

Sec. 1-22. - General penalty.

(e) Violations of the provisions of this Code or failure to comply with any of its requirements shall not constitute a misdemeanor as provided in G.S. 14-4, unless any specific penalty set forth elsewhere provides to the contrary.

Sec. 4-2 Town as bird sanctuary

It shall be unlawful to intentionally kill, trap, maim, wound, molest, or impound a bird of any species not designated as unprotected by the wildlife resources commission of the state without first obtaining a permit pursuant to G.S. 113-87.

(c) Violation of this section shall be a misdemeanor.

Sec. 4-3. - Prohibited animals.

(a) *Prohibition.* It shall be unlawful to own, keep, harbor, maintain, care for or otherwise possess any wild animals, any barnyard animals or any animal with a poisonous or toxic bite within the municipal limits of the town except in conformance with a federal, state or local program designed to protect and promote the public health, safety and welfare and which program has been approved in advance by the board of commissioners.

(b) *Removal or destruction of prohibited animals.* The owner of an animal prohibited by this section shall remove the animal from within the municipal limits of the town, or shall have the animal humanely destroyed, either by personally arranging for such destruction or by relinquishing the animal to the police department or other authorized representative of the town for such purpose.

(Ord. of 1-1-1991, § 1-2; Ord. of 9-1-1994, § 3; Ord. of 8-5-1999; Ord. of 1-8-2009, § 1; Ord. of 3-6-2014, § 1-2)

Sec. 4-4. - Permitted animals.

Conditions. Those animals not specifically prohibited by [section 4-3](#) (a) shall be permitted subject to the following conditions:

(1) *Unlicensed animals at large.* It shall be unlawful for any owner to allow or permit any unlicensed animal to be at large within the municipal limits of the town.

(2)

Animals which constitute a nuisance. It shall be unlawful for any owner to keep or maintain within the municipal limits of the town any dog or other animal that habitually or repeatedly:

- a. Barks or makes noise;
- b. Roams in a pack of three or more; or
- c. Damages, destroys or otherwise interferes with real or personal property of others; or
- d. Chases, snaps at, or approaches a person in a menacing fashion off the premises of its owner.

(3) *Animals kept in numbers.* It shall be unlawful for any owner to keep or maintain within the municipal limits of the town any permitted animals in such numbers or so housed as to result in noxious or offensive odors or loud or disagreeable noises, thereby constituting a public nuisance.

(4) *Vicious animals.* Any owner of a vicious animal must keep such animal confined at all times while on the owner's premises. Any vicious animal beyond the premises of its owner must be securely muzzled and

restrained by a chain or leash no longer than six feet in length and under the physical restraint of an individual at least 18 years of age. The muzzle shall be made in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent such animal from biting any human or other animal. Further, the owner of a vicious animal shall comply with the following provisions within 30 days after any determination or decision that the animal is a vicious animal, which determination or decision either is not appealed within the period provided in [section 4-8\(a\)](#) or is not subject to further appeal:

a. The owner shall display in a prominent place on the owner's premises a clearly visible warning sign, which shall be provided by the town, indicating that there is a vicious animal on the premises. The same warning sign must be posted on the pen or structure in which such animal is confined.

b. The owner shall provide to the town clerk proof of public liability insurance in the amount of at least \$500,000.00 insuring the owner for any personal injuries inflicted by the vicious animal and such insurance policy shall name the town as an additional insured.

(5) *Potentially dangerous animals and dangerous animals.* Any owner of a potentially dangerous animal or dangerous animal must ensure that said animal is kept within the confines of the owner's yard. Any potentially dangerous animal or dangerous animal beyond the premises of its owner must be securely restrained by a chain or leash no longer than six feet in length and under the physical restraint of a person.

(6) *Horses.* Notwithstanding anything contained herein to the contrary, and in addition to all other conditions required by this chapter, no person shall stable, tie or otherwise keep one or more horses within the town, except in accordance with the following additional conditions:

a. No less than annually, the owner of any horse kept in accordance herewith shall file with the town clerk proof of a negative Coggins test and a state certificate of veterinary inspection, neither less than 12 months old;

b. The minimum lot size shall be three acres;

c. The maximum number of horses shall be one horse for the first three acres, and one horse per each additional one acre;

d. The minimum setback of stables, barns and related structures for the keeping of horses, as well as pastures, shall be 50 feet from the property boundary where said horses are kept;

e. All stables, barns and related structures for the keeping of horses, as well as all areas for pasture, shall be confined within a fenced enclosure constructed for such use and maintained in good repair. Further the same shall be regularly cleaned in a manner to fully minimize noxious or offensive odors and to minimize any risk or threat to the health, safety and welfare of the general public; and

f. All horses shall be kept and maintained for the private use of an occupant and/or owner of the real property where kept. In no case may horses be kept for a fee, or for commercial purposes. Public stables are expressly prohibited.

(b) *Permitted animals in violation.* Any permitted animal found in violation of subsection (a) of this section shall be subject to the following:

(1) *Impoundment.* Any such permitted animal may be taken up and impounded by a police officer or other authorized representative of the town and delivered to the Craven County animal shelter or to an authorized representative of the county for impoundment. It shall be unlawful for any person to obstruct or interfere in any way with the impoundment of an animal pursuant to this section, or to release or attempt to release an animal being so impounded. No notice to the owner shall be required prior to impoundment pursuant to this section; provided, however, that a reasonable effort shall be made to notify the owner of a licensed animal prior to impoundment.

(2) *Destruction of permitted animals.* A permitted animal may be properly destroyed by a police officer or other authorized representative of the town without prior notice to the owner in the following circumstances:

- a. Where an animal cannot be captured and impounded safely due to resistance by the animal resulting in danger to the police officer, other authorized representative of the town or the public in general.
- b. Where the animal reasonably appears to be suffering from rabies or any other infectious disease which threatens public safety, or from a life-threatening injury or disability.

c. Where the animal is in the act of biting, attacking, pursuing, injuring or killing any person or any domestic animal.

(Ord. of 1-1-1991, § 1-3; Ord. of 9-1-1994, § 4; Ord. of 2-24-2003; Ord. of 4-10-2003; Ord. of 1-8-2009, §§ 2, 3; Ord. of 8-5-2010, § 1; Ord. of 3-6-2014, § 1-3)

Sec. 4-5. - Rabies vaccination; licensing of dogs and cats.

(a) *Rabies vaccination.* It shall be unlawful to own, keep, harbor, maintain, care for or otherwise possess within the municipal limits of the town any dog or cat unless it shall have been vaccinated against rabies as required by G.S. 130A-185.

(b) *Licensing of dogs and cats.*

(1) Each dog and cat owned, kept, harbored, maintained, cared for or otherwise possessed within the municipal limits of the town shall be licensed by the town:

a. For a fee of \$10.00 upon showing proof of current rabies inoculation, proof of sterilization, and the name, current address and telephone number, if any, of the owner; or

b. For a fee of \$15.00 upon showing of proof of current rabies vaccination and the name, current address and telephone number of the owner. Each such proof is to be in writing and signed by a doctor of veterinary medicine licensed by the state.

(2) Each dog and cat shall be licensed within 30 days after being brought into the town. Renewal of the license for each dog and cat is required when the rabies vaccination expiration date on file with the town occurs on or before June 30 of the calendar year. A fee of \$10.00 and proof of current rabies vaccination must be presented on or before June 30 of the calendar year in which license renewal is required.

(3) There shall be a late fee of \$5.00 for each dog and cat license renewed after July 31 of the calendar year in which license renewal is required. Such late fee shall be in addition to and not in substitution for any fines and/or penalties imposed for failure to license any dog or cat pursuant to the provisions hereof.

(4) A license tag issued by the town and evidencing such licensing shall be attached to each dog and cat so licensed at all times when the dog or cat is not confined.

(5) Replacement of lost license tags shall be issued upon application to the town for a fee.

(Ord. of 1-1-1991, § 1-4; Ord. of 7-8-1997; Ord. of 1-8-2009, §§ 3—5; Ord. of 3-6-2014, § 1-4; Ord. of 3-16-2017, § 1-4)

State Law reference— Rabies control, G.S. 130A-184 et seq.

Sec. 4-6. - Enforcement.

Any person in violation of this chapter shall be subject to the following enforcement provisions:

(1) *Civil citation.* A police officer or other authorized representative of the town is empowered to issue a civil citation to any owner where there is reasonable cause to believe that the owner has violated any provision of this chapter. A civil penalty shall be levied against any such owner for each violation of this chapter, such civil penalty to be in the amount of \$25.00 for the first violation of this chapter and increased

by \$10.00 for each subsequent violation of this chapter, which penalty shall be paid within 30 days of the date of the citation or appealed as provided for in [section 4-8](#).

a. In addition to the penalties referenced in subsection (a) of this section, the owner of any animal determined by the animal control officer or any other authorized representative of the town to be a vicious animal, dangerous animal or potentially dangerous animal shall be subject to the following civil penalties:

1. \$75.00 for each animal declared potentially dangerous;
2. \$150.00 for each animal declared dangerous; and
3. \$225.00 for each animal declared vicious.

b. In the event that an animal's conduct results in repeated determinations that said animal is a potentially dangerous animal, dangerous animal or vicious animal, the civil penalties referenced in subsection (1)a.1 through 3 of this section shall double with each subsequent determination.

(2) *Criminal prosecution.* A police officer or other authorized representative of the town is empowered to prosecute criminally any owner where there is reasonable cause to believe that the owner has violated any provision of this chapter. Such violation shall constitute a class 3 misdemeanor punishable upon conviction by a fine not to exceed \$50.00.

(3) *Injunction.* A police officer or other authorized representative of the town is empowered to apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction commanding any person violating this chapter to cease such violation. Such an action shall be governed by the laws and rules governing civil proceedings, including the state rules of civil procedure in general and Rule 65 in particular.

(4) *Combination of remedies.* The provisions of this chapter may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(Ord. of 1-1-1991, § 1-5; Ord. of 2-24-2003; Ord. of 3-6-2014, § 1-5)

Sec. 4-7. – Notices

(a) Service of all notices provide for under this article may be effected by one of the following methods or by any other method permitted by law:

(1) By personally delivering a copy of the notice to the owner or to any person capable of receiving process for the owner being served under Rule 4 of the state rules of civil procedure. Any notice personally delivered shall be served when delivered or deemed served if refused or rejected.

(2) By mailing a copy of such notice by registered or certified mail, return receipt requested, addressed to the owner. Any notice so mailed shall be served when delivered or deemed served if refused or rejected.

(b) If either of the methods of service specified above is attempted without success, then the notice may be served by publishing the notice one time in a newspaper having general circulation in the town. Any notice so published shall be deemed served upon publication.

(Ord. of 9-1-1994, §§ 1, 5; Ord. of 3-6-2014, § 1-6)

Sec. 4-8. - Appeals.

- (a) The owner of any animal determined by the animal control officer or any other authorized representative of the town to be a potentially dangerous animal, dangerous animal, or vicious animal and notified of such determination as provided in [section 4-9](#) may appeal the determination to the board of animal control by filing written objections with the town within three days after service of the aforesaid notice. Appellate filing fees will be \$50.00 per appeal, per animal, payable to the town. In the event that the board of animal

control reverses the decision of the animal control officer, the owner shall be entitled to a refund of the appellate filing fee.

(b) All citations for violation of the provisions of this article other than those provided for in subsection (a) of this section shall be made by filing written objections with the town within 30 days of the date of the citation.

(c) All appeals from the provisions of this article other than that provided for in subsections (a) and (b) of this section shall be as that provided by applicable law.

(Ord. of 9-1-1994, §§ 1, 5; Ord. of 2-24-2003; Ord. of 3-6-2014, § 1-7)

Sec. 4-9

- Once any animal is determined by the animal control officer or any other authorized representative of the town to be a potentially dangerous animal, dangerous animal or vicious animal, the animal control officer or authorized representative of the town shall notify the animal's owner in writing:

(1) That the animal has been determined to be a potentially dangerous animal, dangerous animal or vicious animal; and

(2) The reasons for the determination.

(Ord. of 3-6-2014, § 1-9)

Secs. 4-10—4-36. - Reserved.

Sec. 4-6 Enforcement

(1) *Civil citation.* A police officer or other authorized representative of the town is empowered to issue a civil citation to any owner where there is reasonable cause to believe that the owner has violated any provision of this chapter. A civil penalty shall be levied against any such owner for each violation of this chapter, such civil penalty to be in the amount of \$25.00 for the first violation of this chapter and increased by \$10.00 for each subsequent violation of this chapter, which penalty shall be paid within 30 days of the date of the citation or appealed as provided for in [section 4-8](#).

a. In addition to the penalties referenced in subsection (a) of this section, the owner of any animal determined by the animal control officer or any other authorized representative of the town to be a vicious animal, dangerous animal or potentially dangerous animal shall be subject to the following civil penalties:

1. \$75.00 for each animal declared potentially dangerous;
2. \$150.00 for each animal declared dangerous; and
3. \$225.00 for each animal declared vicious.

b. In the event that an animal's conduct results in repeated determinations that said animal is a potentially dangerous animal, dangerous animal or vicious animal, the civil penalties referenced in subsection (1)a.1 through 3 of this section shall double with each subsequent determination.

(2) *Criminal prosecution.* A police officer or other authorized representative of the town is empowered to prosecute criminally any owner where there is reasonable cause to believe that the owner has violated any provision of this chapter. Such violation shall constitute a class 3 misdemeanor punishable upon conviction by a fine not to exceed \$50.00.

(3) *Injunction.* A police officer or other authorized representative of the town is empowered to apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction commanding any person violating this chapter to cease such violation. Such an action shall be governed by the laws and rules governing civil proceedings, including the state rules of civil procedure in general and Rule 65 in particular.

Sec 8-1 Solicitation generally prohibited

It shall be unlawful for any person to go in or upon any lot on which a private residence is located for the purpose of selling, dispensing, or hawking goods, wares, merchandise, or services, or for the purpose of soliciting orders for the sale of such goods, wares, merchandise, or services to the occupants of such private residences or for the purpose of soliciting for donations of money for any purpose from the occupants of such private residence unless such person has first been requested or invited so to do by the owner or occupant of the private residence.

(b) Violation of this section shall be a misdemeanor.

Sec. 10-3. - Penalty for violation.

In addition to the penalties as set forth in [section 1-22](#), violation of any provision of this chapter shall constitute a misdemeanor as set forth in G.S. 14-4.

(Ord. of 6-7-2016(3), § 3)

Sec. 10-4. - Determination of state of emergency; 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 of property or whenever the occurrence of any such condition is imminent.

(b) In the event of an existing or threatened emergency which has the potential to endanger the lives, safety, health or welfare of the people within the town or any part thereof, or threatens damage to or destruction of property, the mayor is hereby authorized and empowered to issue a state of emergency declaration 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. The mayor will provide notification to all town commissioners and the town clerk as soon as possible after such a declaration has been issued.

(c) The mayor is hereby authorized and empowered to establish and activate an emergency management organization to respond to the existence of such a state of emergency in order to more effectively protect the lives and property of people within the town.

(d) The mayor is hereby authorized and empowered to limit by declaration the application of all or any part of such restrictions to any area specifically designated or described within the town and to specific 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, town commissioners, law enforcement officers, firefighters, 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.

(Ord. of 6-7-2016(3), § 4)

Sec. 10-5. - Declaration imposing prohibitions and restrictions.

(a) The mayor, by declaration, may impose the prohibitions and restrictions specified in this [section 10-5](#) through [section 10-9](#) in the manner described in those sections. The mayor may impose as many of the specified prohibitions and restrictions as are determined to be 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 declaration.

(b) The declaration shall be in writing. The mayor shall take reasonable steps to give notice of the terms of the declaration to those affected by it, including the media and emergency communications systems. The mayor shall retain a text of the declaration and furnish upon request certified copies of it for use as evidence. The mayor shall immediately notify the county director of emergency services, town commissioners, and the town clerk of the issuance of the declaration.

(Ord. of 6-7-2016(3), § 5)

Sec. 10-6. - Curfew.

(a) The declaration 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 declaration shall specify the geographical area or areas and the period during each 24-hour day to which the curfew applies. The mayor may exempt from some or all of the curfew restrictions classes of people whose exemptions the mayor finds necessary for the preservation of the public health, safety and welfare. The declaration shall state the exempted classes and the restrictions from which each is exempted.

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

(Ord. of 6-7-2016(3), § 6)

Sec. 10-7. - Restrictions on possession, consumption or transfer of alcoholic beverage.

The declaration 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 the declaration. 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.

(Ord. of 6-7-2016(3), § 7)

Sec. 10-8. - Restrictions on possession, transportation and transfer of dangerous weapons and substances.

(a) The declaration may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance, except lawfully possessed firearms and ammunition. 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 declaration shall state the exempted classes and the restrictions from which each is exempted.

(b) For the purposes of 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 a 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 or substance will be so destructively used.

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

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

(Ord. of 6-7-2016(3), § 8)

Sec. 10-9. - Restrictions on access to areas.

(a) The declaration 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 chief of police and his subordinates when directed and specified in the declaration to do so by the mayor. When acting under this authority, the chief of police and his subordinates 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.

(Ord. of 6-7-2016(3), § 9)

Sec. 10-10. - Effect of declaration.

(a) The declaration issued under this chapter may prohibit or restrict all or any of the following:

(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) 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 declaration.

(b) The declaration issued under this chapter may direct a voluntary or mandatory evacuation of all or part of the town.

(c) Rescue or any other emergency services may not be provided dependent upon the nature of the conditions during the time period when the state of emergency declaration is in effect.

(Ord. of 6-7-2016(3), § 10)

Sec. 10-11. - Amendments of declaration.

The mayor may amend or extend the declaration issued under this chapter from time to time, making such modifications as would have been authorized to include in the original declaration.

(Ord. of 6-7-2016(3), § 11)

Sec. 10-12. - Removal of prohibitions and restrictions.

The mayor shall, by additional declaration, remove the prohibition and restrictions when it has been determined that the emergency no longer requires them, when emergency conditions have abated or when directed to do so by the board of commissioners.

(Ord. of 6-7-2016(3), § 12)

Sec. 10-13. - Separate and superseding declarations.

The mayor, in his discretion, may invoke the restrictions authorized by this chapter in separate declarations, and may amend any declaration by means of superseding declaration.

(Ord. of 6-7-2016(3), § 13)

Sec. 10-14. - Absence or disability of mayor.

- In case of the absence or disability of the mayor, the mayor pro tem shall have and exercise all of the powers given the mayor by this chapter.

(Ord. of 6-7-2016(3), § 14)

Sec. 10-15. - Emergency operations plan.

The chief of police shall maintain an emergency operations plan (EOP) and will update the plan, if needed, based on the experience of the town. The EOP will be presented to the board of commissioners in January of each year for their review and concurrence.

(Ord. of 6-7-2016(3), § 15)

Sec. 10-16. - Debris removal during public emergencies.

- (a) The town has the authority and responsibility to protect the public health and safety, to enter upon and clear debris from public and private streets, to clear and remove debris to permit access by public emergency vehicles and other municipal service providers.

(b) In a natural or manmade disaster that has been declared a public emergency by the town, the town may exercise its authority to implement the measures set forth herein.

(c) In order to respond to emergency conditions, the town must expeditiously clear debris from all roads, including roads in private communities. This is necessary to eliminate an imminent threat to the public health, safety and welfare.

(d) The town is hereby authorized to remove debris from private roads, rights-of-way, and ingress/egress easements in private communities. The actions authorized hereby do not permit debris removal except from streets (and rights-of-way and ingress and egress easements), to clear streets for emergency vehicle travel and delivery of services essential to the public health and safety. No other property will be cleared in a private community. This shall apply only to streets where the town regularly provided access for emergency vehicles and the enforcement of town regulations as well as access for municipal and other public service vehicles. Debris will be removed only where there is unrestricted access during removal times.

(e) The town shall conduct similar operations on public streets.

(Ord. of 9-16-2011, §§ 2—6)

Sec. 12-21. - Powers and duties of law enforcement.

(a) Powers of law enforcement officers. In order to implement and enforce this article effectively, the law enforcement officers of the town and any other law enforcement officers providing mutual aid shall possess the power to conduct inspections and issue citations for violation of this article. A law enforcement officer may:

(1) Upon presentation of credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant or other court order may be sought by the officer from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this article may exist.

(2) Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating any provision of this article, and reasonably test and inspect the same at the site to determine whether a violation of this article has occurred.

(b) Duties of law enforcement officers. In order to implement and enforce this article effectively, law enforcement officers shall investigate and pursue possible violations of this article.

(c) Penalties for offenses. In addition to the penalties as set forth in section 1-22, violation of any provision of this chapter shall constitute a misdemeanor as set forth in G.S. 14-4.

(Ord. of 10-23-2008, § 3)

Sec. 12-22. - Prohibited acts.

(a) Noise disturbances prohibited. No person shall make, continue, or cause to be made or continued any noise disturbance. Noncommercial public speaking and public assembly activities lawfully conducted on any public space or public right-of-way shall not qualify as noise disturbances.

(b) Specific prohibitions. The following acts and any reasonably similar acts are declared to be loud, disturbing, and unusually excessive noises in violation of this article:

(1) Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier, or similar device which produces, reproduces, or amplifies sound:

a. Between the hours of 11:00 p.m. and 7:00 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone.

b. In such a manner as to create a noise disturbance at 50 feet from such a device, when operated in or on a motor vehicle on a public right-of-way or public space, or in a motorboat or other vessel which operates on public waters; or

c. In such a manner as to create a noise disturbance to any person other than to the operator of the device, when operated by any passenger on a common carrier.

This subsection shall not apply to noncommercial spoken language covered under subsection (a) of this section.

(2) Loudspeakers and public address systems. Using or operating for any purpose any loudspeaker, public address system, or similar device such that the sound therefrom creates a noise disturbance

across a real property boundary or within a noise sensitive zone; or between the hours of 10:00 p.m. and 7:00 a.m. the following day on a public right-of-way or public space.

(3) Street sales. Offering for sale or selling anything by shouting or outcry within any area of the town, except in a stadium or sports arena.

(4) Animals and birds. Owning, possessing or harboring any animal or bird which frequently or for continued duration makes any sound which creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(5) Loading or unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects, between the hours of 10:00 p.m. and 7:00 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

(6) Construction and demolition.

a. Operating or permitting the operation of any tools or equipment used in construction or demolition work, except in the case of an official emergency between the hours of 10:00 p.m. and 7:00 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a sensitive zone.

b. This subsection shall not apply to the use of domestic power tools subject to subsection (12) of this section.

(7) Aircraft and aircraft operations. Nothing in this section shall be construed to prohibit, restrict, penalize, enjoin, or in any manner regulate the movement of aircraft which are in all respects conducted in accordance with, or pursuant to, applicable federal laws or regulations.

(8) Explosives, firearms, and similar devices. The use or firing of explosives firearms, firecrackers and other fireworks, or similar devices which create impulsive sound so as to cause a noise disturbance across a real property boundary or on a public space or right-of-way.

(9) Stationary non-emergency signaling devices.

a. Sounding or permitting the sounding of any signal from any stationary bell, chime, siren, whistle, or similar device, intended primarily for non-emergency purposes, from any place for more than one minute in any hourly period.

b. Devices used in conjunction with places of education and religious worship shall be exempt from the operation of this provision.

(10) Emergency signaling devices.

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subsection (b)(10)b of this section.

b. Testing of a stationary emergency signaling device shall occur at the same time of day each time such a test is performed, but not before 8:00 a.m. or after 9:00 p.m.

(11) Noise sensitive zones. Creating or causing the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within such zone.

(12) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tools, or similar device used outdoors, in residential areas between the hours of 10:00 p.m. and 7:00 a.m. the following day so as to cause a noise disturbance across a residential real property boundary.

(13) Motor vehicles, motorcycles, and motorboats.

a. Generally, no person shall operate a motor vehicle, motorcycle, or motorboat which causes noise disturbance across a real property boundary, within a noise sensitive zone, a public right-of-way, public space, or public waterway as a result of:

1. A defective or modified exhaust system;
2. Any unreasonably rapid acceleration, deceleration, engine revving or tire squealing; or
3. Overloading or ill-repair which causes unusually excessive grating, grinding, rattling or other noise.

b. Repairs and testing. Repairing, rebuilding, modifying, or testing any motor vehicle, motorcycle, or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone is prohibited.

c. Horns and signaling devices of motor vehicles and motorcycles. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle except as a danger or emergency warning is prohibited.

(14) Engine exhausts. The discharge into the open air within the town of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine, or other kind of type of engine, motorboat or motor vehicle, unless a muffler or other device which will effectively prevent loud or explosive noises therefrom is used.

(Ord. of 10-23-2008, § 4)

Sec. 12-23. - Exceptions.

(a) Emergency exception. The provisions of this article shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency, or the emission of sound in the performance of emergency work authorized by the town or another governmental entity.

(b) Permit exception. This article shall not apply for activities described in a permit issued by the board of commissioners.

(Ord. of 10-23-2008, § 5)

Secs. 12-24—12-49. - Reserved.

ARTICLE III. - ABANDONED PROPERTY[3]

Sec. 12-50. - Definitions.

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

Abandoned means having no electrical connection or service for a period of 90 days, unless there is a valid building permit issued for repairs and/or renovations to the same.

Abandoned property means any lot, parcel or tract of real land where the primary building, regardless of use, is abandoned. The term "abandoned property" shall not be deemed to include any accessory or incidental structure that may otherwise be abandoned if the primary building is not abandoned.

Primary building means a building or structure in which is conducted the principal or main use of the lot, parcel or tract of land on which it is located.

(Ord. of 11-6-2014, art. 1)

Sec. 12-51. - Certain conditions declared public nuisances.

The existence of any of the following conditions on any abandoned property within the corporate limits of the town is hereby declared to be dangerous and prejudicial to the public health, safety, or welfare, and to constitute a public nuisance:

- (1) The uncontrolled growth of noxious weeds or grass to a height in excess of 24 inches causing or threatening to cause a hazard detrimental to the public health, safety or welfare;
- (2) Any accumulation of brush, yard waste, rubbish, trash, garbage, hazardous waste, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;
- (3) Any primary building which is partially or wholly burned or otherwise partially or wholly damaged or destroyed, and which is hazardous to the safety of any person, is a continuing fire hazard, or is structurally unsound to the extent that the maintenance director reasonably determines that there is a likelihood of injury to any person or property entering the premises;
- (4) Allowing bushes and shrubbery to grow beyond the property line and/or in the public right-of-way towards the street in a manner that restricts visibility of traffic passing on the street or impedes the delivery of the United States postal service;
- (5) Trees uprooted or severely damaged, including tree that are excessively leaning, which may cause hazards which are detrimental to the public health and safety and/or to any private or public property;
- (6) The open storage of any abandoned ice box, refrigerator, stove, appliances, glass, building material, building scraps, inoperable boats or personal watercraft, or similar items; and
- (7) Allowing any condition to remain once an authorized federal, state, county or town official or employee declares it to be detrimental to the public health or safety.

(Ord. of 11-6-2014, § 2-1)

Sec. 12-52. - Complaint and investigation.

The maintenance director, upon notice from any person of the existence of any of the conditions described in section 12-51, shall cause to be made such investigation as may be necessary to determine whether, in fact, conditions exist as to constitute a public nuisance as declared in section 12-51.

(Ord. of 11-6-2014, § 2-2)

Sec. 12-53. - Notice to abate nuisance.

Upon a determination that the conditions constituting a public nuisance exist, the maintenance director, or his designee, shall notify, by certified mail, the owner and any other person in possession of the real property in question of the conditions constituting the public nuisance, and shall order the prompt abatement thereof within 15 days from the date of the written notice. In the discretion of the maintenance director, such notice may be hand-delivered by law enforcement officials. In the event that the owner and/or any other person in possession of the abandoned property cannot reasonably be determined, then notice hereunder shall be given by posting of the same in a conspicuous place upon the primary building.

(Ord. of 11-6-2014, § 2-3)

Sec. 12-54. - Hearing.

(a) Within seven days from receipt of the notice provided for in section 12-53, the owner, occupant, or person in possession of the abandoned property may request a hearing before the maintenance director, to be conducted at town hall, or other place agreed to by the parties. The maintenance director shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, all parties affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the maintenance director official shall consider the evidence before him and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

(b) An aggrieved party may appeal the decision of the maintenance director to the board of commissioners of the town, which appeal shall be heard at the next regularly scheduled meeting of the board of commissioners. The appeal process before the board of commissioners shall be the same as in subsection (a) of this section.

(c) An aggrieved party may appeal any decision of the board of commissioners, by filing an appeal to the county superior court within 30 days after the decision of the board of commissioners.

(Ord. of 11-6-2014, § 2-4)

Sec. 12-55. - Removal and/or abatement by town.

(a) Upon the occurrence of either of the following conditions:

(1) A hearing is requested and held under section 12-54 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and the order is not complied with within ten days of said final or reinstate order; or

(2) No hearing is requested or held, and the person having been ordered to abate the public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order;

the town then shall cause the condition to be removed or otherwise remedied by having employees or agents of the town to remove or otherwise abate the nuisance under the supervision of the maintenance director.

(b) Any person who has been finally ordered to abate a public nuisance may, within the time allowed by this article, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(Ord. of 11-6-2014, § 2-5)

Sec. 12-56. - Costs incurred by owner; administrative fees.

(a) The actual cost incurred by the town in removing or otherwise remedying a nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the town's deputy tax collector to mail a statement of the charges to the owner or other person in possession of the real property with instructions that the charges are due and payable within 30 days from the receipt thereof.

(b) In addition to actual costs incurred by the town as assessed under subsection (a) of this section, the town shall also impose an administrative fee as a cost of the abatement in an amount as follows:

(1) First offense in a calendar year \$100.00

(2) Second offense in a calendar year 250.00

(3) Third and subsequent offenses in a calendar year 500.00

(Ord. of 11-6-2014, § 2-6)

Sec. 12-57. - Charges to be a lien.

If charges for the removal or abatement of a nuisance as assessed under section 12-56 are not paid within 30 days after the receipt of a statement of charges as provided for in section 12-56, the charges shall become a lien upon the real property where the nuisance existed, and shall be collected as unpaid taxes, as provided in G.S. 160A-193.

(Ord. of 11-6-2014, § 2-7)

Secs. 12-58—12-89. - Reserved.

ARTICLE IV. - ABANDONED AND JUNKED VEHICLES[4]

Sec. 12-90. - Administration.

(a) The police chief of the town shall be responsible for the administration and enforcement of this article. The police chief shall be responsible for administering the removal and disposition of vehicles determined to be a "junked motor vehicle" or a "nuisance motor vehicle."

(b) Nothing in this article shall be construed to limit the legal authority or powers of officers of the town police department in enforcing other law or in otherwise carrying out their duties.

(Ord. of 7-8-2014, § 1)

Sec. 12-91. - Definitions.

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

Police chief means the town police chief or his designee.

Motor vehicle means any machine designed or intended to travel over land or water by self-propulsion, including watercraft, or while attached to a self-propelled motor vehicle.

Junked motor vehicle.

(1) The term "junked motor vehicle" means a vehicle that:

a. Does not display a current license plate; and

b. Is either:

1. Partially dismantled or wrecked;

2. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

3. Is more than five years old and appears to be worth less than \$500.00.

(2) The following shall not constitute a "junked motor vehicle" regulated by this article:

a. A vehicle which is kept or stored at a bona fide "automobile graveyard" or "junkyard," as defined in G.S. 136-143;

b. A vehicle which is located such that it is not visible from a public street or highway, or from a private subdivision street or road; or

c. A vehicle which is used on a regular basis for business or personal use.

Nuisance motor vehicle means a motor vehicle on public or private property determined and declared to be a health or safety hazard, a public nuisance, and unlawful by any authorizing official, including a motor vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, 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 having 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 its falling or turning over;
- (7) A point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
- (8) One having sharp parts which are jagged or contain sharp of metal.

Watercraft means any boat, vessel, craft, or other conveyance that is designed to be used, or is made to use, for the transportation of persons, goods, or a combination thereof, upon or under the water; except that inflatable pool rafts, un-motorized water skis, and other similar small devices are excluded.

(Ord. of 7-8-2014, § 2)

Sec. 12-92. - Junked motor vehicles prohibited.

It shall be unlawful to maintain a junked motor vehicle anywhere within the ordinance-making jurisdiction of the town.

(Ord. of 7-8-2014, § 3)

Sec. 12-93. - Nuisance motor vehicles 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 motor vehicle is located, to leave or allow the motor vehicle to remain on the property after it has been declared a nuisance motor vehicle.

(b) Upon investigation, any authorizing official may determine and declare that a motor vehicle is a nuisance motor vehicle and order the motor vehicle removed. Upon determination by the town that a motor vehicle is a nuisance motor vehicle, the town may immediately cause such a vehicle to be towed from either public or private property. In the event that a vehicle is towed immediately pursuant to this provision, the town shall give notice to the owner of the vehicle as required by G.S. 20-219.11(a) and (b).

(c) The actual cost incurred by the town in removing or otherwise remedying a nuisance motor vehicle shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the town's tax collector to mail a statement of the charges to the owner or other person in possession of the real property with instructions that the charges are due and payable within 30 days from the receipt thereof.

(d) If charges for the removal or abatement of a nuisance motor vehicle are not paid within 30 days after the receipt of a statement of charges, the charges shall become a lien upon the real property where the nuisance existed, and shall be collected as unpaid taxes, as provided in G.S. 160A-193.

(Ord. of 7-8-2014, § 4)

Sec. 12-94. - Procedure for determining whether a vehicle is a junked motor vehicle subject to towing.

The town shall determine whether a vehicle is a junked motor vehicle, and is subject to towing, only as follows:

(1) Step 1. Determination whether vehicle is a junked motor vehicle. The police chief shall personally view the alleged junked motor vehicle. If the police chief determines that the vehicle is not a junked motor vehicle, then no further action shall be taken. If the police chief determines that the vehicle is a junked motor vehicle as defined above, then he shall proceed to step 2. In viewing any alleged junked motor vehicle, the police chief shall first obtain the landowner's consent to enter the property, or otherwise obtain an administrative warrant in accordance with the provisions of G.S. Ch. 15, Art. 4A (G.S. 15-27.2).

(2) Step 2. Balancing of aesthetic benefits vs. private hardship.

a. After viewing the junked motor vehicle and the surrounding area, the police chief shall determine whether the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed on the owner of the junked motor vehicle. In making this determination, the police chief may consider the following, factors:

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 a character and integrity of the community;
5. Promotion of the comfort, happiness, and emotional stability of area residents; and
6. Any other factors reasonably related to the balancing of aesthetic benefits against burdens imposed upon the owner of the junked motor vehicle.

b. The police chief must make written findings showing his consideration of the relevant factors, and must make a written finding as to whether the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed on the owner of the junked motor vehicle. If the police chief finds that the aesthetic benefits of removing the junked motor vehicle do not outweigh the burdens imposed upon the owner of the junked motor vehicle, then no further action shall be taken. If the police chief finds that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle, then he shall proceed to the next step.

(3) Step 3. Notice to owner. If the police chief has determined that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle, then he shall give notice, or make a diligent attempt to give notice, to the owner of the junked motor vehicle, as follows:

a. If the junked motor vehicle has a North Carolina registration plate or registration, written notice shall be given to the registered owner by certified mail by placing said notice in the mail within 24 hours after the determination is made, and notification by telephonic communication shall be made if the owner's telephone number can be ascertained.

b. If the junked motor vehicle is registered in some other state, written notice shall be given to the registered owner by certified mail by placing said notice in the mail within 72 hours after the determination is made, and notification shall be made by telephonic communication to the owner as soon as the owner's identity can be ascertained.

c. If the junked motor vehicle is not registered in any state, or its state registration cannot be determined, the police chief shall make diligent efforts to obtain the name, address and telephone number of the owner, mail written notice, and give notice by telephonic communication to the owner as soon as the owner's identity can be obtained.

d. If after reasonable diligence the owner cannot be identified, or if the owner otherwise has not been given notice, written notice shall be posted on the windshield, or some other conspicuous place at least seven days prior to towing, after having obtained the landowner's consent or an administrative warrant.

e. No pre-towing notice need be given if the junked motor vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare to the extent that immediate towing is necessary.

(4) Step 4. Contents of written notice. The written notice required by this section shall include the following information:

a. A description of the vehicle and vehicle identification number, if available;

b. A statement that the town has determined that the vehicle is a junked motor vehicle in violation of this article, and the date on which this determination was made;

c. A statement that the town intends to cause the vehicle to be towed to an automobile graveyard or junkyard no sooner than 30 days after the date of determination;

d. The name and address of the automobile graveyard or junkyard to which the vehicle will be towed; and

e. A description of a procedure which the owner must follow to appeal to the county magistrate to contest the proposed towing.

(5) Step 5. Towing. If the owner of the junked motor vehicle has not filed a written request for a hearing before a county magistrate within 30 days after the determination that the aesthetic benefits of towing a junked motor vehicle outweigh the burdens on the junked vehicle's owner, as provided in this section, the police chief may cause the vehicle to be towed immediately upon the expiration of the 30-day period. If the owner makes a timely written request for a hearing before a magistrate, then the police chief shall not cause the vehicle to be towed until and unless the magistrate determines that there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article. If the magistrate determines that there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article and the owner appeals to the district court as provided in this section, the police chief may nonetheless cause a vehicle to be towed pending the decision of the district court, but no tower's lien imposed pursuant to law shall be enforced until such time as the district court rules on such appeal.

(6) Step 6. Owner's right to hearing before magistrate. Within 30 days after the date of the determination that the aesthetic benefits of towing a junked motor vehicle outweigh the burdens on the

junked vehicle's owner, the owner of a vehicle which the police chief has determined to be a junked motor vehicle may make a written request to a county magistrate to determine whether there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article. Such hearing, if properly requested by the owner, shall be conducted pursuant to G.S. 20-219.11.

(7) Step 7. Appeal to district court. Any party aggrieved by the magistrate's decision may appeal from the magistrate's decision to county district court.

(Ord. of 7-8-2014, § 5)

Sec. 12-95. - Tower's lien.

Upon towing a junked motor vehicle at the police chief's request pursuant to this article, the tower shall have a lien upon the vehicle for towing and storage fees as by law provided. Such lien may be enforced only in accordance with applicable provisions of G.S. Ch. 44A.

(Ord. of 7-8-2014, § 6)

Sec. 12-96. - Option to pay or post bond.

At any time after the junked motor vehicle has been towed, the owner may obtain possession of the vehicle by:

- (1) Paying the towing fee; or
- (2) Posting a bond for double the amount of the towing fee.

(Ord. of 7-8-2014, § 7)

Sec. 12-97. - Town authorized to enter into contracts.

For the purpose of facilitating the enforcement of this article, the town may enter into contracts with one or more towers, automobile graveyards and/or junkyards for the removal and disposition of junked motor vehicles and nuisance motor vehicles.

(Ord. of 7-8-2014, § 8)

Sec. 12-98. - Liability of person disposing of junked motor vehicles under this article.

No person who removes a junked motor vehicle pursuant to this article shall be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

(Ord. of 7-8-2014, § 9)

Sec. 12-99. - Vehicle restoration permit.

A permit may be issued that allows persons to actively restore a vehicle that otherwise meets the definition of junked motor vehicle under the following conditions:

(1) Persons storing a junked motor vehicle outside a fully enclosed permanent structure for the purpose of restoration shall obtain a vehicle restoration permit from the town.

(2) This permit shall allow for one junked motor vehicle (hereinafter "restoration motor vehicle") and up to one parts vehicle that must be compatible with the restoration motor vehicle being restored.

(3) The permit allows for outdoor storage of the restoration motor vehicle and the parts vehicle for a period of up to one month.

(4) A maximum of two one month extensions may be granted upon request, provided substantial progress can be proven in the restoration of the restoration motor vehicle at each extension interval.

(5) Progress may be measured by receipts for the purchase of parts or services or visible reconstruction or deconstruction.

(6) At no time shall the restoration motor vehicle or the parts vehicle become a nuisance motor vehicle as defined in section 12-91.

(7) Upon the permit expiration date, the restoration motor vehicle and the parts vehicle shall be subject to section 12-92.

(8) The permit shall be placed on the restoration motor vehicle and the parts vehicle in a location viewable from outside said vehicles.

(9) The landowner shall give consent to the police chief to enter the property for the purpose of inspecting the restoration motor vehicle and the parts vehicle at the time the restoration permit is requested and when a request for extension is made with the town.

(Ord. of 7-8-2014, § 10)

Sec. 12-100. - Penalties.

Violation of this chapter shall be as set forth in section 1-22; provided, however, the civil penalty thereunder shall be \$100.00.

ec 12-21 Powers and duties of law enforcement

- *Powers of law enforcement officers.* In order to implement and enforce this article effectively, the law enforcement officers of the town and any other law enforcement officers providing mutual aid shall possess the power to conduct inspections and issue citations for violation of this article. A law enforcement officer may:

(1)

Upon presentation of credentials, enter and inspect any private property or place, and inspect any report or records at any reasonable time when granted permission by the owner or by some other person with apparent authority to act for the owner. When permission is refused or cannot be obtained, a search warrant or other court order may be sought by the officer from a court of competent jurisdiction upon showing of probable cause to believe that a violation of this article may exist.

(2)

Stop any motor vehicle, motorcycle, or motorboat operated on a public right-of-way, public space, or public waterway reasonably suspected of violating any provision of this article, and reasonably test and inspect the same at the site to determine whether a violation of this article has occurred.

(b)

Duties of law enforcement officers. In order to implement and enforce this article effectively, law enforcement officers shall investigate and pursue possible violations of this article.

(c)

Penalties for offenses. In addition to the penalties as set forth in [section 1-22](#), violation of any provision of this chapter shall constitute a misdemeanor as set forth in G.S. 14-4.

Sec. 16-13. - Penalties.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. of 2-10-1987, art. 3, § H)

Sec. 26-1. - Smoking prohibited in municipal facilities.

(a) The term "smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, or other combustible tobacco or other plant product in any manner or in any form.

(b) There shall be no smoking 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.

(Ord. of 10-7-1993, §§ 1, 2)

Secs. 26-2—26-20. - Reserved.

ARTICLE II. - EXCAVATION, REPAIRS AND CONSTRUCTION

Sec. 26-21. - Permit and agreement required for excavation.

It shall be unlawful for any person or entity to excavate, fill, and/or place any drain, drain tile, pipe, and/or driveway or do any other work within any street right-of-way in the town other than a street right-of-way under the authority and control of the state board of transportation without first securing from the town zoning enforcement officer ("zoning officer") a construction permit and encroachment agreement ("agreement") for such work. A separate agreement shall be required for each such excavation, filling, and/or placement or other work; provided, however, that when the excavation, filling, and/or placement or other work shall be deemed to be integrated into a single job, only one agreement shall be required therefor.

(Ord. of 10-6-2005(1), § 1)

Sec. 26-22. - Application requirements for agreement.

Each application for an agreement shall be made to the zoning officer and shall include a sketch of the proposed work, including the proposed dimensions and related elevations thereof, in such detail as is deemed by the zoning officer to be sufficient to establish that such work will not result in impairing or hindering substantially the use of the right-of-way as a way of passage or affecting adversely the drainage of surface waters therein. To the extent that the zoning officer deems necessary, the zoning officer shall defer to the board of commissioners in making a decision as to whether to issue an agreement applied for hereunder.

(Ord. of 10-6-2005(1), § 2)

Sec. 26-23. - Permittee duties under agreement.

All work done pursuant to an agreement shall be done in strict conformity therewith. During any and all such work, the permittee shall provide proper signs, signal lights, flagmen, and/or other warning devices for the protection of those using the right-of-way. The permittee shall exercise every reasonable precaution during the work to prevent the eroding of soil, the silting or pollution of rivers, streams, lakes, and other water impoundments, ground surface, or other property, or the pollution of air. Further, the permittee shall restore all areas disturbed by the work to the satisfaction of the zoning officer including, without limitation, the seeding or sodding necessary to establish such ground cover as may be deemed necessary. The permittee shall indemnify and hold the town harmless from any and all damages and claims for damage that may arise by reason of such work. Further, from and after the completion of such work, the permittee shall be responsible for the maintenance thereof to the satisfaction of the zoning officer.

(Ord. of 10-6-2005(1), § 3)

Sec. 26-24. - Application fee and related costs.

At the time of application for an agreement, the applicant shall pay to the town an application fee of \$250.00 to defray administrative costs incurred by the town in issuing the agreement and initial engineering costs incurred by the town in confirming that the work done pursuant thereto will not result in impairing or hindering substantially the use of the right-of-way as a way of passage or affecting adversely the drainage of surface waters therein and that such work is done in strict conformity with the agreement. To the extent that the permittee's failure to conform strictly with the terms of the agreement shall require the town to incur additional engineering costs related to subsequent inspections of the work permitted thereunder as evidenced by the engineer's statement for such costs, the permittee shall pay such costs immediately upon receipt of a statement therefor.

(Ord. of 10-6-2005(1), § 4)

Sec. 26-25. - Penalty.

Any person or entity who or which shall violate this article shall be guilty and shall be fined not more than \$50.00; provided, however, that in the event any excavation, filling, and/or placement or other work for which an agreement is required is done without an agreement; any work done pursuant to an

agreement is not done in strict conformity therewith and with the terms of this article; and/or the permittee shall fail to maintain the work done pursuant to such agreement as required hereby, the permittee shall correct any deficiency in such work to the satisfaction of the zoning officer within 30 days following receipt of notice from the town of such deficiency. Upon the failure of the permittee to correct such deficiency within such time, the town, at its expense, may correct same and thereafter recover such expense as a civil penalty in an action brought in the general court of justice for the county.

(Ord. of 10-6-2005(1), § 5)

Sec. 26-26. - Binding nature of agreements.

All agreements issued pursuant to this article shall be binding upon the permittee and the successors in title to the property of the permittee to be benefitted thereby.

(Ord. of 10-6-2005(1), § 6)

Secs. 26-27—26-54. - Reserved.

ARTICLE III. - PARADES AND DEMONSTRATIONS

Sec. 26-55. - Definitions.

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

Group demonstration means any assembly together, or consort of action between or among, 15 or more persons for the purpose of protesting any matter or of making known any position or promotion of such person or of or on behalf of any organization or class of persons or for the purpose of attracting attention to such assembly.

Parade means any parade, march, ceremony, show, exhibition, or procession of any kind in or upon the public streets, alleys, parks, or other public grounds or places.

Picket line means 15 or more persons formed together for the purpose of making known any position or promotion of such person or of or on behalf of any organization or class of persons.

(Ord. of 2-4-1999, § 1)

Sec. 26-56. - Exemptions.

The provisions hereof shall not apply to:

- (1) Funeral processions.
- (2) Students going to or from school classes or participating in educational or recreational activities where such activity is under the supervision and direction of proper school authorities.
- (3) Any governmental agency acting within the scope of its functions.

(Ord. of 2-4-1999, § 2)

Sec. 26-57. - Prohibited conduct.

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

- (1) The carrying on or about the person of any firearm or any weapon or article including, but not limited to, any blackjack, nightstick, or flashlight which, by its use, may constitute a deadly weapon.
- (2) The taking or keeping of any dog or vicious animal whether leashed or unleashed.
- (3) The obstruction of public ingress and egress on sidewalks and other public places.

(Ord. of 2-4-1999, § 3)

Sec. 26-58. - Unlawful focus of activity.

It shall be unlawful for any person to engage in any parade, picket line, or group demonstration which is conducted before or about or is focused upon the residence or dwelling of any particular person or group of persons.

(Ord. of 2-4-1999, § 4)

Sec. 26-59. - Hours of activity.

It shall be unlawful for any person to engage in any parade, picket line, or group demonstration except between the hours between 7:00 a.m. and 5:00 p.m. local time.

(Ord. of 2-4-1999, § 5)

Sec. 26-60. - Interference with parades, picket lines and demonstrations.

It shall be unlawful for any person to hamper, obstruct, impede, or interfere with any parade, picket line, or group demonstration being conducted in accordance with the provisions hereof.

(Ord. of 2-4-1999, § 6)

Sec. 26-61. - Permit.

(a) Groups of more than 15 people must obtain permits from the town in order to demonstrate, picket, or parade on or in public parks, sidewalks, or public grounds and places other than streets and roads.

(b) A permit from the town is required of any person or group of persons who wish to parade, picket, or demonstrate on public streets and roads. Such permit shall be conditioned upon public safety considerations including, but not limited to, time of the event, length of the event, required closure of public thoroughfares, and availability of law enforcement and emergency services personnel.

Sec. 26-62. - Criminal violation.

In addition to the penalties as set forth in section 1-22, violation of any provision of this chapter shall constitute a misdemeanor as set forth in G.S. 14-4.

Sec 26-62 Criminal violation

In addition to the penalties as set forth in [section 1-22](#), violation of any provision of this chapter shall constitute a misdemeanor as set forth in G.S. 14-4.

Sec. 204. - Penalties for violation.

- 204.1.

After the effective date of this Subdivision Ordinance ("Ordinance"), any person who subdivides land in violation of this Ordinance, transfers or sells land by reference to a plat showing a subdivision that has not received final approval hereunder and that has been recorded in the Office of the Register of Deeds, or otherwise violates any provision of this Ordinance, including the recording of any plat in the Office of the Craven County Register of Deeds showing a subdivision of land before the plat has received final approval hereunder, shall be guilty of a misdemeanor. The description by metes and bounds in an instrument of transfer or other document used in the process of selling or transferring land shall be a violation of this Ordinance, and does not exempt the transaction from this penalty, whether or not the description by metes and bounds in the instrument of transfer refers to any recorded or unrecorded map. Violators of this Ordinance shall also be subject to the provisions of [Section 1-22](#) of the Code of Ordinances, as well as the denial of a building permit. Provided, however, it is not a violation of this Ordinance to enter into a contract for the sale or lease of real property which complies with N.C.G.S. 160A-375(c).

- (e) 204.2.

In addition to the penalties set forth in Section 204.1 above, the violation of any provision of this Ordinance shall also be subject to the provisions of [Section 1-22](#) of the Code of Ordinances. The violation of any provision of this Ordinance shall be deemed to be committed on the date of recordation of an instrument of transfer or other document which transfers land in violation of this Ordinance. Each day's violation shall be considered a separate offense.

(Ord. of 11-9-1989, § 204)

Sec 8.5 Powers and duties

Oath. The chair of the Board, or any member acting as chair, and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the Board. Any person who, while under oath during a proceeding before the Board, **willfully swears** falsely is guilty of a Class 1 misdemeanor