



Town of Southern Shores

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SESSION LAW 2018-69 ORDINANCE SUBMITTAL REQUIREMENT

Sec. 1-6. - General penalty; enforcement of ordinances; continuing violations

- (b) Violation of any provision of the following chapters and sections of this Code shall be a class 3 misdemeanor and punishable by a fine of not more than \$500.00 as provided in G.S. [14-4](#)(a):

- (1) [Chapter 18](#), [section 18-10](#); [chapter 28](#), [section 28-1](#).
- (2) [Chapter 10](#), section 10-5.
- (3) [Chapter 14](#), sections [14-37](#)(c), [14-38](#) and [14-67](#) through [14-70](#).
- (4) [Chapter 20](#), [section 20-70](#).
- (5) [Chapter 4](#), sections [4-22](#) through [4-27](#); [chapter 22](#), sections [22-1](#) through [22-10](#).
- (6) [Chapter 34](#), sections [34-51](#) through [34-54](#), excepting [section 34-53](#)(c).
- (7) [Chapter 12](#), sections [12-35](#) through [12-42](#).

(1) Chapter 18, section 18-10; chapter 28, section 28-1

- **Sec. 18-10. - Interference with a police officer.**

It shall be unlawful for any person to interfere with, hamper, molest, resist or hinder a police officer in the lawful discharge of his duty

- **Sec. 28-1. - Smoking in municipal buildings**

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Smoking means the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

(b) Smoking prohibited. It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the town.

(c) Penalty. Violation of this section shall constitute a misdemeanor punishable in accordance with G.S. 14-4.

(2) Chapter 10, section 10-5

- **Sec. 10-1. - Municipal cemetery established; cemetery fund; monitoring of operations**

(5) The town reserves the right to determine, establish, modify, alter or change the grade of any vacant lot, road, driveway, pathway or part thereof, and it shall not be liable to anyone for any such action

(3) Chapter 14, sections 14-37(c), 14-38 and 14-67 through 14-70

- **Sec. 14-37. - General regulations**

(c) Fire hydrants. The developer and/or builder of any residential dwelling and/or development other than one- and two-family dwellings, as defined in the town's zoning ordinance must provide a water and fire hydrant system for the dwelling or development as approved by the fire inspector.

- **Sec. 14-38. - Required permits and certificates of fitness**

(a) A permit and a certificate of fitness are required of the responsible person conducting any of the following activities when such activities are conducted on a for-hire basis:

- (1) Use of any explosive material.
- (2) Any blasting or demolition activity.
- (3) Any fireworks display.
- (4) The repair or testing of any portable or fixed fire extinguishing device or system.
- (5) The installation of any fire alarm, fire communication system or fixed fire extinguishing device or system.

Exception: one and two family dwellings

- (6) Cleaning of ducts used for the removal of grease-laden vapors.

(b) A permit shall be obtained from the code enforcement office and a copy of such certificate shall be filed with the fire inspector prior to beginning any such work.

(c) Any person to whom a certificate has been granted shall upon request produce and show proper identification and the certificate to anyone for whom he/she seeks to render his/her services or to the fire inspector

- **Sec. 14-67. - Beach fires**

It shall be unlawful for any person to start or set a fire of any kind on a beach.

- **Sec. 14-68. - Combustible materials**

It shall be unlawful for any person to build or set an open fire in any location except in the areas and under the conditions specified below:

(1) The occupant of a permanent dwelling may, with a permit, set an open fire to burn small amounts of refuse, tree branches, brush and scrap lumber provided the burning is conducted within 100 feet of such dwelling and is confined within a cleared and protected area upon which a watch is maintained and which is provided with adequate fire protection equipment at the immediate fire site. Adequate fire protection equipment is considered to be a charged hose line, shovel, rake, and loose sand or dirt with which to cover the fire.

(2) The occupant of a permanent dwelling may build or set a contained fire as defined above.

(3) No fire of any type shall be built or set on unimproved property (any property where a permanent dwelling or business unit does not exist) until the site has been inspected and a permit issued by the fire inspector.

(4) All fires of the type described in this section must be attended by a competent person 14 years of age or older who must remain in attendance at the fire until it is completely extinguished.

(5) No open fire shall be built or set neither in a marina area or a picnic area nor in any other area owned by a residential or civic or other owner's association without a permit.

(6) House occupants or landowners starting or setting fires as permitted above are responsible for assuring themselves that a prohibition against burning as stated in G.S 14-139, is not in effect.

(7) Initial burning shall generally be allowed only between the hours of 9:00 a.m. and 6:00 p.m. but no combustible materials shall be added to the fire after 3:00 p.m., except that under favorable meteorological conditions, deviations may be granted by the fire inspector.

(8) It shall be unlawful for any person to start or set a bonfire.

(9) It shall be unlawful for any person to start or set a recreational fire.

- **Sec. 14-69. - Prohibited items**

It shall be unlawful for any person to burn any materials that produce heavy dense smoke such as that generated by the burning of automobile tires, inner tubes, tar paper, asphalt, shingles, or by the burning of synthetic materials that produce irritating and/or hazardous fumes

- **Sec. 14-70. – Permits**

(a) Any person proposing to set a fire other than those permitted in Section 14-66 and 14-68(2) shall, before lighting such fire, obtain a permit from the fire inspector. The permit shall be obtained by applying to the office of the fire inspector and completing a permit application on a form supplied by the inspector. At the inspector's discretion, the permit may be obtained on the site of the proposed fire. A permit will authorize such burnings only on the date or dates specified in the permit.

(b) A fee may be charged for issuance of a permit as specified in the town fee schedule.

(c) Permits must be posted within ten feet of the pavement in front of the property for which the permit is issued during the time of the burn and must be removed when the fire is extinguished, and returned to town hall when the permit expires.

(d) Issuance of a permit may be denied during extremely dry periods, when the winds are, or are predicted to be, unfavorable at the proposed time of burning, or when a prohibition has been placed on

open burning by the state governor or the department of natural and economic resources. Permits already issued may be cancelled or postponed under the foregoing conditions. In case of postponement, a new permit will be issued without charge specifying a new date or dates for such burnings.

(e) The fact that a permit has been issued in no way relieves the person from the responsibility for any damage resulting from the burning activity or from prosecution for violation of a prohibition on burning

Chapter 20 - MOTOR VEHICLES AND TRAFFIC / ARTICLE II. - TRAFFIC CONTROL DEVICES

- **Sec. 20-70. - Installation, unauthorized removal or theft**

(a) Traffic control devices of the town shall be placed, erected, installed, changed or removed only in accordance with this Code and entered upon the official town traffic map.

(b) Any unauthorized removal or theft of a traffic control device or sign is unlawful and punishable as a misdemeanor

Chapter 4 – ANIMALS

- **Sec. 4-22. - County ordinance.**

The county ordinance on animals and fowl shall be in full force and effect within the corporate limits of the town, as modified by this article.

- **Sec. 4-23. - Enforcement.**

It shall be the duty of the police department to enforce the provisions of this chapter.

- **Sec. 4-24. - Livestock, fowl prohibited.**

The keeping and having of livestock and fowl within town is prohibited. However, canaries, parrots and similar birds kept as household pets are permitted.

- **Sec. 4-25. - Animals running at large.**

(a) It shall be unlawful for the owner or custodian of any dog or other animal, other than an ordinary domesticated house cat, to fail to keep the same from running at large within the town. For the purposes of this article, an animal, other than an ordinary domesticated house cat, shall be deemed "running at large" when it is not restrained as specified in subsections (a)(1) through (5) of this section.

(1) When the animal is located upon the premises of the owner or custodian, it must not be able to enter upon public property or the premises of another person. Any animal off the premises of the owner or custodian shall be restrained by a leash, cord, or chain not exceeding ten feet in length, held by a person who is physically able to control the animal.

(2) For the purposes of this article, the term "premises of the owner or custodian" shall be defined as the residence of the owner or custodian, including the attached property surrounding the residence, that is owned or leased by such owner or custodian, but not including any common area, park, or recreational property jointly owned or leased by the members of a

property owners' or tenants' association, unless such association desires to include its property by resolution of its governing board.

(3) No animal shall be deemed to be running at large when the animal is upon the premises of the owner or custodian and when the animal is contained on or restricted to such premises by any means, including verbal commands.

(4) Any animal enclosed within the automobile or other vehicle of its owner or custodian shall be deemed to be upon the owner's or custodian's premises.

(5) Any animal brought onto property and not contained or restrained in a vehicle where the custodian of the animal is performing work for pay or under contract on the property.

(b) Notwithstanding anything to the contrary in subsection (a) of this section, between May 15 and September 15 of each year no dog, other than trained service dogs, shall be permitted on the ocean beaches of the town between the hours of 9:00 a.m. and 6:00 p.m. At all other times, no dogs shall be permitted on the ocean beaches of the town except upon a leash having a stretched length of no more than ten feet and held by a person who is physically capable of handling the dog. Further the person accompanying the dog must possess on his person a scooping device with which to remove feces in accordance with section 4-27. For the purpose of this subsection the term "ocean beach" shall mean and be defined as all beach land beginning at the first line of stable, natural vegetation, the toe of the slope of the frontal dune, or the storm trash line, whichever is most apparent to ordinary observation, and located the most oceanward of the three, and extend to and include the waters and bottoms of the Atlantic Ocean extending eastward 100 yards from the shoreline. In defining the term "ocean beaches," such term shall be interpreted consistently with G.S. 77-20(d) and (e).

(c) There is exempted from subsection (b) of this section any dog which is accompanied by its owner or custodian while on any part of the ocean beach which is owned or leased by that dog's owner or custodian, and no further eastward than the mean high water mark of the Atlantic Ocean. Provided further, that the dog must be on a leash having a stretched length of no more than ten feet and held by a person who is physically capable of handling the dog. Further the person accompanying the dog must possess on his person a scooping device with which to remove feces in accordance with section 4-27.

(d) It shall be unlawful for any dog or cat owner to fail to provide his dog or cat with a collar or harness to which a current year's rabies vaccination and identification tag are securely attached. A collar or harness, with attached current year's rabies vaccination and identification tag, must be worn at all times except when the dog or cat is confined on the owner's premises or during the time the animals are performing at an event or show sanctioned and supervised by a recognized organization. It shall be unlawful for any person to allow any dog or cat to wear a current year's rabies vaccination and identification tag issued for another dog or cat.

(e) It shall be unlawful for any dog owner to allow his dog to chase, snap at, show aggressive threatening behavior, or attack pedestrians, bicyclists or vehicles, or for any cat owner to allow his cat to urinate on,

scratch, or otherwise damage personal property not belonging to the owner, or to allow either his dog or cat to conduct itself so as to be a public nuisance. Dogs declared potentially dangerous by the county health director will be confined in accordance with directives issued by the county health director as authorized by G.S. 67-4.1.

State Law reference— Ordinances effective on municipal property outside limits, G.S. 160A-176; territorial jurisdiction for abatement of public health and public safety nuisances, G.S. 160A-193.

- **Sec. 4-26. - Trapping of domestic or wild animals.**

It shall be unlawful for any person to trap domestic or wild animals by the use of animal traps, or to set any animal trap, which may trap domestic or wild animals, not issued by the police department, the county animal control department, or any other organization approved by the police department, within the corporate limits.

State Law reference— Trapping licenses, G.S. 113-270.5; regulation of trapping, G.S. 113-291.6.

- **Sec. 4-27. - Mandatory removal of feces.**

Each and every person, owner, keeper or custodian of any dog shall immediately remove all feces deposited by the dog they are accompanying. The removal of feces shall be accomplished by depositing such feces in a sanitary container. Burying feces in the sand or depositing in any body of water is prohibited and constitutes a violation of this section.

Chapter 22 - OFFENSES AND MISCELLANEOUS PROVISIONS

ARTICLE I. - IN GENERAL

- **Sec. 22-1. - Disorderly conduct**

Any person who shall do or engage in any of the following shall be guilty of disorderly conduct:

(1) Act in a violent or tumultuous manner toward another, whereby any person is placed in danger of safety of his life, limb or health.

(2) Act in a violent or tumultuous manner toward another, whereby public property or property of any other person is placed in danger of being destroyed or damaged.

(3) Endanger lawful pursuits of another by acts of violence or threats of bodily harm.

(4) Cause, provoke or engage in any fight, brawl or riotous conduct so as to endanger the life, limb, health or property of another or public property.

(5) Assemble or congregate with another or others and cause, provoke or engage in any fight or brawl.

(6) Collect in bodies or in crowds and engage in unlawful activities.

(7) Assemble or congregate with another or others and engage or attempt to engage in gaming.

(8) Frequent any public place and obtain money from another by an illegal and fraudulent scheme, trick, artifice or device, or attempt to do so.

- (9) Assemble with another or others and engage in any fraudulent scheme, device or trick, to obtain any valuable thing in any place or from any person, or attempt to do so.
- (10) Utter, in a public place or any place open to the public, any obscene words or epithets.
- (11) Frequent any place where gaming or the illegal sale or possession of alcoholic beverages or narcotics or dangerous drugs is practiced, allowed or tolerated.
- (12) Use "fighting words" directed towards any person who becomes outraged and thus creates turmoil.
- (13) Assemble or congregate with another or others and do bodily harm to another.
- (14) Interfere, by acts of violence, with another's pursuit of a lawful occupation.
- (15) Congregate with another or others in or on any public way, so as to halt the flow of vehicular or pedestrian traffic, and refuses to clear such public way when ordered to do so by a peace officer or other person having authority.
- (16) Damage, defoul or disturb public property, or the property of another, so as to create a hazardous, unhealthy or physically offensive condition.

- **Sec. 22-2. - Conditions blocking or damaging streets, etc.**

It shall be unlawful for any person to cause a condition such that the public streets, sidewalks, alleys, and bridges within the town are not open for travel nor free from unnecessary obstructions. Such conditions shall include, but are not limited to, activities causing the flow of water, including water from storms or from manmade causes, to accumulate on a public street, sidewalk, alley, or bridge or to flow in such a manner that a public street, sidewalk, alley, or bridge is damaged or could reasonably be anticipated to be damaged and thus create an obstruction to travel.

- **Sec. 22-3. - Noises prohibited.**

(a) It shall be unlawful for any person to create, or assist in creating, permit, continue or permit the continuance of any unreasonably loud noise in the town. Noise of such character, intensity and duration, as to be detrimental to the life or health of any individual, is prohibited.

(b) The following acts, among others, are declared to be loud, disturbing noises, but such enumeration shall not be deemed to be exclusive:

(1) Sounding horns or signal devices on vehicles. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal; the creation, by means of any such signal device, of any unreasonably loud or harsh sound; and the sounding of such device for an unreasonable period of time.

(2) Use of gongs or sirens on vehicles. The use of any gong or siren upon any vehicle other than police, fire or other emergency vehicle.

(3) Use of phonographs, loudspeakers or sound amplifying devices. The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker, or any other instrument or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such manner as

renders the same a public nuisance; provided that, upon application to the council, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment.

(4) Loud animal noises. The keeping of any animal which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

(5) Grating, grinding, rattling noises. The use of any automobile, motorcycle or other vehicle in such manner as to create loud grating, grinding, rattling or other noise, or in such manner as to cause squealing or screeching of tires, or in such manner as to cause the tires to propel rocks, gravel or sand.

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

(7) Mechanical devices using compressed air. The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced.

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

(9) Bells or gongs attached to buildings. The sounding of any bell or gong attached to any building or premises (except for emergency use), which disturbs the quiet or repose of persons in the vicinity thereof; except, that upon application to the council, permits may be granted to responsible persons or organizations for the use of a bell or gong.

(10) Shouting or crying of peddlers or hawkers. The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(11) Drums or devices for attracting attention. 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, sale or display of merchandise.

(12) Mechanical loudspeakers on trucks for advertising. The use of any mechanical loudspeaker or amplifier on trucks or other moving vehicles for advertising purposes.

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

(14) Delivery of commercial goods during certain hours. The creating of any unusually loud or disturbing noise including, but not limited to, commercial deliveries, loud and boisterous talking or yelling, by an individual or by groups of persons, on public streets, sidewalks, public or private parking lots, or vehicular areas, between the hours of 10:00 p.m. and 7:00 a.m., in which these noises tend to disturb the rest and tranquility of persons, living or residing in the nearby area.

(15) Erection, demolition, etc. of buildings. The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays and Saturdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the code enforcement officer, which permit may be

granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the code enforcement officer should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or excavation of streets and highways within the hours of 8:00 p.m. and 7:00 a.m., and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of 8:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

(16) Operation of piledrivers, pneumatic hammers, etc. The operation between the hours of 8:00 p.m. and 7:00 a.m. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by a loud or unusual noise.

(c) Noises and activity associated with the maintenance dredging of town owned and/or maintained canals or waterways at the town's direction shall not be considered to be unreasonably loud or otherwise considered to be a public nuisance so long as such noises and activities occur within time and day parameters set forth by resolution of the town council. Upon application of the contractor performing such maintenance dredging to the town's code enforcement administrator showing the immediate need for extended working hours and/or days to perform maintenance dredging operations in compliance with the requirements of state or federal agencies, the code enforcement administrator may issue a written permit to the contractor setting such extended days and times as the administrator feels appropriate. Such permit shall be in effect until the next regularly scheduled meeting of the town council and shall remain in effect thereafter should town council not take any action to reduce the extended days and times.

(d) Noises and activity associated with public beach nourishment projects at the town's direction shall not be considered to be unreasonably loud or otherwise considered to be a public nuisance.

- **Sec. 22-4. - Firearms, explosives, etc.; discharge prohibited in certain areas of town.**

(a) Firearms, explosives; discharge exceptions. It shall be unlawful for any person to fire or discharge any gun, shotgun, rifle, pistol or any other firearm or air rifle, spring gun or pistol, compressed air rifle or pistol or similar device, or discharge any explosive devices by whatever name called within the corporate limits of the town; however, this shall not apply to:

(1) Police officers of the town and duly authorized police and peace officers of the county, state and United States of America, or the Armed Forces of the United States of America, while in the performance of their duties as such.

(2) Shooting contests, such as turkey shoots, target practice and other contests, after a permit has been issued therefor by the chief of police and while the same is under the direct supervision of the chief of police or a designated officer of the law.

(3) Fireworks displays, while conducted under the provisions of any town article or state law regulating such exhibitions and displays.

(4) Discharge of firearms in the lawful defense of person or property.

(b) Carrying of concealed handgun prohibited. The carrying of a concealed handgun, as defined in G.S. ch. 14, art. 54B (G.S. 14-415.10—14-415.26), in any building or appurtenant premises owned, leased or occupied by the town for government purposes, and in all municipal parks, recreation areas and beach access areas, is prohibited.

(c) Posting of prohibition. The prohibition against carrying a concealed weapon shall be enforceable in any government building and appurtenant premises and in any park described in subsection (b) of this section, upon the posting of a notice stating "the carrying of a concealed handgun on these premises is prohibited and illegal." This notice shall be posted in a conspicuous location near the entrance to any such premises.

(d) Violation. Violation of subsection (b) of this section shall be punishable as provided in G.S. 14-415.21(b).

- **Sec. 22-5. - Shooting or discharge of arrows prohibited.**

It shall be unlawful for any person to shoot or discharge, by bow or otherwise, any arrow or similar projectile of deadly force within the town's corporate limits. The exception of this section is archery practice on private property.

- **Sec. 22-6. - Responsibility of parents or guardians of minors.**

It shall be unlawful for any person, being the parent or guardian of any minor, to permit or suffer such minor to violate any provision of sections 4-26 and 22-5.

- **Sec. 22-7. - Confiscation of guns, animal traps, etc.**

In addition to other penalties, the chief of police or any member of the police department may seize and hold, subject to order of the court, any gun or pistol, firearm, air rifle, spring gun or pistol, compressed air rifle or pistol, or other similar device which impels with force any shot or pellet of any kind, or any bow or arrow, or similar projectile or device used to shoot or discharge a projectile; or any animal trap which shall be used within the town in violation of section 4-26.

- **Sec. 22-8. - Posters, signs, etc.; posting on buildings, poles, etc.**

It shall be unlawful for any person to post or cause to be posted, upon garbage racks, buildings, telephone and electric light poles, or any other structure situated within the town and adjacent to or on the streets, roadways and access areas within the town, any poster, sign, bill or other advertising medium; provided that such prohibition shall not apply to such lawful signs as are permitted in chapter 36, pertaining to zoning.

- **Sec. 22-9. - Landing of helicopters prohibited**

It shall be unlawful for any person to land a helicopter in the town except at a town designated landing area. Nothing in this section shall prohibit the landing of a helicopter in emergency situations at a site other than a town designated site for the transporting of injured or critically ill patients, the landing of a government owned helicopter for official purposes, or the landing of a helicopter with an inflight emergency.

- **Sec. 22-10. - Public urination prohibited.**

(a) Offense. No person shall urinate in the town except in facilities (including mobile units) designed and constructed for the disposal and containment or elimination of human waste.

(b) Penalties. Violations of the provisions of this section shall be a misdemeanor under G.S. 14-4 and punishable by a fine not to exceed \$50.00 and/or 30 days imprisonment. Each violation shall be a separate offense.

Chapter 34 - WATERWAYS AND BEACHES

- **Sec. 34-51. – Surfing**

No person shall use or operate a surfboard within the waters of the Atlantic Ocean bounded on the north by a prolongation of the northern boundary of the town and on the south by a prolongation of the southern boundary of the town, the same being the northern boundary of the Town of Kitty Hawk, unless a leash is physically attached to the surface of the surfboard and the opposite end of the leash is looped so that the leash shall be placed around the ankle or wrist of the user of the surfboard for the control thereof while operating in these waters. Every such surfboard user or operator shall be required to physically maintain control of the surfboard by the attachment of the leash at all times while in the water to the ankle or wrist in order to avoid injury to bathers. A "surfing leash" is defined as a line capable of being attached to a board used for surfing and to the surfer, which is of sufficient diameter and strength to restrain the board at a distance from the surfer no greater than the length of the line. This section shall not apply to other floatation devices, used in similar fashion as a surfboard and commonly called boogie boards, or rubber rafts and such similar floatation devices which are made of rubber, styrofoam or similar soft material.

- **Sec. 34-52. - Reserved.**

Editor's note— Ord. No. 2011-03-01, art. I, adopted Mar. 1, 2011, repealed § 34-52, which pertained to personal watercraft operation and derived from Code 1988, § 10-14; an ordinance adopted Oct. 2, 1990, pt. II; an ordinance adopted Mar. 12, 1996, pts. I, II; an ordinance adopted Nov. 1, 1999, pt. 2; an ordinance adopted Oct. 3, 2000, pt. 2; and Ord. No. 04-06-01, art. III, adopted June 1, 2004.

- **Sec. 34-53. - Swimming prohibited during dangerous conditions**

(a) It is recognized that during certain periods of time, as a result of a combination of environmental conditions, dangerous riptides and undercurrents occur in the ocean surf making ocean conditions unsafe for swimmers. The town manager is authorized, when the manager shall make a determination

that conditions are unsafe for swimmers in the Atlantic Ocean, to prohibit all swimming in the Atlantic Ocean until such time as they shall determine that the unsafe conditions have abated. During such periods in which swimming is prohibited and after notice is given to the public by announcement on the local radio station and by the posting of signs on the public accesses to the Atlantic Ocean, swimming in the Atlantic Ocean shall be unlawful. The town manager and chief of police shall make the determination of whether or not ocean conditions are safe based upon observations of the effects of winds, tides, storm conditions and other environmental conditions affecting the surf in the Atlantic Ocean. They shall also take into consideration weather reports of existing storms in the Atlantic Ocean and the proximity of those storms to the beaches of the town, and the effect thereof.

(b) The term "swimming," as used in this section, is defined to mean and include any entry into the water of the Atlantic Ocean whether or not assisted by a raft, float, or other aid or device commonly used, but shall not include any entry assisted by a surfboard as defined in this section. The term "surfboard," as used in this section, shall be defined as a fiberglass and foam combination, at least five feet in length, having a minimum of one fin and used in conjunction with a leash.

- **Sec. 34-54. - Prohibition of motorized vessels on Duck Woods Pond.**

No person shall operate a boat of any type, jet ski or other vehicle, which vessel contains an internal combustion engine, over, upon or underneath the waters of Duck Woods Pond. This prohibition includes all water vessels which may have an internal combustion auxiliary engine.

Chapter 12 - EMERGENCY MANAGEMENT

ARTICLE II. - STATE OF EMERGENCY

- **Sec. 12-35. - Declaration; restrictions authorized**

(a) A state of emergency shall be deemed to exist whenever, during times of public crisis, disaster, rioting, catastrophe or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

(b) In an existing or threatened state of emergency, endangering the lives, safety, health and welfare of the people within the town or any part thereof, or threatening damage to or destruction of property, the mayor is hereby authorized and empowered under G.S. 14-288.12 to issue a public proclamation declaring to all persons the existence of such 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 or all of the restrictions hereinafter authorized. Nothing herein shall limit the authority of the town when such authority has been otherwise granted or inferred by law.

(c) The mayor is hereby authorized and empowered to limit, by proclamation, the application of all or any part of such restrictions to any area specifically designated or described within the town, and to specify hours of the day or night, and to exempt from all or any part of such restrictions, while acting in the line of and within the scope of their respective duties, law enforcement officers, firefighters and other public employees, rescue squad members, 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.

- **Sec. 12-36. - Proclamation imposing prohibitions and restrictions.**

(a) The mayor, by proclamation, may impose the prohibitions and restrictions specified in sections 12-37 through 12-42 in the manner described in those sections. The mayor may impose as many of those specified prohibitions and restrictions as he finds are necessary, because of an emergency, to maintain an acceptable level of public order and services, and to protect lives, safety, and property. The mayor shall recite his findings in the proclamation.

(b) The proclamation shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in the town hall. The mayor shall retain a text of the proclamation and furnish, upon request, certified copies of it for use as evidence.

- **Sec. 12-37. - Curfew**

(a) The proclamation may impose a curfew prohibiting, in certain areas and during certain periods, the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area and the period during each 24 hours to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the mayor finds necessary for the preservation of the public health, safety and welfare. The proclamation shall state the exempt classes and the restrictions from which each is exempted.

(b) Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the mayor, by proclamation, removes the curfew.

- **Sec. 12-38. - Restrictions on possession, consumption or transfer of intoxicating liquor**

The proclamation pursuant to this article may prohibit the possession or consumption of any intoxicating liquor, including beer and wine, other than on one's own premises, and may prohibit the transfer, transportation, sale or purchase of any intoxicating liquor within the area of the town

described in this proclamation. The prohibition, if imposed, may apply to transfers of intoxicating liquor by employees of alcoholic beverage control stores as well as by anyone else within the geographical area described.

- **Sec. 12-39. - Restrictions on possession, transportation and transfer of dangerous weapons and substances.**

(a) The proclamation pursuant to this article may prohibit the transportation or possession off one's own premises, or the sale or purchase of, any dangerous weapon or substance. The mayor may exempt, from some or all of the restrictions, classes of people whose possession, transfer or transportation of certain dangerous weapons or substances is necessary to the preservation of the public health, safety or welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

(b) As used in this section, the term "dangerous weapon or substance" means:

(1) Any deadly weapon, ammunition, incendiary device, explosive, gasoline or other instrument or substance designed for a use that carries threat of serious bodily injury or destruction of property;

(2) Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument will be so destructively used;

(3) Any part or ingredient in any instrument or substance included in subsections (b)(1) and (2) of this section.

(c) If imposed, the restrictions shall apply throughout the jurisdiction of the town or such part thereof designated in the proclamation.

- **Sec. 12-40. - Restriction on access to areas.**

(a) The proclamation, pursuant to this article, may prohibit obtaining access, or attempting to obtain access, to any area, designated in the manner described in this section, in violation of any order, clearly posted notice, or barricade, indicating that access is denied or restricted.

(b) Areas to which access is denied or restricted shall be designated by the town manager. When acting under this authority, the town may restrict or deny access to any area, street, highway or location within the town if that restriction, or denial of access or use, is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

- **Sec. 12-41. - Evacuation of areas.**

The proclamation, pursuant to this article or any amendment thereto, may require the emergency evacuation of any area. The proclamation shall state the geographic boundaries of the area to be evacuated and, upon issuance of the proclamation, the town manager shall take all necessary action to remove all persons from the area and to deny access to the area, as set out in section 12-40.

- **Sec. 12-42. - Prohibitions and restrictions generally.**

The proclamation, pursuant to this article, may prohibit or restrict:

- (1) Movements of people in public places;
- (2) The operation of offices, business establishments and other places to or from which people may travel or at which they may congregate;
- (3) Price gouging, defined as the sale of goods in excess of the manufacturer's suggested retail price or at a price above the pre-emergency level, unless the merchant can document purchase of the goods at increased cost. Any restrictions imposed under this subsection shall extend for a period of 90 days following the date of the declaration of the state of emergency unless sooner terminated by proclamation or resolution.
- (4) Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.