 Assembly on sidewalk  
91.21 Display of goods prohibited  
91.22 Placing objects on streets and sidewalks  
91.23 Construction near sidewalk  
91.24 Sheds and awnings

***Use and Cleanliness***

91.35 Throwing and burning trash on street prohibited  
91.36 Tree trimmings  
91.37 Snow and ice removal  
91.38 Bicycle on sidewalks prohibited  
91.39 Playing ball on sidewalks prohibited

***Streetlights***

91.50 Streetlights to be installed at every street intersection within corporate limits

**DAMAGING STREETS AND SIDEWALKS**

**§ 91.01 PERMIT TO DIG IN STREETS.**

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

(1973 Code, Ch. D, Art. I, § 1) Penalty, see § 10.99

**§ 91.02 SIDEWALK CONSTRUCTION.**

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

(1973 Code, Ch. D, Art. I, § 2) Penalty, see § 10.99

**§ 91.03 STREET REPAIR.**

It shall be the duty of every person, firm or corporation, who shall open or dig a ditch, trench or hole in any street, public alley or sidewalk of the town, to put the said street, public alley or sidewalk in as good condition in all respects as it was before, and every person, firm or corporation violating or failing to abide by the provisions of this section shall be guilty of a misdemeanor.

(1973 Code, Ch. D, Art. I, § 3) Penalty, see § 10.99

**§ 91.04 EXCAVATIONS; LEAVING UNPROTECTED.**

It shall be unlawful for any person, firm or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with plank or place a sufficient number of ropes around the same, three feet from the ground, or shall fail to place a sufficient number of red lights around such excavation before dark and to keep such light burning all night every night such excavation shall be open.  
(1973 Code, Ch. D, Art. I, § 4) Penalty, see § 10.99

**§ 91.05 STREETS NOT TO BE DAMAGED.**

It shall be unlawful for any person, firm or corporation to drag or run, or cause to be dragged or run, any harrow or other implement, engine, machine or tool upon any asphalt, bithulitic, warrenite or other permanently paved street of the town which shall be liable, in any way, to injure or cut the surface thereof. It shall be unlawful to injure any dirt street in the same manner.  
(1973 Code, Ch. D, Art. I, § 5) Penalty, see § 10.99

**§ 91.06 HOUSE MOVING.**

No person shall move any house or building upon or across the public streets or sidewalks without the permission in writing from the Board of Commissioners.  
(1973 Code, Ch. D, Art. I, § 6) Penalty, see § 10.99

**§ 91.07 DAMAGE TO BRIDGES AND CULVERTS.**

No person shall injure or misplace any part of any bridge, culvert, ditch or drain or other property belonging to or used by the town, or shall place any obstruction in any culvert, ditch or drain, to prevent the free flow of water on or over the streets of the town.  
(1973 Code, Ch. D, Art. I, § 7) Penalty, see § 10.99

**§ 91.08 DAMAGE TO LIGHTS AND SIGNS.**

No person shall injure, tamper with, or remove or paint upon or deface any sign, sign post, street light, traffic signal or bulletin board or other municipal property upon the streets and sidewalks except an employee of the town in performance of his or her duty.  
(1973 Code, Ch. D, Art. I, § 8) Penalty, see § 10.99

**OBSTRUCTING STREETS AND SIDEWALKS**

**§ 91.20 ASSEMBLY ON SIDEWALK.**

All persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street and all persons so collecting and standing shall disperse and move upon the demand of any police officer.

(1973 Code, Ch. D, Art. II, § 1) Penalty, see § 10.99

**§ 91.21 DISPLAY OF GOODS PROHIBITED.**

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

(1973 Code, Ch. D, Art. II, § 2) Penalty, see § 10.99

**§ 91.22 PLACING OBJECTS ON STREETS AND SIDEWALKS.**

No brick, stone or wood or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets or other routes of the town, or shall any person place on or in any of the streets, sidewalks or alleyways of the town any boxes, crates, casks or barrels of any description, or any other obstruction of any kind, provided that any person erecting a building may with permission place building materials for immediate use on the streets in such a way as to not interfere with the usual traffic.

(1973 Code, Ch. D, Art. II, § 3) Penalty, see § 10.99

**§ 91.23 CONSTRUCTION NEAR SIDEWALK.**

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

(1973 Code, Ch. D, Art. II, § 4) Penalty, see § 10.99

**§ 91.24 SHEDS AND AWNINGS.**

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

(1973 Code, Ch. D, Art. II, § 5) Penalty, see § 10.99

## **USE AND CLEANLINESS**

### **§ 91.35 THROWING AND BURNING TRASH ON STREET PROHIBITED.**

Throwing or sweeping paper, straw, lemon peel, banana peel, watermelon rind or trash of any kind upon any sidewalk or street of the town or burning any trash, refuse or rubbish thereon is prohibited.

(1973 Code, Ch. D, Art. III, § 1) Penalty, see § 10.99

### **§ 91.36 TREE TRIMMINGS.**

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

(1973 Code, Ch. D, Art. III, § 2) Penalty, see § 10.99

### **§ 91.37 SNOW AND ICE REMOVAL.**

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

(1973 Code, Ch. D, Art. III, § 3) Penalty, see § 10.99

### **§ 91.38 BICYCLE ON SIDEWALKS PROHIBITED.**

It shall be unlawful for any person to ride a bicycle on any sidewalk in the town, applicable to business districts only.

(1973 Code, Ch. D, Art. III, § 4) Penalty, see § 10.99

### **§ 91.39 PLAYING BALL ON SIDEWALKS PROHIBITED.**

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

(1973 Code, Ch. D, Art. III, § 5) Penalty, see § 10.99

## **STREETLIGHTS**

### **§ 91.50 STREETLIGHTS TO BE INSTALLED AT EVERY STREET INTERSECTION WITHIN CORPORATE LIMITS.**

The Board of Commissioners directs that a streetlight, incandescent or mercury vapor, be installed and maintained at each and every street intersection within the corporate limits of the town.

(1973 Code, Ch. D, Art. IV, § 1)

## **CHAPTER 92: HEALTH PROTECTION AND DISEASE PREVENTION**

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### Section

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**GENERAL PROVISIONS**

**§ 92.001 UNLAWFUL TO VIOLATE COUNTY HEALTH REGULATIONS.**

It shall be unlawful for any person, firm or corporation to violate any lawfully adopted rule or regulation of the County Board of Health. The enforcement of this section shall be under the supervision of the County Health Officer.  
(1973 Code, Ch. G, Art. I, § 1; Ch. 5, § 8-5001) Penalty, see § 92.999

**§ 92.002 UNLAWFUL TO HINDER HEALTH OFFICER OR ASSISTANT.**

It shall be unlawful for any person to hinder, obstruct or delay the Health Officer or any of his or her assistants in the lawful discharge of their duties.  
(1973 Code, Ch. G, Art. I, § 2; Ch. 5, § 8-5002) Penalty, see § 92.999

**§ 92.003 RIGHT OF ENTRY.**

With appropriate warrant or permission of the home owner, the County Health Officer or any of his or her assistants shall have the right to enter any premises at any reasonable hour for the purpose of making the inspections or investigations.  
(1973 Code, Ch. G, Art. I, § 3; Ch. 5, § 8-5003)

**§ 92.004 PROPERTY KEPT CLEAN.**

(A) *Owners or occupants of premises required to keep the same clean.* Every person owning or occupying any premises in this corporate limits shall keep the premises free from noxious weeds, trash and all other forms of animal or vegetable refuse which may be dangerous or prejudicial to the public health, or which may constitute a public nuisance. No owner or occupant of any premises shall bury therein any animal or vegetable matter which, upon decaying, may become dangerous or prejudicial to the public health, or may constitute a nuisance.

(B) *Persons violating section to be notified.* If any person shall violate the provisions of division (A) above, it shall be the duty of the Chief of Police/Mayor/Board of Commissioners to give notice to the owner or person in possession of such premises that within 15 days or sooner from the date of such notice, all weeds, trash and other offensive animal or vegetable matter, be moved from said lot. Should any owner or occupant fail to comply with notice, the said Chief of Police shall proceed to have removed, and such owner or occupant shall be responsible to the town for the cost thereof.

(C) *Weeds, time for cutting.* Every owner or person in possession of a vacant lot within the corporate limits shall shrub down, within four inches of the ground, all weeds, grass or other noxious growth from said lot at least four times a year from April 1 to November 1. If said weeds and other noxious growth are not cut in compliance with this section, the Chief of Police/Mayor/Board of Commissioners shall proceed to have said weeds or other noxious growth cut and the owner or person in possession of such lot shall be responsible to the town for the cost thereof.

(D) *Building material scraps.* The owners, lessees, tenants or occupants of lots or real property located in the town who are responsible and caused to be placed thereon and/or permitted to remain thereon any scrap building materials, rocks, gravel, bricks, plaster, concrete, lumber, metal or similar materials and any excess excavated earth resulting from the construction, remodeling, repairing, demolishing or tearing down of any building or other structure, shall remove the same within 20 days of the completion of said work or from the time that the last substantial work was performed on said premises.

(1973 Code, Ch. G, Art. I, § 4) Penalty, see § 92.999

**§ 92.005 HUMAN WASTE.**

No person shall urinate or deposit any human waste of any kind on any street, sidewalk, lot or premises except in approved sanitary facilities.

(1973 Code, Ch. G, Art. I, § 5; Ch. 5, § 8-5004) Penalty, see § 92.999

**§ 92.006 STAGNANT WATER.**

No person or occupant of any property shall allow stagnant water to accumulate or remain in cellars or anywhere on his or her property.

(1973 Code, Ch. G, Art. I, § 6) Penalty, see § 92.999

**§ 92.007 SALE OF FOOD; EATING ESTABLISHMENTS.**

All persons, firms or corporations selling food of any kind or serving prepared meats shall comply with all requirements pertaining thereto of the State Board of Health.  
(1973 Code, Ch. G, Art. I, § 7)

**GARBAGE AND REFUSE COLLECTION**

**§ 92.020 DEFINITION.**

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

**GARBAGE.** As the term is used in this subchapter, shall be held to mean and include all refuse, animal, fruit and other vegetable matter, all tin cans, glassware and crockery in which such matter has been put or stored, and all rags, waste paper, floor sweepings and other combustible refuse, except building material scraps and tree trimmings.

(1973 Code, Ch. G, Art. II, § 1)

**§ 92.021 GARBAGE REQUIRED TO BE PROMPTLY REMOVED.**

No garbage that has become decayed or that otherwise shall be a menace to health or cleanliness shall be allowed to remain in a dwelling house, hotel, boarding house, café, restaurant lunch stand, fruit stand, meat market, store or other building or on any premises a longer time than shall be reasonably necessary to remove and deposit the same in a can or cans as hereinafter provided in this subchapter.

(1973 Code, Ch. G, Art. II, § 2) Penalty, see § 92.999

**§ 92.022 GARBAGE CANS.**

The occupant of every building, premises or place where garbage does or may exist shall provide himself or herself with a garbage can made of non-rusting metal in which he or she shall deposit all garbage existing at the place occupied by him or her. Such can shall be provided with handles or bales and with a tight fitting cover made of the same material as the can. All garbage cans must be water tight. They shall be of a size that can be easily handled by the garbage collector. All garbage cans shall be placed in such a place that can conveniently be reached by the garbage collector. No garbage shall be placed, kept or left in any street, alley or public way for any purpose whatsoever. All garbage cans shall be kept reasonably clean by the use of an effective cleaner.

(1973 Code, Ch. G, Art. II, § 3) Penalty, see § 92.999

**§ 92.023 WET GARBAGE.**

All wet garbage shall have the liquid drained off and shall be wrapped in paper, or other combustible material before it is placed in the garbage can, thus preventing smell and the breeding of flies in the summer and freezing and adhesion to the can in the winter.

(1973 Code, Ch. G, Art. II, § 4) Penalty, see § 92.999

**§ 92.024 DEPOSIT OF GARBAGE IN PUBLIC PLACES AND ON PRIVATE PROPERTY.**

No person shall throw, place or deposit any garbage in any street, alley or public place or private property within the city limits, except in garbage cans or on garbage vehicles as provided in this subchapter.

(1973 Code, Ch. G, Art. II, § 5) Penalty, see § 92.999

**§ 92.025 TRANSPORTATION OF GARBAGE AND SLOPS BY PRIVATE PERSONS.**

No persons or person shall collect, handle or haul or transport on any of the streets, alleys, public ways or places of the town, any garbage without first having procured a permit therefor from the Town Clerk.

(1973 Code, Ch. G, Art. II, § 6) Penalty, see § 92.999

**§ 92.026 HOUR FOR PLACING CANS.**

Garbage cans or similar containers containing garbage and trash, for removal, shall be placed on the premises from which the same are to be removed at or before 7:00 a.m. on the day scheduled for removal.

(1973 Code, Ch. G, Art. II, § 7) Penalty, see § 92.999

**ABANDONED VEHICLES**

**§ 92.040 ADMINISTRATION.**

The Police Department and Town Building Inspector shall be responsible for the administration and enforcement of this subchapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town and on property owned by the town. The Town Building Inspector 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 subchapter and applicable state laws. Nothing in this subchapter shall be construed to limit

the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.  
(1973 Code, Ch. 3, § 8-3001) (Ord. passed 4-9-1990)

**§ 92.041 DEFINITIONS.**

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

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

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left 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 owner, occupant or lessee thereof, for longer than two hours.

**AUTHORIZING OFFICIAL.** The supervisory employee of the Police Department or the Town Building Inspector, respectively, designated to authorize the removal of vehicles under the provisions of this subchapter.

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

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

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

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

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor;
- (5) One which has areas of confinement which cannot be operated from the inside such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind;

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(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.

(1973 Code, Ch. 3, § 8-3002) (Ord. passed 4-9-1990)

**§ 92.042 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.**

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

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

(1973 Code, Ch. 3, § 8-3003) (Ord. passed 4-9-1990) Penalty, see § 92.999

**§ 92.043 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 Building Inspector may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above and order the vehicle removed.

(1973 Code, Ch. 3, § 8-3004) (Ord. passed 4-9-1990) Penalty, see § 92.999

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

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

(B) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

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

(D) Subject to the provisions of division (E) below, upon investigation, the Town Building Inspector may order the removal of a junked motor vehicle as defined in this subchapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting

or enhancing community, neighborhood or area appearance. The following among other relevant factors may be considered:

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

residents.

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

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

(b) The Town Building Inspector has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.

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

(1973 Code, Ch. 3, § 8-3005) (Ord. passed 4-9-1990) Penalty, see § 92.999

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

(A) Except as set forth in § 92.046, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained, or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on 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, 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 in writing, heard at the next regularly scheduled meeting of the Town Board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. (1973 Code, Ch. 3, § 8-3006) (Ord. passed 4-9-1990) Penalty, see § 92.999

**§ 92.046 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 includes:

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

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

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property other than the streets and highways, and on private property, such vehicles may be moved 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.

(1973 Code, Ch. 3, § 8-3007) (Ord. passed 4-9-1990) Penalty, see § 92.999

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

(A) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing 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)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

(C) If the vehicle is registered in 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 12 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)(5) above.

(1973 Code, Ch. 3, § 8-3008) (Ord. passed 4-9-1990) Penalty, see § 92.999

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

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive 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(c), as amended.

(1973 Code, Ch. 3, § 8-3009) (Ord. passed 4-9-1990) Penalty, see § 92.999

#### **§ 92.049 REDEMPTION OF VEHICLE DURING PROCEEDINGS.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of 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 subchapter.

(1973 Code, Ch. 3, § 8-3010) (Ord. passed 4-9-1990)

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

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing

business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. Chapter 44A, Article I. (1973 Code, Ch. 3, § 8-3011) (Ord. passed 4-9-1990)

**§ 92.051 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.**

(A) 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.

(B) 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 Building Inspector.

(C) 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. (1973 Code, Ch. 3, § 8-3012) (Ord. passed 4-9-1990)

**§ 92.052 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle for disposing of such vehicle as provided in this subchapter. (1973 Code, Ch. 3, § 8-3013) (Ord. passed 4-9-1990)

**§ 92.053 EXCEPTIONS.**

Nothing in this subchapter 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.

(1973 Code, Ch. 3, § 8-3014) (Ord. passed 4-9-1990) Penalty, see § 92.999

**§ 92.054 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designed by the town any vehicle which has been impounded pursuant to the provisions

of this subchapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(1973 Code, Ch. 3, § 8-3015) (Ord. passed 4-9-1990) Penalty, see § 92.999

## **PUBLIC NUISANCES**

### **§ 92.065 DEEMED UNLAWFUL.**

In order to protect the health and general welfare of the public, preserve the enjoyment of property rights and other rights from obnoxious and undesirable infringement, promote the general public welfare of the community, and prevent social harm from the effects of unwanted and detrimental influences that cross property lines, it shall be unlawful for any person under the age of 18 to possess any graffiti implement upon any school ground, public place, bridge, culvert, or any residential property of which they are not a resident or guest, or at any private business, unless such person can establish, to the reasonable satisfaction of the police, that the possession of such implement was part of a school project, home project, or some other lawful activity; and it shall be unlawful for any person owning, occupying or having in his or her possession or under his or her control any lot or parcel of land, improved or vacant, in the town, or within one mile thereof, to permit to exist on such lot or parcel of land any condition that may be declared in this subchapter to be noxious, detrimental or prejudicial to public health or public safety, or to otherwise constitute a public nuisance.  
(Ord. passed 3-2-2016) Penalty, see § 92.999

### **§ 92.066 ENUMERATION.**

The existence of any of the following conditions on any lot or parcel of land in the town, or within one mile thereof, is hereby declared to be noxious, dangerous, detrimental and prejudicial to the public health or general welfare, and/or constitutes a public nuisance in violation of the provisions of this subchapter:

(A) Any uncontrolled growth of noxious weeds, grasses or bushes to a height in excess of ten inches, and causing or threatening to cause infestation by rats, mice, snakes or vermin of any kind, or constituting a fire hazard, or that in any other way is detrimental to the public health, morals, safety or general welfare; provided, however, that this division shall not apply to planted and cultivated flowers, shrubbery, vegetables or crops, properties not reasonably accessible to power mowing equipment, and undeveloped parcels greater than five acres in size, except as provided in division (B) below.

(B) Any uncontrolled growth of noxious weeds, grasses or bushes on undeveloped parcels greater than five acres in size, including previously tilled farm land that is not cultivated or planted during a growing season, if:

(1) The growth is at a height in excess of 24 inches and is causing or threatening to cause infestation by rats, mice, snakes or vermin of any kind, or constitutes a fire hazard, or that is in any other way detrimental to the public health, safety or general welfare; and

(2) The growth is within 50 feet of any built and/or occupied use.

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(C) Any uncontrolled growth of wild shrubs, bushes, vines, weeds or similar vegetation that is accessible and controllable by any reasonable means, is on any lot that contains a dwelling unit or is on a lot within 100 feet of any residential property, and is uncontrolled growth that:

- (1) Contains other nuisances as set forth in this chapter; or
- (2) Consists of wild, dense or uncontrolled vegetation, including overgrown shrubs, underbrush, small trees, vegetative debris, or poisonous plants, that is in such concentration or condition so as to contribute to or cause a breeding ground for rodents, wild animals, or constitutes other hazards detrimental to public health, safety or welfare.

This division shall not apply to areas that are not accessible or controllable by reasonable means, or to natural areas that customarily exist in a natural condition, such as predominately forested areas with numerous trees, or areas that consist of managed, landscaped plantings, shrubs, or other cultivated or managed vegetation, including planted areas with legitimate landscape plants for screening purposes, or plant areas required by this code of ordinances to be set aside or planted for buffering or screening purposes, or to protected natural areas or plants under state or federal laws.

(D) Pools of stagnant water causing or threatening to cause infestation by mosquitoes and other disease-carrying insects that are or may be dangerous or prejudicial to the public health.

(E) Any litter consisting of man-made and used materials that is scattered, cast, thrown, blown, placed, swept, or deposited anywhere on a persistent, continuous or ongoing basis so as to accumulate on any property in open places such that it is dangerous or prejudicial to the public health or otherwise constitutes a public nuisance. (For purposes of this subchapter, **OPEN PLACES** are defined as areas of properties, or portions thereof, that are open to the exterior, including building openings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards.) The owner and occupant of any property and/or dwelling unit shall exercise reasonable diligence at all times to keep exterior premises clean of litter, including glass, bottles, waste paper, wrapping paper, paper napkins, cartons, package containers, and other used or waste materials intentionally or unintentionally scattered, discarded, thrown, or haphazardly left on such premises on a continuous, ongoing or persistent basis, and to prevent same from drifting or blowing to adjoining premises by removing such waste or ensuring that same is placed in approved refuse containers and/or locations for collection by the town as specified in this chapter.

(F) Except as otherwise allowed herein, any icebox, refrigerator or other container of any kind, with an airtight snap lock or other device thereon, that is in use in open areas, shall be crated, strapped or locked to such an extent that is impossible for a child to obtain access to any airtight compartment thereof. Snap locks or doors on any discarded refrigerator, icebox or container shall be removed prior to disposal.

(G) The presence or accumulation of dead animals; decayed meat, vegetables, fruit or other vegetable matter; filthy privies or stables; garbage, trash, litter or other waste products; or materials of any kind, including uncontrolled accumulation of organic debris, which are or may be offensive by virtue of strong odors or vapors, or by the inhabitancy therein of rats, mice, snakes or vermin of any kind, or by constituting a fire or safety hazard or other condition that otherwise maybe dangerous or prejudicial to the public health or constitute a public nuisance. All

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animal food shall be kept, dispensed and stored in such a manner as to minimize availability of food or harborage for vermin.

(H) Any concentration of unusable building materials, including concrete, steel or masonry, that, due to deterioration or age, are no longer suitable for building construction, alterations or repair, and that are in open places, and are or may be dangerous or prejudicial to the public health, or otherwise constitute a public nuisance.

(I) Any worn-out, deteriorated or abandoned household or office furniture, appliances or other metal products of any kind that are kept in open places and are or may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(J) Any products with jagged edges of metal or glass that are kept in open places and are or may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(K) Any concentration of discarded bottles, glass, cans, or used medical supplies that are in open places or confined areas that may be dangerous or prejudicial to the public health or otherwise constitute a public nuisance.

(L) Any junk, waste materials, unusable building materials, trash, garbage, oily rags, barrels, cans, papers, bricks or brickbats, and other litter, refuse, rubbish or combustible materials that is scattered, cast, placed or deposited in a yard or yards, so as to constitute an accumulation or concentration in an open area, and are or may be dangerous or prejudicial to the public health, or otherwise constitute a public nuisance.

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

(1) Junk, including but not limited to, deteriorated, unusable or inoperative furniture, appliances, machinery, equipment, building materials, worn out and disused automobiles or parts, tires or any other man-made items that are, either in whole or in part, wrecked, junked, disused, worn out, dismantled or inoperative.

(a) Storage of junk shall only be allowed on any properties used for nonresidential purposes if in compliance with all other town codes, or if not addressed by a town code, completely enclosed within a building, or otherwise evenly placed or neatly stacked and concealed by a solid fence, cover or other means so as to not be visible at the property line from abutting properties or a public street.

(b) Storage of junk shall only be allowed on any property used for residential purposes if completely stored in an enclosed building or limited to 100 square feet in area and completely concealed by a solid fence, cover or other means so as not to be visible at the property line from abutting properties or a public street, concentrated in one area within the rear yard, and neatly arranged or stacked so as not to exceed six feet in height.

(c) Whether stored on a residential or nonresidential property, such storage of junk shall be maintained in such a manner so as to prevent overgrown grass or weeds, or an infestation of wild animals, reptiles and rodents.

(2) Usable building materials, unless:

(a) Permitted as an authorized storage in this code of ordinances; or

(b) Stored on any nonresidential lot; or

(c) If stored on any residential lot where construction has stopped or never commenced for a period of one year and there is not a current, valid outstanding building permit issued for construction on the residential lot, such storage is inside a completely enclosed building (if otherwise permitted on the lot) or placed in the rear of the lot and stored in accordance with § 92.066(M)(1)(b) above.

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- (3) Construction fill materials, unless such materials are:
  - (a) Stored in a level, safe manner;
  - (b) Placed in gently sloped mounds, for a period of time not to exceed

12 months; or

- (c) Approved by the Code Enforcement Officer as a reasonable landscape feature, evidenced by a comprehensive landscape plan, showing such features for legitimate landscape purposes as part of the total development of the lot.

- (4) Firewood, except when such storage is neither in excess of a total area of 100 square feet, nor stacked to a height of more than six feet above the ground.

Whether completely enclosed in a building, concealed by a fence or cover, or otherwise permitted on the lot, the storage or accumulation of the above items shall not be permitted if it causes or threatens to cause a fire hazard, threatens to cause accumulation of stagnant water, causes or threatens to cause the inhabitation therein of rats, mice, snakes, vermin, or wild animals of any kind, constitutes a hazardous condition, or causes or threatens to cause a public nuisance, all of which are or may be dangerous or prejudicial to the public health or general welfare.

(N) Graffiti.

- (1) *Graffiti defined.* **GRAFFITI** shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye or other similar substances on public or private building, sidewalks, streets, structures or places that are not authorized or permitted by the property owner or possessor. For the purpose of this subchapter, **GRAFFITI** shall include drawings, writings, markings or inscriptions, regardless of the content or the nature of materials used in the commission of the act. However, **GRAFFITI** shall not be construed to prohibit temporary, easily-removable chalk or other water-soluble markings on public or private sidewalks, streets or other paved surfaces, which are used in connection with traditional children's activities, such as drawings, or bases for stick ball, kick ball, handball, hopscotch or similar activities; nor shall it be construed to prohibit temporary, easily-removable chalk or other water-soluble markings used in connection with any lawful business or public purpose or activity.

- (2) *Graffiti prohibited.* It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, street, sidewalk, structure, or any other real or personal property.

- (O) Any house, apartment, building or structure of whatever nature, except those currently under construction under a valid building permit, or mobile home, or part thereof, that is open to vagrants or minors due to its lack of windows or doors, or is otherwise open and accessible by vagrants or minors, and has been used or occupied by vagrants or minors due to its open nature.

- (P) Any other condition declared to be a detriment or danger to the public health, safety, morals, and general welfare of the inhabitants of the town, and/or a public nuisance by the Board of Commissioners at a public hearing, notice of which has been properly served.

(Ord. passed 3-2-2016)

**§ 92.067 NOTICE TO ABATE.**

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(A) *General.* Whenever it shall come to the attention of the Town Administrator, Town Code Enforcement Officer, Town Inspector, or other authorized town officer or representative (collectively referred to as “town representative”), that there exists on any lot or parcel of land in the town, or within one mile thereof, any of the conditions enumerated in this subchapter, the person shall forthwith give the owner, occupant, and/or person having the lot under his or her control notice thereof, to abate or remove the conditions or otherwise comply with the town code. The notice shall be deemed sufficient if given by personal service of written notice or service by registered or certified mail to the person, owner and/or occupant at his or her last known address. The person so served shall have seven days from the date of service in which to remedy the same, or the town shall cause the same to be remedied, unless an appeal for relief in writing is made within this time period to the Board of Commissioners. In lieu of, or in addition to such notice, the town representative may issue a citation notice and take enforcement actions as set forth in § 10.99 of the town code. In the event the town representative determines that a nuisance is an immediate detriment to human safety or welfare, the town representative may take appropriate action to summarily abate the condition without notice.

(B) *Chronic violator defined.* A **CHRONIC VIOLATOR** is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation in accordance with division (A) above, at least three times regarding any provision of this chapter.

(C) *Annual notice to chronic violators.* The town representative may annually notify a chronic violator of this chapter in advance of further violation that, if the violator’s property is found to be in violation the chapter, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The initial annual notice shall be served by registered or certified mail.

(Ord. passed 3-2-2016)

### **§ 92.068 ABATEMENT BY TOWN.**

If after notice to abate, as described in § 92.067, the owner, occupant and/or person having control of the lot or property shall fail to cause the removal or abatement of such condition, the town may forthwith cause such condition to be removed, abated or remedied. Upon abatement by the town, in addition to all costs of abatement, the penalties set forth in § 10.99 of the town code may be implemented, and an administrative service fee shall be imposed as set forth in the town schedule of rates and fees, a copy of which is located in the office of the Town Clerk and is incorporated herein by reference.

(Ord. passed 3-2-2016)

### **§ 92.069 DECLARATION OF LIEN.**

The costs of correcting the conditions and abating the nuisance, along with any applicable penalties and fines and administrative service fees, shall become a lien against the real property upon which the costs are incurred. The amount of the lien shall be added to the tax roll and collected as unpaid taxes.

(Ord. passed 3-2-2016)

**§ 92.070 PROCEDURE NOT EXCLUSIVE.**

The procedure set forth in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, including but not limited to, those procedures set forth in G.S. § 160A-175, and this chapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this chapter.  
(Ord. passed 3-2-2016)

**PRINTED MATTER**

**§ 92.085 POSTING OF PRINTED MATTER.**

It shall be unlawful for any person, firm or corporation to post, nail, stick or otherwise affix bills, posters, advertisements, notices or any other printed or graphic matter upon public property in the town. This section shall not apply to notices, signs or advertisements required to be posted by law, signs or plates on residential premises giving the name or address of the occupant, mail boxes or newspaper tubes, municipal, county, state and federal traffic signs, historical markers, monuments or signs erected by public authority, temporary displays as a part of customary holiday decorations, and signs denoting the location of underground utilities.  
(1973 Code, Ch. 6, § 8-6001) Penalty, see § 92.999

**§ 92.086 EXCEPTION FOR CAMPAIGN POSTERS.**

(A) Notwithstanding the above provisions, it shall be lawful to post or affix printed or graphic materials upon public property in the town for up to 60 days preceding a national, state or local election or referendum to be held in the town, when the materials relate to the candidate or candidates seeking election or the political issues being voted upon. Provided, however, the Chief of Police may require the giving of a bond by those posting any election-related materials, the amount of the bond to be commensurate with the cost of removing the election materials so posted.

(B) If the election-related materials are not removed within 30 days following the scheduled election, the bond shall be retained by the town to defray the costs of removing any election-related posters and materials.  
(1973 Code, Ch. 6, § 8-6003)

**§ 92.087 POSTING BILLS; OTHER ADVERTISING.**

No person shall stick, paint, brand, stamp, write or put upon any house, fence wall, pavement, post or upon any property, owned by any person, firm or corporation, or owned by the town, any printed, written, painted or other advertisement, bill, notice sign or poster, without first

having obtained the written permission of the owner of such property and having received a permit from the Town Clerk.  
Penalty, see § 92.999

## PRIVIES AND SEPTIC TANKS

### § 92.100 PRIVIES.

Privies/septic tanks are not allowed.  
Penalty, see § 92.999

## NOISE

### § 92.115 UNNECESSARY NOISE PROHIBITED.

(A) *Loud and disturbing noise.*

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

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

(a) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.

(b) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal or as required by law, so as to create any unreasonably loud or harsh sound; or the sounding of such device for an unreasonable period of time.

(c) The playing of any radio, television set, record player, musical instrument or sound-producing or sound-amplifying device in such manner or with such volume, particularly but not limited to the hours between 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, hotel or other type of residence.

(d) The keeping of any animal, except livestock, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person of normal sensibility in the vicinity.

(e) 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.

(3) As used in this chapter, the terms **UNREASONABLY LOUD AND DISTURBING NOISE**, **LOUD AND DISTURBING NOISE** and **LOUD AND DISTURBING NOISES** shall be defined and limited to mean noise which is clearly audible at a distance of

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more than 100 feet from the source of the noise, measured in a straight line from the source of the noise.

(B) *Exceptions.*

(1) The following are exempt from the provisions of this chapter:

(a) Noises generated, made or created during the regular operations of a manufacturing or **INDUSTRIAL FACILITY**, defined as any premises where goods or wares are made, processed, warehoused or stored or where manufacturing is legally permitted and carried on.

(b) Noises generated, made or created by fire, law enforcement, ambulance, rescue or other emergency vehicles while such vehicles are engaged in their proper functions.

(c) Parades, fairs, circus, and other similar public entertainment events, sanctioned sporting events, athletic contests, sporting events and sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above, when such events and activities take place between the hours of 7:00 a.m. and 11:30 p.m.; provided, that in racing events which utilize motor vehicles on circular or oval tracks which are unpaved and/or the turns or which are banked at 15 degrees or less, for this division (B)(3) to apply, the vehicles shall be equipped with properly operating racing mufflers which will diminish or reduce the noise made by the vehicle to at least the same extent as if the vehicle were equipped with a two-chambered Flow Master racing muffler. After 11:30 p.m. persons engaged in these events and activities who create noise which is prohibited by § 92.116 shall be in violation of this chapter.

(d) Construction operations for which building permits have been issued or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accordance with manufacturer's specifications and with all standard equipment, manufacturer's mufflers and noise-reducing equipment in use and in proper operating condition.

(e) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft.)

(f) Lawnmowers and agricultural equipment and landscape maintenance equipment when operated with all the manufacturer's standard mufflers and noise-reducing equipment in use and in proper operating condition.

(g) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, or to restore public utilities, or to protect persons or property from an imminent danger.

(h) Noises resulting from the provision of government services.

(i) Noise from noisemakers on holidays and fireworks on holidays or at times allowed under a pyrotechnics permit issued pursuant to G.S. Chapter 14, Article 54.

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

(2) In any proceeding pursuant to this chapter, if an exception may be applicable, the person who would benefit from the application of the exception shall have the burden of persuasion that the exception applies and that the terms of the exception have been met.

(C) *Penalty.* A violation of this chapter by any person is a misdemeanor and shall subject the offender to a fine of up to \$100 and/or imprisonment for up to 30 days. A second or

subsequent violation by the same person within one year shall subject that person to a fine of up to \$300 and/or imprisonment for up to 30 days.

(1973 Code, Ch. 6, § 8-6001; Ch. I, Art. II, § 1) (Ord. passed - -)

***Statutory reference:***

*Authority to regulate noises, see G.S. §160A-184*

**§ 92.116 NOISES EXPRESSLY PROHIBITED.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but said enumeration shall not be deemed excessive, namely:

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

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

(C) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker or any other instrument or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance provided however, that upon application to the Mayor, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

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

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

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

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

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

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

(J) The creation of any excessive noise on any street adjacent to any school, institution of learning, while the same are in session;

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

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

(M) The sounding of any bell or gong attached to any building or premises which disturbs the peace and quiet of the neighborhood;

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

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

(P) The use of any mechanical loud speakers, drums or other instruments or device for the purpose of attracting attention by creation of noise, to any performance, show or sale or display of merchandise;

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

(R) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Board of Commissioners.

(1973 Code, Ch. I, Art. II, § 2) Penalty, see § 92.999

**§ 92.999 PENALTY.**

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

(B) In accordance with G.S. § 160A-175, violation of any provision hereof of §§ 92.001 through 92.007, 92.020 through 92.026, 92.040 through 92.054, 92.065 through 92.070, 92.085 through 92.087, 92.100, and 92.115 shall be a misdemeanor as provided in G.S. § 14-4, punishable on conviction by a fine and/or imprisonment that is allowed by General Statute. Each day's continuing violation shall be a separate and distinct offense.

(1973 Code, Ch. G, Art. I, § 8)