

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

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' 90.01 ADMINISTRATION.

The Police Department and Manager and/or his designee of the town shall be responsible for the administration and enforcement of this chapter. The police department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the town, and on property owned by the town. The Town Manager and/or his designee shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties. (Ord. 90-3, passed 4-9-90)

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' 90.02 DEFINITIONS.

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

ABANDONED VEHICLE. Is and shall be defined the same as an abandoned motor vehicle is defined in G.S. ' 160A-303(b1).

AUTHORIZING OFFICIAL. The supervisory employee of the police department or the Town Manager and/or his Designee, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

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

JUNKED MOTOR VEHICLE. Is and shall be defined the same as a junked motor vehicle is defined in G.S. '160A-303(b2) and 160A-303.2.

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, etc.;
 - (6) So situated or located that there is a danger of it falling or turning over;
 - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
 - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
 - (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Council.
- (Ord. 90-3, passed 4-9-90; Am. Ord. 2013-06, passed 7-8-13; Am. Ord. 2013-07, passed 7-8-13)

Abandoned, Nuisance and Junked Motor Vehicles

' 90.03 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

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

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed. (Ord. 90-3, passed 4-9-90)

' 90.04 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.

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

(B) Upon investigation, the Town Manager and/or his Designee may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed. (Ord. 90-3, passed 4-9-90)

' 90.05 JUNKED MOTOR VEHICLE REGULATED; REMOVAL AUTHORIZED.

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

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

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

(D) Subject to the provisions of division (E) of this section, upon investigation, the Town Manager and/or his Designee may order the removal of a junked motor vehicle as defined in this chapter 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:

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- (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 Zoning Code 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 Manager and/or his designee 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. The covering or enclosure must be compatible with the objectives stated in the preamble of this ordinance.
 - (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. (Ord. 90-3, passed 4-9-90)

Abandoned, Nuisance and Junked Motor Vehicles

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

(A) Except as set forth in ' 90.07, an abandoned, nuisance or junked 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, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Town Council in writing, heard at the next regularly scheduled meeting of the Town Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. (Ord. 90-3, passed 4-9-90)

' 90.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

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. Circumstances justifying the removal of vehicles without prior notice include:

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

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- (1) Obstructing traffic;
- (2) Parked in violation of an ordinance prohibiting or restricting parking;
- (3) Parked in a no-stopping or standing zone;
- (4) Parked in loading zones;
- (5) Parked in bus zones; or
- (6) Parked in violation of temporary parking restrictions imposed under code sections.

(B) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on town-owned property, other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. (Ord. 90-3, passed 4-9-90)

' 90.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the town, be removed to a storage garage or area by 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 (5) of this section, shall also be mailed to the registered owner=s last known address, unless this notice is waived in writing by the vehicle owner or his agent.

Abandoned, Nuisance and Junked Motor Vehicles

(C) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(D) Whenever an abandoned, nuisance or junked motor vehicle is removed, 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 of the information set forth in divisions (A)(1) through (5) of this section. (Ord. 90-3, passed 4-9-90)

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

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any 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 as amended. (Ord. 90-3, passed 4-9-90)

' 90.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter. (Ord. 90-3, passed 4-9-90; Am. Ord. passed 6-13-94)

' 90.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with G.S. ' 44A-1. (Ord. 90-3, passed 4-9-90)

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' 90.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

As a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Town Manager. The town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof (Ord. 90-3, passed 4-9-90)

' 90.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this chapter. (Ord. 90-3, passed 4-9-90)

' 90.14 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle:

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

(B) Which is in an enclosed building;

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

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town. (Ord. 90-3, passed 4-9-90)

' 90.15 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid. (Ord. 90-3, passed 4-9-90)

CHAPTER 91: ANIMALS

Section

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GENERAL PROVISIONS

' 91.01 TOWN DESIGNATED BIRD SANCTUARY.

The entire area of the town is hereby created and established as a bird sanctuary as to all birds protected by the State Wildlife Resources Commission or otherwise by state law. It shall be unlawful for any person to hunt, trap, kill, or otherwise take any protected bird within the town limits except pursuant to a permit issued under G.S. ' 113-274. (>74 Code, ' 4-7) Penalty, see ' 10.99

Statutory reference:

Authority to establish bird sanctuary, see G.S. ' 160A-188

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' 91.02 KEEPING OF BEEHIVES PROHIBITED.

It shall be unlawful for any person to have or keep hives of bees in the town or to keep or maintain any hive, box, or other similar thing in the town for the purpose of keeping bees. (>74 Code, ' 4-5) Penalty, see ' 10.99

' 91.03 KEEPING CERTAIN ANIMALS IN TOWN PROHIBITED.

(A) It shall be unlawful for any person to keep, breed, or raise within the town any horse, goat, mule, cattle, hog, sheep, pony, chicken, turkey, or other poultry or fowl. (>74 Code, ' 4-2)

(B) It shall be unlawful for any person to possess or harbor within the town any wild animal dangerous to person or property or offensive to the senses. However, this division shall not apply to any circus or menagerie duly licensed by the town or by the state. (>74 Code, ' 4-1) Penalty, see ' 10.99

' 91.04 TRESPASSING FOWL; IMPOUNDMENT AND DISPOSITION.

Any person, including the town, upon whose premises chickens, ducks, geese, or other fowl are trespassing may impound the same and notify the owner thereof, if known. If the owner is not known, notice shall be given to the Chief of Police, and if such fowl are not claimed by their owner within two days they may be sold at public sale after posting notice of sale at the town hall for a period of three days, and if not then sold at public sale they may be sold at private sale or otherwise disposed of in a lawful manner. (>74 Code, ' 4-4)

' 91.05 STRUCTURES FOR SALE OF LIVESTOCK PROHIBITED.

It shall be unlawful for any person to keep or maintain any stable, barn, or other structure for the sale, exchange, or trade of horses, cows, or other livestock within the town. (>74 Code, ' 4-6) Penalty, see ' 10.99

Animals

DOGS

' 91.10 COLLAR, IDENTIFICATION, AND RABIES IDENTIFICATION.

Every owner of a dog four months or more in age and kept in the town shall have and keep the dog vaccinated against rabies in compliance with the state law regulating rabies vaccination (G. S. '130A-184 et seq.). Located on or attached to this collar shall be a permanent identification tag and a current NC Rabies Vaccination tag. The identification tag shall contain the name and address of the owner. (>74 Code, ' 4-8) (Am. Res. 95-9, passed 10-9-95) Penalty, see ' 10.99

Statutory reference:

Vaccination of dogs, see G.S. ' 130A-185

' 91.11 LICENSE REQUIRED; LICENSE TAG.

(A) Upon every dog six months or more of age which may be kept within the town on July 1 of any year, or which may be brought into the town or acquired at any other time to be kept therein, the license fee herein provided shall become immediately due and payable to the town. Upon each dog, which shall become six months of age, the license fee herein prescribed shall become due and payable by the owner of the dog. The license fee so required to be paid shall be \$2 for any unspayed female dog and \$1 for any male or spayed female dog.

(B) The fee prescribed by division (A) shall be paid to the Town Tax Collector. Each fee becoming due and payable on July 1 of any year shall be paid on or before July 1 of such year. Each fee becoming due and payable on some other date than July 1 of any year shall be paid within 30 days after such fee becomes due. For each dog for which the proper license fee is paid, the Town Tax Collector shall issue a suitable license tag, showing the serial number, and shall keep a proper record of the name of the owner. The owner shall cause this tag to be worn at all times by the dog. (>74 Code, ' 4-9) Penalty, see ' 10.99

' 91.12 RUNNING AT LARGE.

(A) No person owning or having the custody of any dog shall allow such dog to run at large on the premises of another or in any of the streets or other public places of the town. Dogs may be taken on the streets on leash only. (>74 Code, ' 4-10)

(B) It shall be the duty of the Animal Warden to take into custody any dog found in violation of division (A) and to impound such dog, whereupon the provisions of ' 91.25 shall become applicable and shall be complied with. (>74 Code, ' 4-11) Penalty, see ' 10.99

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' 91.13 DOGS CREATING NUISANCE.

The running at large of dogs having dangerous or destructive propensities indicated by the turning over of garbage receptacles; or the destruction of shrubs, flowers, grass, and other plant growth; or the destruction of other property; or the killing of other animals; or the attacking of persons; or any person keeping within the corporate limits of the town one or more dogs which by prolonged and habitual barking, howling, or whining cause serious annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises occupied by such residents, shall be guilty of maintaining a nuisance; or any other similar act is hereby declared to be a public nuisance, and shall be abated as provided in ' 91.14. (>74 Code, ' 4-12)

' 91.14 INVESTIGATION; NOTICE AND ORDER TO ABATE.

(A) Upon any written, detailed, and signed complaint being made to the Town Manager by any resident that any person is maintaining a public nuisance as described in ' 91.13, the Town Manager shall designate the Chief of Police to cause the owner or keeper of the dog in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated. The investigating officer shall report to the Chief of Police, in writing, a summary of his investigation and his findings. (>74 Code, ' 4-13)

(B) If the written findings of the investigating officer indicate that the complaint is justified, then the Chief of Police shall cause the owner or keeper of the dog in question to be so notified in writing, and shall order him to abate such nuisance within 48 hours by destruction or removal of such dog, or by penning, fencing, or otherwise restraining such dog from running at large or committing such nuisance at any time. In the event the owner or keeper of the dog is unknown and cannot be ascertained, such notice and order, along with a general description of the dog, shall be posted for 48 hours at the town hall. (>74 Code, ' 414)

' 91.15 FAILURE TO ABATE; IMPOUNDMENT.

(A) If any person being the owner or keeper of a dog subject to ' 91.13 and 91.14, shall fail or refuse to abate such nuisance upon order of the Chief of Police within the specified time, the Chief shall cause the dog in question to be apprehended and impounded in a suitable place, and the owner or keeper shall be notified in writing of such impoundment. If the owner or keeper shall so request, the dog shall be released to him upon his execution of a written agreement to comply with the abatement order and upon payment of the applicable fees and charges as provided in division (B). If no such request and execution is made by the owner or keeper within five days after written notice, the Chief of Police shall cause the dog to be disposed of as provided in ' 91.16. (>74 Code, ' 4-15)

(B) The owner of an animal impounded under this section may redeem such animal upon written agreement to remedy the violation, payment of any civil penalty, and payment of fees and charge required by Washington County Animal Control. In addition to the impoundment and associated fees of any dog found to be running at large, any person found in violation of any provision of this chapter shall be liable for a civil penalty to be collected by the town in the amount of \$20 for the first offense, \$30 for the second offense, and \$50 for the third offense. Such owner shall also be guilty of a misdemeanor, and should the owner not remedy the violation of this section, the town can press for a conviction thereof. This conviction shall be punished by a fine of \$50. (>74 Code, ' 4-16) (Am. Res. 95-9, passed 10-9-95)

(C) In the event that the owner or keeper of a dog creating a nuisance is unknown, the Chief of Police shall cause apprehension and impoundment to be carried out, and if no one claims such dog within 48 hours after posting of the notice, order, and description, he shall cause a notice of impoundment, along with a general description of the dog, to be posted for five days at the town hall; and if no request for release of such dog and execution of agreement to comply with the order of abatement respecting such dog has been made by the owner or keeper of the dog, the dog shall be disposed of as provided in ' 91.16. (>74 Code, 4-15)

(D) If any person, being the owner or keeper of a dog respecting which an order of abatement has been issued, shall fail or refuse to abate the nuisance as ordered, he shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not exceeding 30 days, as provided by G. S. 14-4. (>74 Code, ' 4-18)

' 91.16 UNCLAIMED DOGS; DISEASED DOGS.

It shall be the duty of the Poundmaster to keep all dogs so impounded for a period of not less than six days. If, at expiration of six days from the date of notice to the owner or the posting of notice, such dog shall not have been redeemed, such dog may be released to any responsible person who will agree to keep the dog in such manner as not to constitute a nuisance; will procure a dog license, if none is currently in effect; and will have the dog immunized against rabies, if the dog is not currently immunized. Dogs not so released shall be destroyed in a humane manner. Notwithstanding the foregoing provisions of this section, any impounded dog which reasonably appears to be afflicted with rabies or other dangerous disease shall be destroyed in a humane manner. (>74 Code, ' 4-17)

IMPOUNDMENT

' 91.25 IMPOUNDMENT; DISPOSITION.

- (A) Any animal which is prohibited by ' 91.03(A) to be kept, bred, or raised within the town and which is found running at large anywhere within the town, or any dog found running at large in violation of ' 91.12 shall be seized and impounded by the Animal Warden.
- (B) Any animal seized by the Animal Warden pursuant to division (A) shall be impounded at a place designated for such purposes by the Town Manager and shall be kept there for at least three days. Whenever possible, its owner or other keeper shall be notified of such happening and that the animal may be redeemed by the payment of an impoundment fee of \$1 plus the cost of care, feeding, and shelter, such payment to be made within two days from the date of such notice. Any animal not so redeemed may be sold at a public sale, following advertisement thereof by notice posted on the town hall bulletin board for three days, to recover the impoundment fee and costs. If no buyer is found, the animal in question may be destroyed in a humane manner or given away to some responsible person.
- (C) The proceeds of any sale under division (B) which are in excess of the impoundment fees, cost of care, feeding, and shelter, and the cost of sale shall be turned over by the Animal Warden to the Clerk and shall be held by him until claimed by the owner of the animal in question within three months of the sale; and if no claim is made within such time the proceeds so held shall be credited to the general fund of the town. (>74 Code, ' 4-3)

CHAPTER 92: CIVIL EMERGENCIES

Section

92.01 When state of emergency deemed to exist

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92.03 Restrictions during emergency

92.04 Violations prohibited

92.05 Requests for state police and military forces; proclamation of state of martial law

92.06 Agreements for reciprocal law enforcement assistance

92.07 Proclamation of end of state of emergency

Statutory reference:

Civil disorders, see G.S. ' 14-288.1 through 14-288.20

State Emergency Management Act, see G.S. Ch. 166A

' 92.01 WHEN STATE OF EMERGENCY DEEMED TO EXIST.

A state of emergency shall be deemed to exist whenever, during times of great public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, the public safety authorities of the town are unable to maintain public order or afford adequate protection for lives or property. (>74 Code, ' 6-1)

' 92.02 PROCLAMATION BY MAYOR.

(A) In the event of an existing or threatened state of emergency endangering the lives, safety, health, and welfare of the people within the town or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of a state of emergency and, in order to more effectively protect the lives and property of people within the town, to place in effect any of the restrictions authorized in ' 92.03. (>74 Code, ' 6-2)

(B) The Mayor is hereby authorized and empowered to limit by the proclamation the application of such restrictions to any area specifically designated or described within the corporate limits and to specific hours of the day or night; and to exempt from those restrictions law enforcement officers, firefighters, and other public employees, doctors, nurses, employees of hospitals and other medical facilities, on-duty military personnel, whether state or federal, on-duty employees of public utilities, public transportation companies, and newspaper, magazine, radio broadcasting, and television broadcasting corporations operated for profit, and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town. (>74 Code, ' 6-3)

' 92.03 RESTRICTIONS DURING EMERGENCY.

(A) During the existence of a proclaimed state of emergency, the Mayor may impose by proclamation any of the following restrictions:

(1) Prohibit or regulate the possession off one=s own premises of explosives, firearms, ammunition, or dangerous weapons of any kind and prohibit the purchase, sale, transfer, or other disposition thereof.

(2) Prohibit or regulate the buying or selling of beer, wine, or intoxicating beverages of any kind and their possession or consumption off one=s own premises.

(3) Prohibit or regulate any demonstration, parade, march, vigil, or participation therein from taking place on any of the public ways or upon any public property.

4) Prohibit or regulate the sale of gasoline, kerosene, naphtha, or any other explosive or inflammable fluids or substances.

(5) Prohibit or regulate travel upon any public street, alley, or roadway, or upon any other public property, except by those in search of medical assistance, food, or other commodity or service necessary to sustain the well-being of themselves or their families or some member thereof.

(6) Prohibit or regulate the participation in or carrying on of any business activity and prohibit or regulate the keeping open of places of business, places of entertainment, and any other places of public assembly. (>74 Code, ' 6-4)

(7) Prohibit or regulate, by what is commonly called a curfew, persons being upon any or all streets, sidewalks, public places, and vacant lots within the town during such periods of the day or night, or both day and night, as he may specify. (>74 Code, ' 6-2)

(B) Any proclamation may be extended, altered, or repealed in any particular during the continued or threatened existence of a state of emergency by the issuance of a subsequent proclamation. (>74 Code, ' 6-4)

'92.04 VIOLATIONS PROHIBITED.

During the existence of a proclaimed state of emergency, it shall be unlawful for any person to violate any provision of any restriction imposed by any proclamation authorized by this chapter.
(>74 Code, ' 6-6) Penalty, see ' 10.99

' 92.05 REQUESTS FOR STATE POLICE AND MILITARY FORCES; PROCLAMATION OF STATE OF MARTIAL LAW.

(A) If in the sound discretion of the Mayor it shall appear that the emergency is, or that the threatened emergency is likely to be, of such proportions that the means available to the town to maintain law and order are insufficient for such purpose, the Mayor shall, promptly and by the most expeditious means of communication, inform the Governor of the situation and request that such necessary police or military forces of the state be provided promptly.

(B) If, during an actual state of emergency, the Mayor shall find that the civil courts having jurisdiction within the town are unable to perform their lawful duties and that, by reason of widespread lawlessness, writs and other process cannot be served or executed in the town, the Mayor shall inform the Governor of his findings and may recommend to him that a state of martial law be proclaimed to exist within the town. (>74 Code, ' 6-5)

' 92.06 AGREEMENTS FOR RECIPROCAL LAW ENFORCEMENT ASSISTANCE.

(A) The Mayor is authorized to execute contracts or agreements with such other political subdivisions of the state as to him may seem advisable, pursuant to G.S. ' 160A-288, whereby the political subdivisions agree to render mutual aid and assistance by the loan of law enforcement officers or equipment in time of emergency. These contracts or agreements shall provide that they shall take effect upon ratification by the governing bodies of each political subdivision thereto and recordation in the minutes thereof.

(B) Certain contracts or agreements executed by duly authorized representatives of other political subdivisions, pursuant to authority vested in them by their respective governing boards, whereby the political subdivisions agreed to render mutual aid and assistance by the loan of law enforcement officers and equipment in time of emergency, are ratified and confirmed in all respects and are adopted as the acts of the Town Council. The counties included are Gates, Perquimans, Currituck, Tyrell, Chowan, and Camden Counties. The towns included are Hertford, Nags Head, and Columbia. (Ord. passed 11-12-73)

' 92.07 PROCLAMATION OF END OF STATE OF EMERGENCY.

The Mayor shall proclaim the end of a state of emergency or all or any part of the restrictions imposed as soon as circumstances warrant or when directed to do so by the Town Council. (>74 Code, ' 6-7)

CHAPTER 93: FIRE PREVENTION

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General Provisions

'93.01 DEFINITIONS.

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

BUREAU OF FIRE PREVENTION. The office of the Chief of the Fire Department.

CHIEF OF THE BUREAU OF FIRE PREVENTION. The Chief of the Fire Department.

CORPORATION COUNSEL. The Town Attorney.

MUNICIPALITY. This town. (>74 Code, ' 8-31)

SMOKING. The carrying of a lighted pipe, cigar, cigarette, tobacco, or vegetation in any form. (>74 Code, ' 8-11)

' 93.02 FIRE LIMITS.

The fire limits of the town shall constitute the area bounded as follows:

Beginning at a point on the Roanoke River at the foot of Madison Street and running south to the center of the intersection of the center lines of Madison Street and East Water Street; thence running west to the center lines of the intersection of East Water Street and Adams Street; thence running south down the center line of Adams Street 240 feet; thence running west 331 feet on a line parallel to and 240 feet from the center line of East Water Street. From said point, then run south 44 feet parallel to and 144 feet from the center line of Washington Street. From this point then run west to the center line of Washington Street; thence south down the center line of said street 51 feet; thence west 107 feet; thence north 168 feet; thence west 201 feet; thence north 68 feet; thence west 125 feet to the center line of Jefferson Street; thence running south to the center line of West Main Street; thence along said center line westwardly to the center line of Monroe Street; thence northwardly to the center line of Monroe Street where the same intersects the center line of West Water Street; thence westwardly along the center line of Water Street Extended 140 feet; thence northwardly to the Roanoke River; thence eastwardly along the edge of said river and the meanders thereof to the beginning. (>74 Code, ' 5-2)

Statutory reference:

Establishment of fire limits, see G.S. ' 160A-435

' 93.03 FIRE CHIEF TO INVESTIGATE CAUSE OF FIRE.

Immediately after the occurrence of any fire, the Chief of the Fire Department shall investigate, or shall cause to be investigated, the cause, origin, and circumstances thereof, and, as far as possible, shall determine whether the fire is the result of accident, carelessness, or design. If he has reason to believe that the fire is of suspicious origin, he shall notify the proper authorities designated by law to pursue the investigation of the matter and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case when properly instituted. (>74 Code, ' 8-46)

' 93.04 RECORD OF FIRES TO BE KEPT.

The Chief of the Fire Department shall keep, or shall cause to be kept, an accurate record of all fires occurring in the town. For each fire the following information shall be secured and kept:

- (A) Location of premises;
- (B) Owner;
- (C) Brief description of premises, whether of brick, stone, concrete, iron, or wood;
- (D) How occupied, whether as dwelling, storehouse, factory, workshop, or otherwise;
- (E) Amount and nature of damage as to both real and personal property;
- (F) Amount of insurance;
- (G) Cause of fire;
- (H) Date.

(>74 Code, ' 8-46)

'93.05 AUTHORITY OF DEPARTMENT MEMBERS AT SCENE OF FIRE.

(A) During the continuance of any fire, the Chief of the Fire Department, the Assistant Chief, and each of the Captains of the Fire Department shall have the power to call on any and all persons to assist in extinguishing the fire or in removing any goods, wares, merchandise, or furniture from any building on fire, or in danger of fire, to some place of safety. No person shall fail to obey any such order given for this purpose.

(B) Members of the Fire Department shall be vested with police authority while on active duty extinguishing a fire and may make arrests for any violation of fire or traffic ordinances. (>74 Code, ' 8-52)

' 93.06 INTERFERING WITH FIREFIGHTERS.

No unauthorized person shall enter in or on any buildings or grounds occupied by the Fire Department, nor shall any person interfere with a firefighter in the discharge of his duty or hinder him in the performance of his duty; nor shall any person, other than members of the Fire Department, loiter about any fire station, or change, handle, or meddle in any manner with any fire engine or any other fire apparatus. (>74 Code, ' 8-2) Penalty, see ' 93.99

' 93.07 RIDING ON FIRE APPARATUS.

No person other than a bona fide member of the Fire or Police Department shall mount any fire engine, wagon, or apparatus before it leaves the station or while on its way to or from a fire, or at any other time, unless by permission of the driver or officer in command of the engine, wagon, or other apparatus. (>74 Code, ' 8-4) Penalty, see ' 93.99

' 93.08 PERSONS NEAR SCENE OF FIRE.

No person shall stand or be in any street, sidewalk, or square where or near a fire which is in progress in such a way as to interfere with the duties of the Fire Department. Members of the Fire Department may place a rope across streets as they deem necessary, and no unauthorized person shall enter such roped-off enclosure. (>74 Code, ' 8-1) Penalty, see ' 93.99

FIRE HAZARDS

' 93.20 INSPECTIONS; ORDER TO ABATE FIRE HAZARD.

(A) It shall be the duty of the Chief of the Fire Department to inspect or to cause to be inspected as often as may be necessary, but not less than four times a year, all specially hazardous manufacturing processes, storages, or installations of acetylene or other gases, chemicals, oils, explosives, and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as may be necessary for the enforcement of the law and ordinances governing the same and for the safeguarding of life and property from fire. It shall also be the duty of the Chief of the Fire Department to inspect, or cause to be inspected, as often as may be necessary, but not less than twice a year in outlying districts and four times a year in the closely-built portions of the town, all buildings and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violation of the provisions or intent of any ordinance affecting the fire hazard.

(B) Whenever any responsible person shall make written complaint to the Chief of the Fire Department that any business or premises constitutes a fire hazard, it shall be the duty of the Chief to have the same inspected immediately. (>74 Code, ' 8-47)

(C) The Chief of the Fire Department, and any member of the Fire Department when so directed by the Chief, shall have the right to enter any building or premises at any reasonable hour for the purpose of making any inspection provided for by divisions (A) and (B). (>74 Code, ' 8-51)

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

(1) The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy thereof to and leaving it with any person in charge of the premises or, if no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the door to the entrance of the premises, or in any other manner authorized by law. If the owner of the premises is some person other than the occupant thereof, service of such notice may be made by delivering a copy to the owner personally or by mailing a copy to his last known address. If the occupant or owner is a partnership, service may be upon any officer or any local agent thereof.

(2) It shall be unlawful for any occupant or any owner of any building or premises to fail to comply within a reasonable time after the service of such order with the requirements thereof.

(E) The provisions of this section are supplemental to, and not in lieu of similar provisions of the Fire Prevention Code adopted in ' 93.50. (>74 Code, ' 8-48) Penalty, see ' 93.99

' 93.21 BURNING ARTICLES OUTDOORS.

(A) All persons shall comply with the North Carolina Department of Environment and Natural Resources (NC DENR) Division of Air Quality regulations, including but not limited to those found in Rule 15A NCAC 02D.1900 et seq;

(B) A person shall not cause, allow or permit open burning of combustible materials except as allowed by Rule 1903 and Rule 1904 of the aforementioned NC DENR Division of Air Quality regulation sections;

(C) Open burning of leaves, tree branches and/or yard trimmings, excluding logs and stumps, is prohibited.

(D) Penalty. Any person in violation of any provision of this section shall be issued a criminal citation or summons may be issued against the violator of the section and, if convicted, the violator shall be punished as provided by G.S. ' 14-4(a). (Ord. 04-03, passed 11-8-04; Am. Ord. passed 4-9-07; Am. Ord. passed 8-8-11)

' 93.22 STORAGE OF ASHES.

No person shall deposit ashes, smoldering coals or embers, greasy or oily substances, or other matter liable to spontaneous ignition within 15 feet of any wooden or plastered wall, partition, fence, floor, sidewalk, lumber, hay, shavings, rubbish, or other combustible materials except in metallic or other noncombustible receptacles. Such receptacles, unless resting on the ground outside the building, shall be placed on noncombustible stands and in every case shall be kept at least two feet from any wall or partition. Nothing in this section shall prevent the deposit of cold or wet ashes and cinders for the improvement of any unpaved alley or walkway. (>74 Code, ' 8-13) Penalty, see ' 93.99

' 93.23 UTILITY COMPANIES TO REMOVE DEAD WIRES, CHARRED POLES.

(A) It shall be unlawful for any electric light, telegraph, or telephone company or any other public utility company to permit any of its disconnected, dead, or unused wires to hang or remain on any pole, tree, or structure where they have been formerly connected and in use, and all such wires shall be taken down and removed immediately upon notice by the Chief of Police or the Chief of the Fire Department. (>74 Code, ' 8-28)

(B) It shall be unlawful for any telephone, telegraph, or electric light company or any other public utility company to allow, or cause to be allowed, any pole belonging to it which has been charred by fire to remain in such condition longer than ten days from the time of the fire. All such poles shall be scraped or removed. (>74 Code, ' 8-29) Penalty, see ' 93.99

'93.24 STORAGE, ACCUMULATION OF CERTAIN COMBUSTIBLE MATERIALS.

(A) No person shall store in any building or upon any premises in excess of 2,500 cubic feet gross volume of combustible empty packing cases, boxes, barrels or similar containers, or rubber tires, baled cotton, rubber, cork, or other similarly combustible material without a permit.

(B) Storage in buildings shall be orderly, shall not be within two feet of the ceiling, shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur, and shall not be so located as to endanger exit from the building. Storage in the open shall not be more than 20 feet in height, shall be so located with respect to adjacent buildings as not to constitute a hazard, and shall be compact and orderly. (>74 Code, ' 8-16)

(C) No combustible goods, merchandise, or decorations shall be displayed or stored in a roofed-over mall unless approved by the Chief of the Fire Department. (>74 Code, ' 8-18)

(D) No person shall permit any accumulation of wastepaper, weeds, litter, or combustible or flammable waste or rubbish of any kind to remain upon any roof or in any court, yard, vacant lot, or other open space. Every owner or occupant of property shall cut down and remove therefrom all weeds, grass, vines, and other growth which endangers the same or any other property, or which is likely to be fired. (>74 Code, ' 8-14)

(E) No person, making, using, storing, or having charge or control of any shavings, excelsior, rubbish, sacks, bags, litter, or combustible trash or waste shall fail, neglect, or refuse at the close of each day to cause all such material which is not compactly baled and stacked in an orderly manner to be removed from the premises or stored in noncombustible containers. This division shall not apply to sawmills, planing mills, or similar business establishments where the usual litter or refuse is reasonably cared for and disposed of. (>74 Code, ' 8-15) Penalty, see ' 93.99

' 93.25 FLAMMABLE DECORATIVE MATERIALS.

Highly flammable materials such as cotton batting, straw, dry vines, leaves, trees, artificial flowers or shrubbery, and foam plastic materials shall not be used for decorative purposes in show windows or other parts of mercantile and institutional establishments unless first rendered flameproof. (>74 Code, ' 8-17) Penalty, see ' 93.99

' 93.26 CHIMNEYS, FLUES, HEAT-PRODUCING DEVICES, AND EXHAUST SYSTEMS.

(A) Chimneys, flues, or other similar devices for conveying products of combustion or hot gases to the exterior of a building shall be maintained in a manner as not to create a hazardous condition.

(1) Existing masonry chimneys which upon inspection are found to be without flue liner and with open mortar joints which will permit smoke or gases to be discharged into the building or which are cracked as to be dangerous shall be made safe by means of a fire clay liner, fire brick, a corrosion-resistant metal pipe, and otherwise repaired if necessary, or the chimney shall be removed. Metal pipe liners shall be one inch less in diameter than the least dimension of the flue and the entire space between the metal liner and the walls of the chimney shall be filled with cement mortar.

(2) Existing chimneys and vents of metal which are corroded or improperly supported shall be replaced unless suitable repairs are made.

(3) Existing chimney and vent connectors of metal which are corroded or improperly supported shall be replaced.

(B) All heat-producing appliances, including boilers, furnaces, incinerators, ovens, and restaurant-type cooking appliances, shall be installed and maintained so as to be reasonably safe to persons and property. Evidence that heat-producing appliances are installed in accordance with the applicable standard specified for this division shall be evidence that such heat-producing appliances are installed so as to be reasonably safe to persons and property.

(C) Exhaust systems provided for restaurant cooking equipment shall be maintained in a manner such as not to create a hazardous condition.

(1) Hoods, grease removal devices, fans, ducts, and other devices shall be inspected periodically and cleaned as needed to remove grease and deposits of residues.

(2) Fire extinguishing systems shall be inspected periodically and checked for proper operation. These inspections shall include a check that the supply of extinguishing agent in the system is adequate and that all actuation components are operating satisfactorily. Fusible links, if employed, shall be replaced or properly cleaned. Instructions for manually operating the system shall be posted conspicuously in the kitchen and employees shall be checked for their knowledge of fire extinguishing procedures.

(3) Any fire dampers shall be tested periodically to insure proper functioning of all parts.

(D) Commercial, industrial, and flue-fed incinerators shall be provided with approved spark arrestors or other effective means for arresting sparks and fly ash.

(>74 Code, ' 8-20) Penalty, see ' 93.99

'93.27 OPEN FLAMES OR LIGHTS RESTRICTED.

- (A) No person shall take an open flame or light into any building, barn, vessel, boat, or any other place where highly flammable, combustible, or explosive material is kept unless such light or flame shall be well secured in a glass globe, wire mesh cage, or similar approved device.
- (B) No heating or lighting apparatus or equipment capable of igniting flammable material of the type stored or handled shall be used in the storage area of any warehouse storing rags, excelsior, hair, or other highly flammable or combustible material; nor in the work area of any shop or factory used for the manufacture, repair, or renovation of mattresses or bedding; nor in the work areas of any establishment used for the upholstering of furniture. (>74 Code, ' 8-19)
- (C) Any person using a torch or other flame-producing device for removing paint from any building or structure shall provide one fire extinguisher of a type approved by the Chief of the Fire Department or a water hose connected to a water supply in the area where such burning is done. In all cases, a fire watcher shall remain on the premises for one hour after the torch or flame-producing device has been used.
- (D) Any person using a torch or other flame-producing device for sweating pipe joints in any building or structure shall have available in the immediate vicinity where the sweating is done one approved fire extinguisher or water hose connected to a water supply. Combustible material in the close proximity of flame shall be protected against ignition by shielding, wetting, or other approved means. In all cases, a fire watcher shall remain in the vicinity of the sweating operation for one-half hour after the torch or flame-producing device has been used. (>74 Code, ' 8-12)
- (E) Electric light bulbs in mercantile and institutional establishments shall not be decorated with paper or other combustible materials unless the materials have first been rendered flameproof. (>74 Code, ' 8-17) Penalty, see ' 93.99

' 93.28 MATCHES.

- (A) No person shall manufacture matches without a town permit to do so. No person shall store over 25 cases of matches without a permit.
- (B) At wholesale establishments and wherever matches exceeding 25 cases are stored, shipping containers containing matches shall be arranged in piles not exceeding 18 feet in height nor 25,000 cubic feet in volume. Such pile units shall be separated from each other and from other combustible material by a clear space of not less than four feet. In storage rooms where shipping containers containing matches are open, the broken containers and contents shall be neatly piled with other match stock in a portion devoted to match storage exclusively. (>74 Code, ' 8-10) Penalty, see ' 93.99

' 93.29 SMOKING PROHIBITED WHERE SIGNS POSTED.

(A) Where conditions are such as to make smoking a hazard in any areas of piers, wharves, warehouses, stores, industrial plants, institutions, places of assembly, and in open spaces where combustible materials are stored or handled, the Chief of the Fire Department is empowered and authorized to order the owner or occupant in writing to post No Smoking signs in each building, structure, room, or place in which smoking shall be prohibited. The Chief of the Fire Department shall designate specific safe locations, if necessary, in any building, structure, or place in which smoking may be permitted.

(B) No Smoking signs of approved-sized lettering and location required in accordance with division (A) shall read By Order of the Fire Chief.

(C) It shall be unlawful for any person to remove any legally required No Smoking sign or to smoke in any place where such signs are posted. (>74 Code, ' 8-11) Penalty, see ' 93.99

' 93.30 EXIT SIGNS IN THEATRES.

Every exit in any theatre or motion picture house shall be plainly indicated by a sign bearing the word EXIT, which sign shall be kept lighted throughout each performance. (>74 Code, ' 8-24)

' 93.31 PASSAGEWAYS TO BE KEPT OPEN.

(A) All doors, aisles, and passageways within and leading into or out of theatres, churches, and all other places of public assemblages shall during the entire time which any show, performance, service, exhibition, lecture, concert, ball, or other assemblage may be held therein be kept adequately lighted and free from easels, signs, standards, campstools, chairs, sofas, benches, and any other article that might obstruct or delay the exit of the audience, congregation, or assemblage. The doors of such buildings while occupied shall not be fastened so that they cannot easily be opened by anyone from within.

(B) No person shall sit or stand or remain seated or standing; nor shall the owner or operator of a place of public assemblage allow any person to remain in any aisle under any circumstances or in any exit or passage required for the safe exit of the assemblage. Clear passage from all exits and on sidewalks outside of all theatres and other places of public assemblage shall be maintained at all times.

(C) No aisle, passageway, or stairway in any store shall be obstructed with tables, showcases, or other obstructions during the hours the store is open to the public. (>74 Code, ' 8-27)

(D) No dangerous obstruction shall be permitted in hallways of tenement houses or apartment houses. (>74 Code, ' 8-26) Penalty, see ' 93.99

' 93.32 ENCUMBRANCES ON FIRE ESCAPES.

No person shall at any time place any obstruction of any kind whatsoever before or upon any fire escape, balcony, or ladder intended as a means of escape from fire. It shall be the duty of every member of the Police and Fire Department who shall discover any fire escape obstructed in any manner to forthwith report the same through his department channels to the Chief of the Fire Department, who shall immediately notify the owner, his agent, or tenant to remove such obstruction. It shall be unlawful for any person to violate or fail to comply with any such order of the Chief of the Fire Department. (>74 Code, ' 8-25) Penalty, see ' 93.99

' 93.33 FIRE EXTINGUISHERS REQUIRED IN BUSINESS ESTABLISHMENTS.

Hand or other portable fire extinguishers shall be installed in every store, factory, garage, or other building where readily flammable material is stored, handled, kept, or sold. (>74 Code, ' 8-23) Penalty, see ' 93.99

' 93.34 SHAFTWAYS TO BE MARKED.

Every outside window in a building used for manufacturing purposes or for storage which opens directly on any hoistway or other vertical means of communication between two or more floors in such building shall be plainly marked with the word SHAFTWAY in red letters at least six inches high on a white background; such warning sign shall be so placed as to be easily discernible from the outside of the building. Every door or window opening on such shaftway from the interior of the building, unless the construction of the partition surrounding the shaftway is of such distinctive nature as to make its purpose evident at a glance, shall be similarly marked with the warning word SHAFTWAY so placed as to be easily visible to anyone approaching the shaftway from the interior of the building. (>74 Code, ' 8-22) Penalty, see ' 93.99

' 93.35 TRAPDOORS TO BE CLOSED.

All trapdoors, except those which operate automatically, in any factory building or building used for storage shall be closed at the completion of business each day. (>74 Code, ' 8-21) Penalty, see ' 93.99

FIRE PREVENTION CODE

' 93.50 ADOPTION; UPDATING PROCEDURE.

(A) There is hereby adopted, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being particularly the 1970 edition thereof and the whole thereof, save and except Article 13 relating to fireworks, the subject of which is covered by G.S. '14-410 through 14-415, and Article 28, of which code not less than one copy is and shall remain on file in the office of the Clerk; and such code is hereby incorporated in and made a part of this section as fully as though it were set out at length herein, and the provisions thereof shall be controlling within the limits of the town. (>74 Code, ' 8-30)

(B) Whenever a new or revised edition of the Fire Prevention Code is recommended by the American Insurance Association or its successor, the Chief of the Fire Department shall file at least one copy thereof in the office of the Clerk together with his recommendations, if any, as to amendments thereof and he shall concurrently notify the Town Manager and each member of the Town Council of his action. Following such actions by the Chief of the Fire Department, such new or revised edition together with such recommendations, if any, of the Chief of the Fire Department shall at the conclusion of the second regular meeting of the Town Council following the date of such filing and notification become the fire prevention code of the town, replacing the then current code; provided, that no action shall have been taken thereon by the Town Council prior to the conclusion of such second regular meeting. (>74 Code, ' 8-41)

' 93.51 SHORT TITLE.

The code adopted by ' 93.50 shall be known and may be cited as the Fire Prevention Code of the Town of Plymouth, North Carolina, or simply as the Fire Prevention Code. (>74 Code, ' 8-30)

' 93.52 ENFORCEMENT.

The Fire Prevention Code adopted by ' 93.50 shall be administered and enforced by the Chief of the Fire Department. (>74 Code, ' 8-37)

' 93.53 ESTABLISHMENT OF LIMITS OF DISTRICTS IN WHICH STORAGE OF CERTAIN FLAMMABLES OR EXPLOSIVES IS RESTRICTED.

(A) The limits referred to in section 12.5b of the Fire Prevention Code, in which storage of explosives and blasting agents is prohibited, are hereby established to coincide with the corporate limits of the town, except as may be provided otherwise in the zoning code. (>74 Code, ' 8-32)

(B) The limits referred to in section 16.22a of the Fire Prevention Code, in which storage of flammable liquids in outside aboveground tanks is prohibited, are hereby established to coincide with the corporate limits of the town, except as may be provided otherwise in the zoning code.

(C) The limits referred to in section 16.61 of the Fire Prevention Code, in which new bulk plants for flammable or combustible liquids are prohibited, are hereby established to coincide with the corporate limits of the town, except as may be provided otherwise in the zoning code. (>74 Code, ' 8-33)

(D) The limits referred to in section 21.6a of the Fire Prevention Code, in which bulk storage of liquefied petroleum gas is restricted, are hereby established to coincide with the corporate limits of the town, except as may be provided otherwise in the zoning code. (>74 Code, ' 8-34)

' 93.54 ESTABLISHMENT OF ROUTES FOR VEHICLES TRANSPORTING EXPLOSIVES, HAZARDOUS CHEMICALS.

(A) The routes referred to in section 12.7m of the Fire Prevention Code for vehicles transporting explosives and blasting agents shall be as posted by official traffic-control signs or, in the absence of such signs, as specified by the Chief of the Fire Department in permits issued pursuant to section 12.3 of the Fire Prevention Code. (>74 Code, ' 8-35)

(B) The routes referred to in section 20.14 of the Fire Prevention Code for vehicles transporting hazardous chemicals and other dangerous articles shall be posted by official traffic-control signs or, in the absence of such signs, as specified by the Chief of the Fire Department in permits issued for intrastate transportation or by notice given at the time of registration for interstate transportation pursuant to section 20.14 of the Fire Prevention Code. (>74 Code, ' 8-36)

' 93.55 PERMITS; DURATION; FEES THEREFOR.

(A) Permits required by the Fire Prevention Code are for the purpose of giving the Town Council, through the Chief of the Fire Department, more effective control over hazardous conditions regulated by the code. Each permit shall cover not more than one year, subject to renewal thereof; provided, that where a town license is required periodically in addition to a permit, the permit may cover an indefinite period.

(B) The Town Council may, by resolution, adopt a schedule of fees for permits and inspections required by the Fire Prevention Code, and when such resolution has been placed on file in the office of the Clerk no such permit shall be issued and no such inspection shall be made until the fee therefor, as provided in the schedule, has been paid to the Town Tax Collector. (>74 Code, ' 8-38)

' 93.56 MODIFICATIONS.

The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by the owner or lessee of the property affected thereby, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification, when granted or allowed, and the decision of the Chief of the Fire Department thereon, shall be entered upon the records of the Department and a signed copy shall be furnished the applicant. (>74 Code, ' 8-39)

'93.57 APPEALS.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Chief of the Fire Department to the Town Council within 30 days from the date of the decision appealed. (>74 Code, ' 8-40)

' 93.58 CONFLICTS OF LAW.

In the event of conflict between any provision of the Fire Prevention Code and any provision of state law (including the North Carolina State Building Code) or any rule or regulation made pursuant to state law, the state law or rule or regulation made pursuant thereto shall prevail. (>74 Code, ' 8-43)

'93.99 PENALTY.

(A) Any person who shall violate any of the provisions of the Fire Prevention Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the Town Council or by a court of competent jurisdiction, within the time fixed therein, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor, punishable by fine of not more than \$50 or by imprisonment for not more than 30 days, in the discretion of the court. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the penalty in division (A) shall not be held to prevent the enforced removal of prohibited conditions. (>74 Code, ' 8-42)

CHAPTER 94: GARBAGE, REFUSE AND WEEDS

Section

General Provisions

- 94.01 Definitions
- 94.02 Rules and regulations authorized
- 94.03 Removal of waste required; prohibited waste disposal
- 94.04 Grass required to be mowed
- 94.05 Litter
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Collection and Disposal

- 94.20 Noncollectible refuse
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- 94.22 Business collections

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GENERAL PROVISIONS

' 94.01 DEFINITIONS.

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

ASHES. The residue of burning wood, coal, or other solid fuel.

BULK REFUSE. Discarded household furniture. Cardboard, magazines, and other nonrecyclable products in large quantity.

GARBAGE. Animal and vegetable refuse and resulting from the handling, preparation, and consumption of food; including any liquids that may result.

HAZARDOUS REFUSE. Any material such as poisons, acids, caustics, explosives or any infected materials or any substance determined to be hazardous by EPA under the Toxic Substance Control Act.

HOUSEHOLD REFUSE. Refuse generated in the normal course of maintaining a household or residence.

INCIDENTAL REFUSE. Refuse generated by tourists, pedestrians, and citizens engaged in the intended recreational and leisure uses of sidewalks, boardwalks, piers and parks.

INDUSTRIAL WASTE. Waste from factories, processing plants, and other manufacturing enterprises.

INFECTIOUS WASTE. Any solid waste capable of producing an infectious disease. Types of waste designated as infectious are micro-biological waste, pathological waste, blood products, and sharps.

RECEPTACLE. Any containers approved by the town for the deposit of garbage, ashes, or miscellaneous refuse.

REFUSE. Solid waste including but not limited to garbage, rubbish, and ashes.

RUBBISH. Refuse (exclusive of garbage and ashes) including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree, bush and hedge branches, cuttings and trimmings, yard trimmings, grass, leaves, tin cans, metals, mineral matter, glass, crockery, dirt, earth and dust.

STREET. The entire width between property lines of every way or place, whatever nature, when any part thereof is dedicated or on to the use of the public as a matter of right for the purpose of vehicular or pedestrian traffic.

WASTE. Useless, unused, unwanted or discarded materials resulting from natural community activities, including solids, liquids and gases.

YARD WASTE. Grass, shrub clippings, bush and hedge branches, sticks and tree limbs. ('74 Code, ' 10-5) (Am. Ord. 95-10, passed 10-9-95)

' 94.02 RULES AND REGULATIONS AUTHORIZED.

The Town Manager may make such rules and regulations not inconsistent with this chapter as deemed necessary and advisable to safeguard the health and welfare of the citizens of the town in the disposal of garbage, ashes, and other refuse.
('74 Code, ' 10-17) (Am. Ord. 95-10, passed 10-9-95)

' 94.03 REMOVAL OF WASTE REQUIRED; PROHIBITED WASTE DISPOSAL.

(A) No owner, occupant, or person in charge of any premises within the town shall suffer or permit any substance or liquid offal or any animal, fowl, fish or vegetable matter, or any trash, refuse or waste matter of any kind, or any matter putrid or offensive to persons, or any other substance or liquid which constitutes a fire hazard or other hazard to the health or safety of persons, or which constitutes a nuisance, to remain upon or within such premises. It shall be the duty of each owner occupant, and person in charge of any premises to remove therefrom all such substances and liquids and dispose thereof in a lawful and sanitary manner.

(B) It shall be unlawful for any person to dispose of any animal, fowl, fish or vegetable matter, or any trash, refuse or waste matter of any kind, or any matter putrid or offensive to persons, or any other substance or liquid, in or upon any street, sidewalk, curb, gutter, or public place, or in any well, cistern, creek, spring, reservoir, or watercourse, or upon the property of another without the consent of the owner of such property. This section shall not apply to any lawful disposition of permitted refuse at any site that may be designated by the town as a refuse disposal site, nor shall it apply to the lawful setting out of refuse to be collected as provided in this chapter. (' 74 Code, ' 10-1)

(C) No owner, occupant, or person in charge of any premises within the town shall bury or suffer to be buried therein any animal or vegetable matter at such a location or at such a depth or in such a manner that upon decaying, it may contaminate any source of food or water or may otherwise become prejudicial to the public health or become a nuisance. ('74 Code, ' 10-2) (Ord. 95-10, passed 10-9-95)

' 94.04 GRASS REQUIRED TO BE MOWED.

(A) it shall be the duty of each owner, occupant, and person in charge of any premises within the town, except premises devoted to agricultural uses, to cut down the grass thereon to within four inches of the ground at least four times per year, the first time between April 1 and April 15, the second time between May 15 and May 30, the third time between August 1 and August 15, and the fourth time between Sept. 15 and Sept. 30; and to keep the premises free of noxious weeds and of vegetation that affords harbor or breeding places for insects, rodents, or reptiles. (' 74 Code, ' 10-2)

(B) It shall be the duty of owners, occupants, and persons in charge of yards and lots within the town to cut down the grass thereon. One may apply to the Town Manager to have the grass cut by the town at the expense of the applicant. The Town Manager may grant any such request provided that:

(1) The equipment and personnel necessary to do the work are available either as a contracted service or as town forces.

(2) The work is done at a time convenient to the town.

(3) The applicant shall pay the town for this service at the rate of \$100 per hour with a minimum charge of \$100.

(4) Payment is to be made within 24 hours of the applicant receiving notification that the work is completed. Payments are to be made at the Town Hall.

(C) Any owner, occupant, and person in charge of any premises within the town not devoted to agricultural uses who shall fail to cut down the grass thereon to within four inches of the ground during the required periods shall be liable for a fine of \$10 for each occurrence. The owner or occupant shall also be liable for any costs as provided in ' 94.06.

('74 Code, ' 10-2(b)) (Ord. 95-10, passed 10-9-95; Am. Ord. 97-4, passed 4-14-97; Am. Ord. passed 7-1000)

' 94.05 LITTER.

(A) It shall be unlawful to throw, place, or deposit any refuse in any street, public place or on any private property within the town limits, except in garbage cans or garbage receptacles as provided by this chapter or as approved by the town.

(B) It shall be unlawful to place household refuse in town owned receptacles located on sidewalks,) boardwalks, piers or parks, that are intended for incidental refuse generated by pedestrians and citizens engaged in the intended recreational uses of the areas.

(C) It shall be unlawful to place stumps or any other organic matter on any property, public or private, except in areas that may be specifically designated by the town.

(D) It shall be unlawful for any person to dump or deposit on any property, public or private, any hazardous refuse or liquid or any material that has the propensity of producing an offensive odor.

(E) No garbage or any other waste or offensive or disease-producing material shall be dumped in any lot or space within the town for the purpose of filling, or for any other purpose, without the consent of the Town Manager and the Washington County Environmental Health Division.

(F) (1) Any person found in violation of this section shall be liable for a civil penalty of not less than \$25 and not more than \$500 for each incident, to be determined by the schedule below:

Littering: Violation of division (A) of this section by discarding incidental refuse, \$25.

Simple Dumping: Violation of division (A) by dumping any amount of household refuse or division (B), or division (C), \$100.

Hazardous Dumping: Violation of division (D) or division (E), \$500.

Garbage, Refuse and Weeds

(2) Violation of this section shall also make the individual liable for all cost incurred to remedy the violation as determined by ' 94.06. (Am. Ord. 95-10, passed 10-9-95)

Statutory reference:

State law authorization, see G.S. ' 14-399 et seq.

' 94.06 NOTICE OF VIOLATION; FAILURE TO COMPLY WITH NOTICE.

(A) When any premise is found to be in violation of either '94.03, 94.04, 94.05 or 94.07, written notice shall be given to the party deemed to be responsible for the premises, be it the owner or occupant, which may be served in any manner authorized by law. This notice shall state the condition(s) causing the violation and direct the addressee/responsible party to abate and/or cure the violation within 24 hours from the time of service of the notice. It shall be unlawful for the addressee/responsible party to fail to comply with such notice. As it relates specifically to the grass cutting ordinance ' 94.04, any notice provided to said addressee/responsible party for said premises shall be deemed to be continuing in nature for the entire calendar year given. Only one notice needs to be given for any one of the four times described in ' 94.04(A) and said notice shall be effective for the balance of said calendar year.

(B) Upon the failure of the responsible party, be it owner, occupant, or person in charge, to abate the violation within 24 hours as provided in division (A) of this section, the Town Manager shall direct the Code Enforcement Officer or other appropriate persons to cause the violation to be abated and the costs and expenses thereby incurred by the town shall constitute a debt due the town, which shall be collected in any manner authorized by law and shall constitute a lien in favor of the town upon the premises upon which the violation occurred until paid in full, notwithstanding any fine or other penalty which may be imposed for such a violation. (Ord. 95-10, passed 10-9-95; Am. Ord. passed 4-9-07)

' 94.07 NUISANCES.

(A) *Weeding and tidying of premises, cutting of right-of-way; required.* Any person owning real property within the town is hereby required to cut and remove therefrom all weeds and grass from both the property and adjoining right-of-way before it reaches a height of 12 inches, to keep such property and right-of-way free from trash and refuse matter at all times, and to keep such property and right-of-way free from the conditions enumerated in division (C).

(B) *Enforcement.* The Code Enforcement Officer or the designated official of the town shall be responsible for the administration and enforcement of this section. The Code Enforcement Officer or the designated official of the town are authorized to exercise such powers as may be necessary to carry out the intent and provisions of this section.

(C) *Nuisances prohibited; enumeration.* The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health and safety of the inhabitants of the town and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful:

(1) Any condition which is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests; or

(2) A place of heavy growth of weeds, grasses, vines or other vegetation over 12 inches in height; Or

(3) A place of growth of vines, shrubs, or other vegetation when such condition is causing a breeding ground for rodents or is a focal point for any other nuisance enumerated in this section; or

(4) A place of growth of poison sumac, poison ivy, poison oak, or other noxious vegetation; or

(5) An open place of collection of stagnant water where insects tend to breed; or

(6) Any concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or other combustible materials or objects of a like nature; or

(7) Any concentration of building materials including concrete, steel, or masonry which are not suitable for building construction, alterations or repairs, and which are in open places; or

(8) An open space of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; however, nothing in this subsection shall be construed to prevent the generally accepted use of a properly maintained compost pile or storage of animal manure being used as fertilizer for lawns and gardens and for other agricultural or horticultural purposes; or

(9) Any household or office furniture, appliances, or other metal products of any kind kept in open places or indoor upholstered furniture kept outside in a location exposed to the weather; or

(10) Any products which have jagged edges of metal or glass in areas of confinement kept in open spaces; or

(11) Any open place of concentration of trash, refuse, discarded bottles, cans or medical supplies; or

(12) Any condition whereby any fence, sign, billboard, shrubbery, bush, tree, mailbox, or other object or combination of objects which obstructs the view of motorists using any street, private driveway, or approach to any street intersection adjacent to and abutting such and so as to constitute a traffic hazard as a condition dangerous to public safety upon any such street, private driveway, or at any such street intersections; or

(13) Any building, structure, fence, or retaining wall declared to be unsafe by the building inspector and which is in danger of collapse so that it may fall and injure members of the public or damage public or private property; or

(14) Any buildings or structures which are deemed unsafe by the building inspector, upon his or her determination that both of the conditions in G.S. 160A-426(b) are met, or any buildings or structures which have one of the following defects shall be deemed unsafe buildings by the building inspector within the definition of and in addition to G.S. 160A-426:

(a) Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or damage public or private property;

(b) Those buildings which because of their condition are unsanitary or unsafe to the public;

(c) Those buildings which are especially liable to fire, including, but not limited to, those which are unoccupied and are not adequately secured against entry by authorized persons; or

(15) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is hazardous to the safety of any person, is a continuing fire hazard, or which is structurally unsound to the extent that the building inspector can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises; or

(16) Any improper or inadequate drainage, as determined by the Director of Public Works, on private property which causes flooding, interferes with the use of, or endangers in any way the streets, sidewalks, parks or other town owned property of any kind; or

(17) Any condition, as determined by the Director of Public Works, which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains; or

(18) Any storm water retention or impoundment device which is operating improperly, as determined by the Director of Public Works; or

(19) Any other condition declared to be dangerous or prejudicial to the public health or public safety and a public nuisance by the Town Council.

(20) Emergency cases. In cases where it appears that there is an imminent danger to the life or safety of any person, unless an unsafe building, as defined in division (C)(14), is immediately repaired, vacated, closed, or demolished, the Town Council shall order its immediate repair, evacuation, closing, or demolition, as it may deem necessary, notwithstanding the other provisions of this article. The Town Manager may take the temporary measures necessary to safeguard persons from immediate danger of collapse of such building, and is authorized to temporarily close sidewalks, streets, buildings and structures in places adjacent to such unsafe buildings, and to prohibit the same from being used, pending the removal of the danger. The cost of the emergency measures taken shall become a lien against the premises upon which the emergency condition existed, upon confirmation of the cost thereof by the Town Council. The confirmation shall take place upon ten days written notice to the owner and/or person located at the premises where the nuisance existed.

(D) Nuisance abatement procedures. When any public nuisance as set out in division (C) is found to exist on any property, including rights-of-ways and casements, within the town, the following procedures shall be followed:

(1) The Code Enforcement Officer or the designated official of the town shall notify the owner of the premises where the nuisance is located that conditions exist which constitute a public nuisance and unless the condition is abated within five days from the mailing of the notice which shall be sent by registered or certified mail, the conditions constituting a nuisance will be abated and the cost of abatement, including an administrative fee, shall constitute a lien against the premises.

(2) The Code Enforcement Officer or the designated official of the town is hereby given full power and authority to enter upon the premises involved for the purpose of abating the nuisance found to exist as herein set out. If any property owner served with notice shall fail or refuse to correct or eliminate the condition causing the nuisance within five days after such notice has been given, the Code Enforcement Officer or the designated official may proceed to abate the nuisance by utilization of town forces or an outside contractor. The Code Enforcement Officer or the designated official of the town may allow the owner additional time to correct or eliminate the condition causing the nuisance if he/she determines that the failure to correct or abate the condition was caused by weather conditions or other factors not within the control of the owner.

(3) After the abatement of the nuisance, the Code Enforcement Officer or the designated official of the town shall make a written report of the actual cost incurred by the town and shall deliver such report to the Town Manager. The owner of the premises shall be liable to the town for the actual cost incurred by the town in such nuisance abatement including an

administrative fee. Such cost shall be charged against the property owner and shall be collected in the same manner and at the same time as ad valorem taxes of such owner are collected and such costs shall be a lien on the real property subject only to the lien of the town and county ad valorem taxes thereon.

(4) Notwithstanding any other provision of this section, the Code Enforcement Officer or the designated official of the town may notify a chronic violator that, if the chronic violator's property is determined to be a nuisance as defined in division (C)(2), (3), or (4), the town shall, without further notice in the calendar year in which the notice is given, take action to remedy the violation and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be served by registered or certified mail. Upon the provision of the notice, the Code Enforcement Officer or the designated official of the town has full power and authority to enter upon the premises involved and abate the nuisance found to exist during the calendar year in which the notice is given without further notice. The Code Enforcement Officer or the designated official of the town may proceed to abate the nuisance by utilization of town forces or an outside contractor. The owner of the property shall be liable to the town for the actual cost incurred by the town in such nuisance abatement including an administrative fee. Such cost shall be a lien upon the property and shall be collected as unpaid taxes. For the purpose of this division, "chronic violator" is one for whom, in a previous calendar year, the town abated a nuisance as defined in division (C)(2), (3), or (4) on at least three occasions.

(Ord. passed 6-10-02; Am. Ord. 2018-01, passed 2-12-18) Penalty, see § 94.99

‘94.20 NONCOLLECTIBLE REFUSE.

- (A) The following refuse will not be collected: tree stumps, building maintenance or demolition debris, rocks or broken concrete, plaster, roofing material, or any other material that may be determined by the Town Manager to be unsafe or inappropriate for collection. (' 74 Code, § 10-6)
- (B) The owner or occupant of every residence, building or business or industrial premises shall have the responsibility of collecting and disposing of all building construction waste and debris. The town will not collect or remove any building waste or debris. (' 74 Code, § 10-7)
- (C) The owner or person in charge of demolished buildings shall have all material removed by their own means and at their own expense down to below ground level and this land shall be rough graded so as not to present a nuisance or safety hazard, be unsightly, or cause drainage run off or erosion of adjoining property. (' 74 Code, § 10-8)

(D) No waste shall be collected that is considered to be hazardous as defined in the Federal Resource Conservation and Recovery Act or in G.S. § 130A-290 or any waste which is volatile, pathological, infectious, toxic or otherwise prohibited by this chapter. Materials will not be collected containing dead animals or other obnoxious or dangerous wastes. (Ord. 95-10, passed 10-9-95)

'94.21 RESIDENTIAL COLLECTIONS.

All residential premises shall be provided with waste collection containers and billed for the collection service on a scheduled basis. All residential collections shall be regulated by the current Solid Waste Collection Policy and Fee Schedule as set forth by the Town Manager.

('74 Code, §§ 10-9; 10-10; 10-11; 10-12) (Ord. 95-10, passed 10-9-95)

'94.22 BUSINESS COLLECTIONS.

(A) All businesses that produce waste not inconsistent with the quantity or nature of the waste handled under § 94.08 shall be supplied one or more of the waste collection containers and fall under the same regulations put forth for residential collections in the Solid Waste Collection Policy and Fee Schedule.

(B) Any business that produces waste that is inconsistent with the quantity or nature of the waste handled under § 94.08 may be required by the town to privately obtain, maintain, and incur all cost for private bulk refuse collections. These bulk containers must be maintained in a manner that allows no liquid waste runoff, offensive odors, or create a nuisance that attracts insects or rodents.

C 74 Code, §§ 10-13; 10-14; 10-15; 10-16) (Ord. 95-10, passed 10-9-95)

'94.99 PENALTY.

(A) Any violation of any regulation or provision of any section contained in §§ 94.20 through 94.22 shall be liable for a civil fine not to exceed \$50. Any violation shall also constitute a misdemeanor. Should the town be required to remedy the violation all provision of § 94.06 will apply.

('74 Code, § 10-18) (Am. Ord. 95-10, passed 10-9-95)

(B) In addition to or in lieu of the other remedies provided by § 94.07, any owner of a property whose property shall be declared a public nuisance as provided in § 94.07 shall be subject to a civil penalty in manner of \$50 for the first offense, \$100 for the second offense in the calendar year and \$250 for the third and subsequent offenses in the calendar year. If a person fails to pay the civil penalty within 30 days after being notified of the amount due, the town may recover the penalty together with all costs by filing a civil action in the general court of justice in the nature of a suit to collect debt.

(Ord. passed 6-10-02)

CHAPTER 95: NOISE

Section

- 95.01 Unreasonably loud or disturbing noise prohibited
- 95.02 Certain noises restricted

' 95.01 UNREASONABLY LOUD OR DISTURBING NOISE PROHIBITED.

(A) It shall be unlawful to create or assist in creating any unreasonably loud, disturbing and unnecessary noise in the town. Noise of such character, intensity, and duration as to be detrimental to the public health, welfare and peace is prohibited. (>74 Code, ' 13-1)

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

(1) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle, except as a danger signal, so as to create any unreasonably loud or harsh sound, or the sounding of such device for an unnecessary and unreasonable period of time, or the use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;

(2) The playing of any radio, phonograph, television, loudspeaker, amplifier or musical instrument in such manner or with such volume as to annoy or disturb the quiet, comfort, or repose of any person in any dwelling, hotel, or other type of residence;

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

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

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

6) The sounding of any bell, gong, or any type of horn or siren attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;

(7) The conducting, operating, or maintaining of any garage or service station in any residential area so as to cause loud or offensive noises to be emitted therefrom between the hours of 10:00 p.m. and 7:00 a.m. on weekdays or on Sundays;

(8) The creation of any excessive noise on any street adjacent to any school or institution of learning while the same is in session, which unreasonably and unnecessarily interferes with the working of such institution, provided conspicuous signs are displayed in such street indicating that such area is in a school area;

9) 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;

10) The erection, including excavation, demolition, alterations, 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. Monday through Saturday and 9:00 a.m. through 5:00 p.m. on Sunday, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues;

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

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

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

14) The use of mechanical loudspeakers or amplifiers on trucks or other moving vehicles for advertising or other purposes except where specific license is received from the Town of Plymouth; or

(15) Shouting, fighting or creating noise through loud or boisterous speech or singing so as to be audible off the premises upon which such activities and noise occur or so loud as to disturb the peace and tranquility of persons occupying residences, motels, hotels, rest homes, nursing homes or hospitals in the vicinity.

(C) This section shall not apply during any period directly after the announcement of any potential, impending disaster.

(>74 Code, ' 13-3) (Am. Ord. 95-2, passed 6-12-95; Am. Ord. 02-03, passed 7-8-02) Penalty, see ' 10.99

95.02 CERTAIN NOISES RESTRICTED.

(A) It shall be unlawful for any person or groups of persons to holler, shout, scream, sing, or make any other noises with their voices which shall be unreasonably loud and disturbing to the public in general. It shall be considered that hollering, shouting, screaming, singing, or the making of any other noises with voices by any person or groups of persons shall be unreasonably loud and disturbing where the same can be heard throughout the distance of three blocks or 1,200 feet, whichever is the least.

B) The gathering of any group upon the sidewalks, streets, or other places of the town for the purpose of creating, or which creates, mechanical or vocal sound which is of such intensity or nature as to interfere with the rights of peaceful occupancy by property owners in the adjoining areas shall be unlawful, and any individual who participates in, leads, directs, or encourages such actions shall be guilty of violating this section. However, nothing herein shall prevent the orderly expression of spectators at any regularly organized sports event or the peaceful assembly of any group for orderly expression or communication between those assembled.

(C) Conduct and noises prohibited by this section shall not become lawful merely because any person or group of persons engaging in such conduct or making such noises is participating in a parade, group demonstration, or picket line pursuant to a permit issued under the provisions of Chapter 97.

(>74 Code, ' 13-2) Penalty, see ' 10.99

CHAPTER 96: PARADES, PICKETS LINES, AND GROUP DEMONSTRATIONS

Section

- 96.01 Definition
- 96.02 Permit required
- 96.03 Issuance of permits
- 96.04 Regulations concerning picket lines
- 96.05 Unlawful obstruction of streets, sidewalks
- 96.99 Penalty

96.01 DEFINITION.

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

BLOCK. That portion of a street lying between street intersections. (>74 Code, ' 16-6)

96.02 PERMIT REQUIRED.

(A) There shall be no parade, demonstration, or aggregating or assembling of groups on the public streets, sidewalks, or public places or in or around any public building of the town except upon the issuance of a permit therefor under the provisions of this chapter.
(>74 Code, ' 16-1)

(B) It shall be unlawful to obstruct or block the sidewalks, streets, or public places of the town by any exhibition, demonstration, picket line, or commercial venture so as to prevent the normal flow of pedestrian or vehicular traffic, except that a special permit may be granted by the Chief of Police for temporary and peaceful occupancy of a limited portion thereof for purposes other than boisterous or disorderly demonstration or commercial gain. Participation in such illegal exhibition, demonstration, picket line, or commercial venture by any individual through leadership, organization, or physical participation therein shall be unlawful. (>74 Code, ' 19-2) Penalty, see ' 96.99

' 96.03 ISSUANCE OF PERMITS.

The Chief of Police is hereby authorized to issue permits as required by ' 96.02 and in the issuance thereof he shall:

(A) Require a written application therefor to be filed 24 hours in advance of the parade or group demonstration. The application shall be on a form prescribed by the town, shall require the application to be signed by the person filing such application, shall require the applicant to state the proposed place, time, purpose, and size of such parade or group demonstration and whether or not any minors below the age of 18 years shall participate.

(B) Refuse to issue a permit when the activity or purpose stated in the application would violate any ordinance of the town or statute of the state, or when the activity or purpose would endanger the public health or safety or would hinder or prevent the orderly movement of pedestrian or vehicular traffic on the sidewalks or streets of the town.

(C) Specify in the permit whether or not minors below the age of 16 years will be permitted to participate. The Chief of Police shall pass upon whether or not minors below the age of 16 shall be permitted to participate in the parade or group demonstration and shall base his determination upon whether or not the purpose, time, or place of the participation will be detrimental to or endanger the health, welfare, or safety of minors. (>74 Code, ' 16-2)

(D) Require that the application for a permit specify and the permit designate the person in charge of the parade or group demonstration. Such person in charge shall accompany the parade or group demonstration and shall carry such permit with him at that time. (>74 Code, ' 16-4)

(E) The permit may set the starting time and duration of the parade or demonstration and may set the speed of its travel, the space between persons or vehicles, the portions or areas of the streets and sidewalks to be used, the length of the parade or group, and such other requirements as the Chief of Police may include in the permit for the control of free movement of traffic upon the streets and sidewalks, or for the health, safety, and property rights of the participants and general public. Failure to comply with the requirements set forth in the permit shall be unlawful.
(>74 Code, ' 16-2) (Am. Ord. passed 7-12-76)

(F) Among other considerations, consider and find as a requisite to issuance the following:

(1) The activity will not require excessive diversion of police from other necessary duties.

(2) The activity will not interfere with the right of property owners in the area to enjoy peaceful occupancy and use of their property.

(3) The activity can be conducted without unreasonable interference with normal vehicular or pedestrian traffic in the area, will not prevent normal police or fire protection to the public, and will not

be likely to cause injury to persons or property, provoke disorderly conduct, or create a public disturbance.

(G) No permit shall be issued for demonstrations, parades, and such other purposes as contained in this chapter for the activities herein allowed to be used and exercised between the hours of 6:00 p.m. and 6:00 a.m. on any day.

(>74 Code, ' 16-3)

' 96.04 REGULATIONS CONCERNING PICKET LINES.

(A) Interference prohibited. It shall be unlawful for any person to physically interfere with such pickets in the use of the sidewalk or to address profane, indecent, abusive, or threatening language to or at such pickets which would tend to provoke such pickets or others to a breach of the peace.

(>74 Code, ' 16-7)

(B) Intimidation prohibited. The police officers of the town may, in the event of the assemblage of persons in such numbers as to tend to intimidate pickets pursuing their lawful objective, through numbers alone or through use of inflammatory words, direct the dispersal of persons so assembled and may arrest any person who fails to absent himself from the place of such assemblage when so directed by the police. (>74 Code, ' 16-8)

(C) Peaceful picketing in the furtherance of a lawful purpose shall be permitted in the town provided such picketing is done under the following conditions. Picketing done contrary to the provisions of this division shall be unlawful.

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

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

(3) Such pickets may carry written or printed placards or signs not exceeding two feet in width and two feet in length promoting the objective for which the picketing is done; provided, that the words used are not defamatory in nature or would tend to produce violence.

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

(5) If pickets promoting different objectives desire to use the same sidewalk for picketing and such would result in the presence of more than ten pickets thereon, the Chief of Police shall allot time to each group of pickets for the use of such sidewalk on an equitable basis.

(>74 Code, ' 16-6) Penalty, see ' 96.99

' 96.05 UNLAWFUL OBSTRUCTION OF STREETS, SIDEWALKS.

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

(B) No person or group of persons shall block, impede, or obstruct the sidewalks within the town in such a manner as to hinder or interfere with the free use of the sidewalks by any other person lawfully using the same. (>74 Code, ' 16-9) Penalty, see ' 96.99

' 96.99 PENALTY.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$50 or imprisoned not more than 30 days.
(>74 Code, ' 16-5)

CHAPTER 97: STREETS AND SIDEWALKS

Section

General Provisions

- 97.01 Signs hanging over streets and sidewalks
- 97.02 Playing in streets
- 97.03 Damaging trees or shrubs
- 97.04 Obstructions prohibited; removal
- 97.05 Survey and boundary lines
- 97.06 Town to only accept streets of specified length
- 97.07 Roller skates and skateboards

Excavations; Construction

- 97.15 Excavation permit required
- 97.16 Bond
- 97.17 Construction requirements

Utility Poles and Underground Conduits

- 97.30 Permit required for placement of poles
- 97.31 Use of poles for lines of another company
- 97.32 Use of poles and underground conduits by town
- 97.33 Poles, wires to be kept in safe condition

GENERAL PROVISIONS

97.01 SIGNS HANGING OVER STREETS AND SIDEWALKS.

(A) It shall be unlawful for any person to hang or suspend any sign over or above any sidewalk or street, the lowest point of which is less than eight feet from the ground over the sidewalk and the lowest point of which is less than 15 feet from the ground above the street, and such sign shall be kept securely fastened at all times.

(B) In the event that a greater height than required by division (A) is required by any other provision of this code or other town ordinance or by state law, the greater height shall prevail.

(>74 Code, ' 5-7) Penalty, see ' 10.99

' 97.02 PLAYING IN STREETS.

No person shall play baseball, town ball, football, or other games of similar nature on any public street not designated as a play street. (>74 Code, ' 15-5) Penalty, see ' 10.99

' 97.03 DAMAGING TREES OR SHRUBS.

It shall be unlawful for any person to pull down, cut, deface with signs, break, or in any way damage any of the trees, shrubs, or flowers on the streets, parks, or squares of the town.

(>74 Code, ' 19-6) Penalty, see ' 10.99

' 97.04 OBSTRUCTIONS PROHIBITED; REMOVAL.

(A) It shall be unlawful for any person to build, erect, construct, place, or maintain any porch, steps, fence, wall, or other obstructions whatever in or over any of the streets, sidewalks, or public places, and it shall be unlawful to repair or improve any porch, steps, fence, wall, or other obstruction whatsoever existing in or over any of the streets, sidewalks, or public places.

(B) It shall be unlawful to obstruct any sidewalk or street with any wheelbarrow, wagon, or other vehicle or any chair, bench, open gate, chicken coop, box, or other article; it shall also be unlawful to display merchandise on any sidewalk for the purpose of sale or otherwise. However, this division shall not apply to baby carriages and invalid chairs rolled on the sidewalks in such manner as not to obstruct the same. (>74 Code, ' 19-1)

(C) It shall be the duty of the Building Inspector to notify all persons about to emplace, erect, or construct any building, sidewalk, wall, or fence near the street or any public way or place not to encroach upon such street, public way or place and if, in the opinion of the Town Manager, any such obstruction is being or has been constructed he shall cause a survey of the line of the street, public way or place to be made by a competent surveyor, and if such survey shall show that the street, public way or place is obstructed by any such building, sidewalk, wall, or fence, the owner shall be required to pay the costs of the survey and to remove all obstructions at once. Every person who shall be found to have so encroached on any street, public way or place by any such building, sidewalk, wall, or fence and refuses or neglects to remove the encroachment upon notice from the Town Manager within one week from the date thereof shall, upon conviction, be guilty of a misdemeanor. All officers of the town who observe any such encroachment shall promptly notify the Building Inspector thereof. (>74 Code, ' 19-3)

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(D) This section shall not apply to obstructions authorized by permit. (>74 Code, '19-1) Penalty, see ' 10.99

97.05 SURVEY AND BOUNDARY LINES.

The Town Manager, when he deems it to be necessary, shall appoint a competent surveyor to accurately ascertain, run out, and mark the boundary line of any street, or part thereof, and such boundary line shall conform to the official town map which is on file in the office of the Clerk.
(>74 Code, ' 19-4)

' 97.06 TOWN TO ONLY ACCEPT STREETS OF SPECIFIED WIDTH.

The Town Council will not accept and take over for maintenance any street or avenue, as distinguished from alleys, for public use unless it has a minimum width of 50 feet and will not accept the dedication of any street or avenue in the town for public use, development, and maintenance unless it has a minimum width of 50 feet. (>74 Code, ' 19-5)

' 97.07 ROLLER SKATES AND SKATEBOARDS.

(A) No person upon roller skates, including in-line skates, or riding in, upon or by means of any coaster, toy vehicle, skateboard or other similar device shall do so upon any sidewalk or pedestrian walkway in the town except in residential zones.

(B) In addition to any other penalties provided under the Code, any roller skates, in-line skates, coasters, toy vehicles, scooters, skateboards or other similar devices which are used in violation of this section may be seized and impounded by any town law enforcement officer for a period of time not to exceed 14 days; provided, however, that if such device is being impounded as evidence to be used in a criminal trial, it may be held in the same manner and for the same period of time as any other evidence. Devices impounded under this section shall be identified and stored at the police station or such other place designated for such purposes by the Chief of Police. (Ord. 97-3, passed 4-14-97)

EXCAVATIONS; CONSTRUCTION

'97.15 EXCAVATION PERMIT REQUIRED.

It shall be unlawful for any person to dig any hole, ditch, or other excavation in or under any street, sidewalk, or public place owned or maintained by the town, or so close thereby as to create a danger of the collapse or caving in thereof, without first having procured a permit so to do from the Town Manager. (>74 Code, ' 19-12) Penalty, see ' 10.99

' 97.16 BOND.

Each applicant for a permit required by ' 97.15 shall, as a prerequisite to the issuance thereof, file with the Town Manager a bond, payable to the town and in such amount as the Town Manager shall consider adequate, conditioned upon restoration of the surface of the place to be excavated in compliance with the requirements of ' 97.17. However, in lieu of such bond a cash deposit may be made with the Clerk. (>74 Code, ' 19-13)

' 97.17 CONSTRUCTION REQUIREMENTS.

(A) It shall be the duty of every holder of a permit issued pursuant to ' 97.15 to put such street, sidewalk, or public place in as good condition in all respects as it was prior to the beginning of work under such permit, and every day of failure so to do shall constitute a separate offense. (>74 Code, ' 19-14)

(B) Permit holders under ' 97.15 shall prosecute their work with due diligence, to the end that the work may be completed, and the surface restored without undue delay. (>74 Code, ' 19-16)

(C) Every permit holder shall take such precautions as may be necessary for the protection of persons, animals, and property from injury. Such precautions shall include the erection and maintenance of barriers and lights, and the Town Manager may prescribe in the permit such other precautions as he may deem necessary or prudent. (>74 Code, ' 19-15) Penalty, see ' 10.99

UTILITY POLES AND UNDERGROUND CONDUITS

' 97.30 PERMIT REQUIRED FOR PLACEMENT OF POLES.

(A) No pole for electric, telegraph, telephone, or other purpose shall be placed on any street, sidewalk, or public place without a permit therefor being obtained from the Town Manager.
(>74 Code, ' 19-7)

(B) No permit shall be issued for the erection of poles on any street or elsewhere there exists a line of poles on such street or at such place for the purpose of supporting electric, telephone, or telegraph wires. (>74 Code, ' 19-8) Penalty, see ' 10.99

' 97.31 USE OF POLES FOR LINES OF ANOTHER COMPANY.

Whenever any electric, telephone, or telegraph company shall desire to place lines or wires along any particular street or place upon which it does not have a line of poles, but upon which there exists a line of poles owned by another company, then such companies may maintain their wires upon the same poles. If an agreement cannot be reached between the companies owning the poles and the companies desiring to place wires thereon, then the companies may submit the question of compensation to three disinterested persons for arbitration or they may submit the question to the Town Council for determination. This section shall apply to poles owned by the town as well as poles owned by companies operating under franchises from the town.
(>74 Code, ' 19-9)

' 97.32 USE OF POLES AND UNDERGROUND CONDUITS BY TOWN.

One duct in all underground conduit systems shall be provided for the town free of charge for the town police or fire alarm telegraph system and other emergency systems when required, and the town shall have the use of any and all poles on streets for the same purpose.
(>74 Code, ' 19-11)

' 97.33 POLES, WIRES TO BE KEPT IN SAFE CONDITION.

It shall be the duty of each owner of poles supporting electric, telephone, or telegraph wires to keep the poles and wires in a safe condition and, for that purpose, to inspect them once every three months. (>74 Code, ' 19-10)

CHAPTER 98: BICYCLES

Section

98.01 Impoundment of non-complying bicycles

98.02 Sale of impounded bicycles

' 98.01 IMPOUNDMENT OF NON-COMPLYING BICYCLES.

The Police Department may impound and retain possession of any bicycle which is operated in violation of G.S. ' 20-129(e) until the owner provides the Police Department with complying lights and/or reflex mirror.

(Ord. 97-2, passed 3-10-97)

' 98.02 SALE OF IMPOUNDED BICYCLES.

Any bicycles impounded under this chapter that has been held for at least 30 days, after 10 days= notice by certified or registered mail to the owner or violator of the statute, shall be sold in accordance with the provisions of G.S. ' 15-11 et seq. (Ord. 97-2, passed 3-10-97)

CHAPTER 99: YOUTH PROTECTION

Section

- 99.01 Purpose
- 99.02 Definitions
- 99.03 Offenses
- 99.04 Exceptions
- 99.05 Enforcement
- 99.99 Penalty

' 99.01 PURPOSE.

The purpose of this section is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of 16 years in the Town of Plymouth. This chapter is intended to promote the health, safety and welfare of both juveniles and adults by creating an environment providing better protection and security for all concerned. The purpose is also to protect minors from improper influences and criminal activity that occurs after the curfew hour.
(Ord. 2002-05, passed 9-9-02)

99.02 DEFINITIONS.

For the purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

AUTHORIZED ADULT. Parent, guardian or someone over the 18 years of age authorized to accompany the juvenile for a designated period of time.

ESTABLISHMENT. Any privately owned place of business operated to which the public has access or is invited including but not limited to any place of amusement or entertainment.

JUVENILE. Any person under the age of 16 years who is not married or been emancipated from their parents or guardian.

OWNER/OPERATOR. Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of corporation.

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PUBLIC PLACE. Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to, streets, highways, alleys, rights-of-ways, public vehicular areas and parking lots, shops, restaurants, convenience stores, schools and school grounds, places of business and amusement, playgrounds, parks, church grounds, similar areas that are open to the public, and other common areas open to or accessible to the public.

RESTRICTED HOURS. The time of night referred to herein is based upon the prevailing standards of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the Town of Plymouth, North Carolina. Restricted hours will mean 12:00 midnight on any Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday until 6:00 a.m. of the following day. (Ord. 2002-05, passed 9-9-02)

' 99.03 OFFENSES.

Except as provided by division (D), the following offenses constitute a violation of this section:

(A) A person under the age of 16 years of age shall be violation of this section by being present in any public place or establishment within the Town during the restricted hours.

(B) It shall be violation of this section for any person 16 years or older to aid or abet a juvenile in the violation of division (A).

(C) A parent or guardian of a juvenile shall be violation of this section if he or she knowingly permits, and/or by inadequate supervision, allows the juvenile to remain on the premises of any establishment or in any public place within the town during the restricted hours.

(D) It shall be a violation of this section for a parent or guardian of a juvenile to refuse to take custody of the juvenile during the restricted hours.

(E) The owner, operator, or any employee of an establishment shall be in violation of this section if he or she knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term knowingly includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. (Ord. 2002-05, passed 9-9-02)

'99.04 EXCEPTIONS.

A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this section if the juvenile is:

- (A) Accompanied by a parent, guardian or authorized adult over 18 years of age;
- (B) Using a direct route to or from a place of employment;
- (C) In a motor vehicle motor vehicle with parental consent;
- (D) Reacting or responding to an emergency;
- (E) Attending or traveling to or from, by direct route, any school, religious or recreational activity or other organized activity which is supervised by adults and that accepts responsibility for the juvenile. The parent or guardian must have knowledge of the organized activity in which the juvenile is involved.
- (F) If the owner, operator or employee of an establishment notifies the Police Department that a juvenile was present on the premises of the establishment during restricted hours and refused to leave. (Ord. 2002-05, passed 9-9-02)

'99.05 ENFORCEMENT

Before taking any enforcement action under this section, a police officer shall ask the apparent offender=s age and reason for being in the public place or establishment during restricted hours. The officer shall notify the parent and advise the presence of Youth Protection Ordinance and document this accordingly. (Ord. 2002-05, passed 9-9-02)

' 99.99 PENALTY.

- (A) A juvenile who violates any provision of this chapter is subject to being adjudicated delinquent. The Court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juvenile Code for any juvenile who is delinquent.
- (B) Any person other than a juvenile who violates any provision of this chapter may be guilty of a misdemeanor and may be subject to a fine not to exceed \$100, and imprisonment in the discretion of the Court in accordance with G.S. ' 14-4. (Ord. 2002-05, passed 9-9-02)

