

CHAPTER 14: NUISANCES

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§ 14-101 DEFINITIONS.

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

AGENT. The person who manages, or has custody of, a business building, or the person to whom rent thereon, if any, is paid.

APARTMENT or APARTMENT HOUSE or TENEMENT HOUSE. Every house, building, or portion thereof which is rented, leased, let, or hired out to be occupied, or is occupied, as the house, home, or residence of more than two families, living independently of each other and doing their cooking on the premises, or by more than one family upon a floor, so living and cooking, but having no common right in the halls, stairways, yards, water closets, or privies.

ASHES. The residue from the burning of wood, coal, coke, or other combustible material **ASHES** shall not include cremated human remains.

ATTACHED BUSINESS UNIT. A structure of two, or more, business offices constructed as one unit, such as a dental office, medical office, insurance office, or any other business in which the major activity is providing a service, or is clerical in nature and does not in itself produce a product.

BRUSHWOOD. Large, heavy yard trimmings resulting from heavy pruning or shrub removal, with maximum six-inch diameter at large end.

BUILDING MATERIAL. Lumber, brick, stone, dirt, carpet, plumbing materials, plaster, concrete, floor coverings, roofing material, gutters, and other materials, or substances, accumulated as a result of new construction, repairs, remodeling, or additions to existing structures or accessory structures, or demolition of such.

BULK CONTAINER. A commercially made metal container designed to store, and hold, rubbish and solid waste until the same can be collected for disposal, generally having a capacity of not less than four cubic yards, nor more than eight cubic yards, and capable of being serviced, and emptied, by automated machinery.

BULK SERVICE. A customer that stores, and disposes of, rubbish and solid waste in a bulk container.

BUSINESS BUILDING. Any structure, whether public or private, in the town that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale, or storage of goods, wares, or merchandise, or for the performance of work or labor, including, but not being limited to, hotels, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories in business

areas, and all outhouses, sheds, barns, and other structures on premises used for business purposes.

COLLECTION. The act of removing solid waste from a point of generation to an approved disposal site.

COLLECTION ON PRIVATE PROPERTY. The act of removing solid waste from private developments for an additional fee from a point of generation to an approved disposal site. **COLLECTION** shall be made at a mutually established location approved by the property manager and the Town Manager, or appointed designee for automated collection.

COMMERCIAL ESTABLISHMENT. Any structure or location, whether public or private, that is adapted for occupancy for the transaction of business, for the rendering of professional services, for amusement, for the display, sale, or storage of goods, wares, or merchandise, or for the performance of work or labor, including hotel rooms, rooming houses, office buildings, public buildings, stores, theaters, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories, and all other houses, sheds, barns, and other structures on premises used for business purposes. **COMMERCIAL ESTABLISHMENT** shall also include churches, houses of worship, or other religious, or eleemosynary, institutions, regardless of size.

CONDOMINIUM. Real estate, portions of which are designated for separate ownership, and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a **CONDOMINIUM** unless the undivided interests in the common elements are vested in the unit owners.

CONSTRUCTION AND DEMOLITION WASTE. Solid waste incident to maintenance, remodeling, or new construction, including, but not limited to, mineral matter, wood, sheetrock, shingles, and metal, but specifically excluding any substance which is contaminated by asbestos, lead based paint, or any other substance, the disposal of which is regulated as a toxic or hazardous material.

DISABLED PERSON. Any person who, by reason of infirmity, or other physical or mental impairment, is incapable of complying with the provisions of this article as it relates to the placement of refuse containers curbside. Included in the definition are children 12 years of age and under.

FAMILY LIVING UNIT. Single-family residences, single mobile homes, single-family living units in duplexes, apartments, and other multi-family dwellings, but shall not include hotels or motels.

FEE. The charge by the town associated with a good, or service, provided to, or for, the benefit of a customer.

GARBAGE. All putrescible wastes except sewage and body wastes, including all meat, vegetables, and fruit refuse commonly resulting from the handling, preparation, cooking and consumption of food, from, or on, any premises within the town limits.

GRAFFITI.

(1) Writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye, or other similar substances on public, or private, buildings, sidewalks, streets, structures, or places which such marking are not authorized, or permitted, by the property owner or possessor. For the purpose of this article, **GRAFFITI** shall include drawings, writings, markings, or inscriptions regardless of the content, or the nature, of the materials used in the act.

(2) Nothing in this article shall be construed to prevent temporary, easily removable chalk, or other water soluble markings, on public, or private, sidewalks, streets, or other paved surfaces which are used in connection with typical children's activities, such as drawings, or bases for stick ball, kickball, handball, hopscotch, or other similar activities. Nothing in this article shall be construed to prohibit temporary, easily removable chalk, or other water soluble markings, used in connections with any lawful business or public purpose, or activity.

HAZARDOUS HOUSEHOLD WASTE. Any of the following materials existing in a home because of their use in that home: pesticides; herbicides; petroleum products (epoxy resins, coal tar, polishes, thinners, mineral spirits, varnish, grease, and caulking materials); solvents; acids (muriatic, hydrochloric, sulfuric, and phosphoric); poisons (arsenic, lead, chrome, and warfarin compounds); alkaline material (photo developers, sodium hydroxide, and bleaches); oil based paints and stains, but not latex paints; batteries of all kinds, for cars, flashlights, smoke detectors, hearing aids, toys, watches, and similar batteries; antifreeze; and used motor oil.

HAZARDOUS MATERIAL OR HAZARDOUS WASTE. The following is an explanation of hazardous waste as published in the State Hazardous Waste Management Law adopted for the Federal Environmental Protection Agency (EPA), being G.S. §§ 130A-290 et seq. For the purposes of this article, the definition **HAZARDOUS WASTE** has been condensed. The terms defined are not inclusive of all items specified by the EPA regulations.

(1) **HAZARDOUS WASTE** is defined as potentially dangerous byproducts of our highly industrialized society which cannot be handled, treated, or disposed of without special precautions.

(2) It includes ignitable, corrosive, reactive, and toxic waste such as acetone, gasoline, and industrial alcohol, alkaline cleaners, acids, cyanide and chlorine, arsenic, pesticide wastes, paint, caustics, infected material, offal, fecal matter (human and animal), and explosives.

HEALTH OFFICIAL. The Chief Health Official of the County Health Department, or any health department including county, or any person whom he or she has authorized to perform any of the powers, or duties, conferred upon him or her by this article.

HOTELS AND MOTELS. Places of business whose primary business, and the one in which they are normally and

customarily engaged in, supplying temporary living quarters with limited family living facilities for short periods of time.

HOUSEHOLD SHARP MEDICAL WASTE. Any type of product capable of puncturing, or lacerating, the skin that is designed, or used, to treat, diagnose, or prevent a disease or medical condition, including, but not limited to, scalpels and hypodermic needles.

INDUSTRIAL AND COMMERCIAL WASTE. Wastes, including solids, semisolids, sludge, and liquids generated by an industry, commercial establishment, or other manufacturing enterprise that is not classified as a hazardous waste, or requires special handling such as oils, acids, and the like.

INFECTIOUS WASTE. A solid waste capable of producing an infectious disease. Examples of waste designated as **INFECTIOUS** are: micro-biological waste; pathological waste; blood products; improperly packaged sharps; and all other waste as defined in the medical waste management regulation under 15A N.C.A.C. 13B.1201 in the State Solid Waste Management Rules.

LIQUID WASTE. Any waste material that is determined to contain free liquid as defined in method 9095, Paint Filter Liquid Test, as described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Method*, as published in the Environmental Protection Agency Publication, No. SW-846, or any successor or equivalent publication.

LITTER. Any discarded human-made materials including, but not limited to, solid waste materials, industrial materials, household trash, business trash, building materials, scrap materials, and hazardous waste, as such terms are defined in this article, and not properly containerized, or prepared, for collection and disposal.

MULTI-FAMILY RESIDENTIAL UNIT. Two, or more, single-family dwellings constructed as one unit, such as apartment houses, motels, mobile home parks, townhouses, patio houses, or condominiums. Duplexes/triplexes built on public streets are not considered **MULTI-FAMILY RESIDENTIAL UNITS**.

NUISANCE. Any condition, or use, of property, or any act, or omission, affecting the condition, or use, of property, which directly threatens the safety of citizens; adversely affects the general health, happiness, security, and welfare of others; or is detrimental to the rights of others to the full use of their own property and their own comfort and happiness, because of decreased property values and the unattractiveness, and livability, of neighborhoods. Further, the Town Council finds, and declares, that the following specific conditions are prejudicial to the general health, safety, and welfare of the town and its citizens; lessen the attractiveness and livability of the town; and, when located on any lot or parcel of land within the town limits, are a **NUISANCE**.

OCCUPANT. The individual, firm, partnership, or corporation that has the use of, controls, or occupies any business building, apartment house, or tenement house, or any portion thereof, whether owner or tenant. In the case of vacant business buildings, apartment houses, or tenement houses, or any vacant portion of a business building, apartment house, or tenement house, the owner, agent, or other person having custody of the building shall have the responsibilities of an **OCCUPANT** of a building.

OCCUPANT. The person who has the use of, or occupies, any business building, or any part thereof, or who has the use, or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant business buildings, or any vacant portion of a business building, or in case of occupancy in whole, or in part, by the owner and agent of the building, such owner or agent shall be deemed to be, and shall have the responsibility of, an **OCCUPANT** of such building.

OPEN PLACE. Constitutes any portion, or area, of a property not enclosed by walls; this shall include, but not be limited to, carports, patios, porches, decks, terraces, lean-tos, outbuildings, and the like, which are exposed to the exterior and/or public view, including, but not limited to, front, side, and/or rear yards. Tarps, plastic sheeting, canvas sheeting, unfinished building materials, or the like shall not constitute walls.

OPENING. Any opening in foundation, sides, or walls, ground or first floor, or basement, including chimneys, eaves, grills, windows, ventilators, walk grates, elevators, and any pipes, wires, or other installations through which a rat may enter.

OWNER. The person owning the business building or premises, or agent of the building or premises, or the person to whom rent is paid; whether an individual, firm, partnership, or corporation. In the case of business buildings leased, or rented, with a covenant in the lease, or other agreement under which the lessee is responsible for maintenance and repairs, the lessee shall also be considered in such cases as the **OWNER** for the purpose of this article.

PHYSICAL DISABILITY. A medical condition, verified by a registered physician, that makes an individual physically unable to bring the automated refuse/automated recycling container to the curbside for collection, and where there is no one else residing in the household capable of taking the containers to the curbside.

PREMISES. Business houses, boardinghouses, rooming houses, offices, theaters, hotels, tourist camps, apartments, restaurants, cafs, bars, eating houses, hospitals, schools, private residences, mobile home parks, vacant lots, and other places where garbage, trash, or rubbish accumulates.

PRIVATE STREET. A street not open to public use, on private property, and not maintained by any governmental agency.

PRIVATE PROPERTY. All of that property, as described and set out in an owner's deed, including, but not limited to, yards, grounds, driveways, entrances or passageways, parking areas, storage areas, vacant land, and bodies of water, and including sidewalks, grass strips, one-half of alleys, curbs, or rights-of-way up to the edge of the pavement of any public street.

PUBLIC PROPERTY. All that property, except private property as herein defined, including, but not limited to, highways, streets, parks, recreation areas, sidewalks, grass strips, medians, curbs, or rights-of-way up to the edge of the pavement of any public street or body of water.

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

QUALIFYING CUSTOMER. A single-family detached home, duplex, or condominium regardless of the size of complex, or an apartment, tenement house, or townhome which, when combined with all other units located on the premises, is comprised of not more than six family living units.

RAT ERADICATION. The removal, killing, destruction, and extermination of rats by systematic use of traps, or by poisons and by other methods.

RAT HARBORAGE. Any condition which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside of a structure of any kind, including, but not limited to, conditions on vacant lots, creeks, branches, ditches, rubbish heaps, junkyards, and any other places inside, or outside, of structures which afford shelter, or provide a place, or situation, favoring the breeding, multiplication, or continued existence of rats.

RAT STOPPAGE or RAT-PROOFING. A form of construction to prevent ingress of rats into business buildings from the exterior, or from one building to another; it consists essentially of the closing, with material impervious to rat gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs, and foundations that may be reached by rats from the ground by climbing, or by burrowing.

REFUSE. All solid wastes, including garbage, rubbish, and trash.

ROLLOUT CONTAINER. A plastic or fiberglass container, having wheels for ease of movement and a lid which securely covers the bin designed to keep flies, and other vermin, from refuse, which is approximately 95 gallons in size, and designed for the automatic collection of refuse by town machinery.

RUBBISH or TRASH. Matter that is worthless or useless, or of no substantial, practical value, or matter that is of value only when it has decayed, or has been recycled. **RUBBISH** is solid waste, exclusive of garbage or ashes, including, but not limited to, leaves, pine needles, twigs, limbs, and other such parts of trees not useful as timber, and shall include the trunks and limbs of trees, even though useful for timber, when the same have been blown down or felled, either partially or totally, and which have become dried and flammable; tin or aluminum cans, bottles, papers, paper boxes or cartons, small light wood or crafting materials, rags, excelsior, rubber, leather, metals, wire or wire scraps, glass and crockery, but shall not include salvage automobiles, buses, or other items which, in the judgment of the town, is likely to cause damage to equipment of the town or injury to employees of the town, or is likely, because of the nature, size, or weight of the material, to handicap, or overburden, the automated equipment.

SHARPS CONTAINER. A container specifically manufactured for the disposal of sharp medical waste.

SINGLE BUSINESS UNIT. Any single, nonresidential unit that generates no more garbage per week than can be placed, or stored, in a maximum of one rollout container, with a total capacity of no more than 95 gallons, when accumulated between collections, such as a dental office, medical office, insurance office, or another business in which the major activity is providing a service, or is clerical in nature, and does not in itself produce a product.

SINGLE-FAMILY RESIDENTIAL UNIT. Any dwelling place occupied by one family, and not defined as a multi-family residential unit.

SOLID WASTE. Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including, by way of example and not by limitation, rubbish, garbage, commercial and industrial waste, scrap materials, junk, refuse, demolition and construction debris, and landscape refuse, but shall not include sludge from air or water pollution control facilities, septic tank sludge, or agricultural or unacceptable waste.

SOLID WASTE DISPOSAL FACILITY. Any land or structure, or combination of land area and structures, including dumps, landfills, and transfer stations used for storing, transferring, collecting, separating, processing, recycling, recovering, treating, salvaging, reducing, incinerating, or disposing of solid wastes.

STATIONARY BULK COMPACTOR. Any town approved container made of watertight construction that contains a packing mechanism and an internal, or external, power unit, and constructed so that the container can be emptied mechanically by means of automated equipment for the purpose of collection of solid waste.

TOWNHOME or TOWNHOUSE. An apartment, or other family living unit, which is capable of ownership separate, and apart, from other portions of the structure to which it is conjoined, or of which it may be a part, but of which there is no ownership interest in the common areas of the facility in the owner of the individual dwelling unit.

UNACCEPTABLE WASTE. Items which are not appropriate for disposal through this means, and includes, but is not limited to, sewage and its derivatives, special nuclear or by-product materials within the meaning of the Atomic Energy Act of 1954, being 42 U.S.C. §§ 2011 et seq., as amended, and hazardous waste.

UNIT. One single-family residence, or an individual apartment, motel room or suite, mobile home, townhouse, patio house, condominium, or cluster home in a multi-family residence, unless otherwise specified by the town.

WASTE. All useless, unwanted, or discarded materials resulting from industrial, commercial, agricultural, and residential

activities.

WHITE GOODS. Large household appliances, regardless of actual color, including, but not limited to, refrigerators, stoves, washers, dryers, and the like.

YARD WASTE. Vegetative matter, and other materials generated while providing normal maintenance to the yard areas adjacent to a single-family residential unit without earth, soil, or other mineral matter attached thereto, including, but not limited to, leaves, grass, twigs, limbs, hedge trimmings, plant trimmings, and shrubs. This shall not include plastic or synthetic fibers, lumber, rocks, gravel, dirt, or tree or shrubbery remains, except as specifically authorized herein, or soil contaminated with hazardous waste.

(Ord. 22-2018, passed 12-3-2018)

§ 14-102 NUISANCE.

Any condition specifically declared to be a danger to the public health, safety, morals, and general welfare of inhabitants of the town and a public nuisance by the Town Council, or is in violation of any town, county, or state health regulation, is considered to be a nuisance as follows, but not limited to:

(A) *Unfit habitat.*

- (1) Whatever renders the air, food, or water unwholesome;
- (2) Whatever building, erection, structure, or part of cellar thereof is overcrowded, or not provided with adequate means of ingress and egress, or is not sufficiently supported, ventilated, drained, cleaned, or lighted; and
- (3) An occupied or used improvement thereon without utility services resulting in conditions which are detrimental to the health, safety, or welfare of citizens, and the peace and dignity of the town.

(B) *Unsanitary, stagnant, or inhibited water.*

- (1) Any stagnant water, to include all cellars and foundations of houses whose bottoms contain stagnant or putrid water;
- (2) **DISEASE VECTORS**, an open place of collection of water where insects tend to breed; permitting of any stagnant water, filth, or any other matter harmful to health or comfort to remain on the premises of the owner, or premises under control by the owner or person in control within the corporate limits after 24 hours' notice of such condition;
- (3) All business organizations, such as public motor vehicle garages, service stations, dry cleaning establishments, and any other businesses or industrial organizations which shall discharge any petroleum products, chemicals, or other such substances which would, or could, pollute any creek or stream within the zoning jurisdiction of the town;
- (4) It shall be unlawful for any person to obstruct the flow of water in any stream or drainage way within the town by throwing, or placing, stumps, brush, rubbish, litter, or other material within, or along, the banks of any such stream or natural drainage way; and
- (5) Any improper, or inadequate, drainage on private property which causes flooding, interferes with the use of, or endangers in any way, the streets, sidewalks, parks, or other town-owned property of any kind; provided, that the notices required, and powers conferred, by this article by and on the public official in abating the nuisances defined by this subsection (B)(5) shall be given, and exercised, by the Town Manager or the Director of Public Works.

(C) *Rats, snakes, carcasses, and feral animals.*

- (1) Any building or premises which is constructed, or maintained, in such a manner so as to provide food, shelter, or protection for rats;
- (2) Firewood, if stored outdoors, shall be stacked orderly to prevent wildlife habitat; and
- (3) Hides, dried or green; provided, the same may be kept for sale in the town when thoroughly cured and odorless.

(D) *Junk.*

- (1) Any furniture originally intended for indoor or interior use, or outdoor furniture in disuse or disrepair;
- (2) Seating removed from motor vehicles;
- (3) Storage containers;
- (4) Automotive parts and/or supplies;
- (5) Inoperable appliances, or exercise equipment;
- (6) Other metal products of any kind, or nature, kept within an open place which have jagged edges of metal or glass, or areas of confinement; and
- (7) Junked motor vehicles on public grounds and private property. (See Chapter 10, Article XII, "Abandoned, Junk, and Nuisance Motor Vehicles".)

(E) *Plant overgrowth.*

(1) Weeds, grasses, and/or other vegetation on one's residential, business, or vacant lot which is over eight inches in height on the average, or to permit such lot to serve as a breeding place for mosquitoes, as a refuge for rats and snakes, as a collecting place for trash and litter, or as a fire hazard.

It will be the responsibility of the owner to cut, and remove, all weeds and other overgrown vegetation as often as necessary so as to comply with the provisions of this article. This provision shall not apply to lots greater than one acre, but shall be maintained in accordance with this provision to a depth of 20 feet from its property lines if, and only if, the adjacent property is occupied by a dwelling, or other structure located within 50 feet of such property. This provision will not apply to wooded vacant lots that are more than 75% covered with mature trees, or property that consist of ravines, creek banks, or severe slopes which may cause the maintenance dangerous or unsafe. Furthermore, this provision will not apply to vacant lots that are larger than three acres in size (for example, golf courses, farmland, vineyards, and the like). Natural means of plant removal is permitted on parcels of land greater than 200 acres;

(2) A place of vines, shrubs, or other vegetation over eight inches in height when such vines, shrubs, or vegetation are a focal point for any other nuisance enumerated in this article; provided, the nuisance herein defined by this section shall be cleared and cut only when it is necessary to abate any other nuisance described in this section;

(3) A place of growth of noxious vegetation, including poison sumac (*Rhus Vernix*), poison ivy (*Rhus Radicans*), or poison oak (*Rhus Toxicodendron*), in a location likely to be accessible to the general public; and

(4) Any hedge, shrubbery, tree, or plant along any street, alley, or sidewalk planted closer than 18 inches, or extending closer than 12 inches, or lower than 14 1/2 feet to such street, alley, or sidewalk, or any of the above-mentioned vegetation that obscures clear vision as located within the protected sight distance triangle.

(F) *Trash and waste.* The storage of garbage and trash in containers, as prescribed by this article, and the regular collection thereof by the town upon payment of fees and charges, as provided in this article, are hereby declared to be essential to the efficient operation of the town, and to the prevention of disease and protection to the public health. Any accumulation of rubbish or trash causing, or threatening to cause, the inhabitation therein of rats, mice, snakes, or vermin of any kind;

(1) Scattering of garbage or trash, storage of garbage or trash, except in containers as provided by this article, or the accumulation of trash by reason of nonpayment of fees or charges for its removal, is hereby declared to be a nuisance and a violation of this article;

(2) Under no circumstances shall trash or garbage be allowed to accumulate, or be stored, for a period longer than 30 days;

(3) Under no circumstances shall trash or garbage be dumped, or stored, on any right-of-way or in any alley, or on any lot without being placed in proper containers as prescribed herein;

(4) No industrial wastes, manure, debris from construction or repair work, leaves, trees, or tree trimmings may be dumped, or stored, within any right-of-way or in any alley;

(5) No owner or occupant of any premises shall prohibit, or prevent, weekly solid waste collection services at the premises; and

(6) An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind.

(G) *Public streets maintenance.*

(1) Failure to clean or clear a public street, property, and adjoining sidewalks of any earth, sand, or mud and debris related to a construction, timbering, or other similar land use project within 12 hours after notification by the town for major and minor thoroughfares, or within 24 hours after such notification for collector and local streets; however, if it is found by the town that the situation is causing a clear and present danger, or hazard, to traffic or the general public, such cleaning or clearing may be required to take place as soon after notification as practicable. This provision does not preempt any applicable federal, state, or county regulations applicable to said events; and

(2) Property owners are required to maintain any area of their property which is located between a public sidewalk and the curb of a paved street in accordance with the guidelines set forth in this section.

(H) *Odor.*

(1) Unsightly litter, foul, or offensive odors which remain upon, or emanate from, a property; and

(2) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person.

(I) *Construction materials.* Lumber and building supplies, earth, sand, and/or gravel on construction sites where the work is discontinued for a period of 60 days;

(J) *Graffiti.* It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession, or control, of property to fail to remove, or effectively obscure, any graffiti;

(K) *Animal sanitation.*

(1) Any person owning, harboring, walking, in possession of, or in charge of, a dog, which defecates on public property, public park property, public right-of-way property, or any private property without the permission of the private property owners, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this subsection (K) shall be placed in a suitable bag or other container that closes, and disposed of in a lawful manner;

(2) Any person, while harboring, walking, in possession of, or in charge of, a dog on public property, public park property, public right-of-way, or any private property without the permission of the private property owner, shall have, in possession, a bag or other container that closes, which is suitable for removing feces deposited by the dog; and

(3) The provisions of this subsection (K) shall not apply to visually impaired persons using dogs as guides.

(L) *Abandoned manufactured homes.* See Chapter 5, Article VII.

(Ord. 22-2018, passed 12-3-2018) Penalty, see §14-111

Statutory reference:

Similar provisions, G.S. § 160A-193.

§ 14-103 EXCEPTIONS.

The provisions contained in § 14-102(D) and (F) shall not apply to commercial property owners, including, but not limited to, junk yard dealers, salvage companies, yard waste recycling operations, cement, quarry, or other mining type businesses, whose operations include the accumulation, storage, sale, repair, or maintenance of such materials or objects, and who have obtained all applicable zoning and operating permits, and are following all applicable ordinances contained within the code of ordinances and the zoning ordinance. In addition, the provision contained in § 14-102(G)(1) shall not apply to stockpiled rock, stone, gravel, sand, earth, or other similar materials on sites utilized, and maintained, by the State Department of Transportation, or the municipality.

(Ord. 22-2018, passed 12-3-2018)

§ 14-104 NOTICE.

(A) Whenever the Code Official, or appointed designee, has determined that the conditions on a particular lot, or parcel of land, are a nuisance and should be abated, or otherwise corrected, the Code Official, or appointed designee, shall give notice to the owner, lessee, or other person in possession of the premises, in writing, setting forth the findings, and describing the appropriate corrective action. The Code Official, or appointed designee, may establish a deadline, not to exceed 60 days, for the abatement of the nuisance.

(B) The notice may be served upon the owner, occupant, or person in possession of the premises by at least one of the following methods:

(1) By delivering a copy of the notice to the person, or by leaving copies of the notice at the person's residence with some person of suitable age and discretion then residing on the premises;

(2) By mailing a copy of the notice by registered, or certified, mail, return receipt requested, addressed to the person to be served, and delivered to the addressee;

(3) By delivering a copy of the notice to any official, employee, or agent of a corporation, partnership, or business; or

(4) If, after a due and diligent effort, the person cannot be located, by posting a copy of the written notice in a prominent place upon the real property.

(Ord. 22-2018, passed 12-3-2018)

§ 14-105 REMOVAL OR ABATEMENT OF NUISANCES.

Upon investigation and discovery of any of the conditions deemed a nuisance, the Code Official, or appointed designee, shall make a written report of his or her findings, and may order that appropriate corrective action be taken, including the removal, or abatement, of such conditions by the person creating the nuisance, or by the owner, occupant, or other person in possession of the premises on which the nuisance is located. Prompt abatement is required within ten days from the receipt of such written notice.

(Ord. 22-2018, passed 12-3-2018)

§ 14-106 CHRONIC VIOLATOR.

The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the article, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property, and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A **CHRONIC VIOLATOR** is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.

(Ord. 22-2018, passed 12-3-2018)

Statutory reference:

Similar provisions, G.S. § 160A-200.1.

§ 14-107 REMOVAL OR ABATEMENT OF OTHER CONDITIONS.

Prior to ordering the removal of conditions which do not threaten the public safety, or pose a general threat to the health, safety, and general welfare of the citizens of the town, the Code Official, or appointed designee, shall first determine that such conditions are visible from adjacent property, or from a nearby street or highway, and that the benefits of removing, or correcting, the conditions outweigh the burdens imposed upon the private property owner. Such findings shall be based upon a balancing of the monetary loss of the owner against the corresponding gain to the public by promoting, or enhancing, the community, neighborhood, or area appearance, including protection of property values, indirect protection of public health and safety, preservation of the character and integrity of the community, and the promotion of comfort and quality of life of area residents.

(Ord. 22-2018, passed 12-3-2018)

§ 14-108 APPEAL.

Within the time period stated in the notice to abate, the owner or occupant of the property where the nuisance exists may appeal the findings of the Code Official to the Board of Adjustment (BOA) by appearing before the BOA at the appeal hearing date and time given on said notice. The abatement of the nuisance will be postponed by the Code Official until the final determination for the appeal is made by the BOA. The BOA will need to make a four-fifths finding to overturn the Code Official's ruling. In the event no appeal is taken within the time period stated to abate, the Code Official may proceed to abate the nuisance.

(Ord. 22-2018, passed 12-3-2018)

§ 14-109 REMOVAL BY TOWN.

If any person, having been ordered to abate a public nuisance pursuant to this article, fails, neglects, or refuses to abate, or remove, the condition constituting the nuisance within 15 days from receipt of such order, the designee may cause such condition to be removed, or otherwise remedied, by having employees of the town, or contracted work, go upon such premises and remove, or otherwise abate, such nuisance under the supervision of an official, or employee designated by the Code Official. Any person who has been ordered to abate a public nuisance may, within the time allowed by this article, request the town, in writing, to remove such condition, the cost of which shall be paid by the person making such request. The town may require such requestor to deposit some, or all, of the estimated cost of such removal prior to doing the work, or may require the requestor to execute an agreement giving security for the payment of such costs.

(Ord. 22-2018, passed 12-3-2018)

§ 14-110 EMERGENCY ACTION.

Notwithstanding the provisions of § 14-109, the Code Official, or appointed designee, shall have authority to summarily remove, abate, or remedy, or cause to be removed, abated, or remedied, any condition that is dangerous, or prejudicial, to the public health or public safety.

(Ord. 22-2018, passed 12-3-2018)

§ 14-111 PENALTIES.

(A) Any violation of the articles of this chapter shall subject the offender to a civil penalty in the amount of \$50. Violators shall be issued a written citation which must be paid within 72 hours of receipt. Such citation shall be served by either first class mail, personal service, or posted at the front door. Any of these methods of service shall be conclusively presumed to be valid, and no owner or occupant shall refuse service of the citation.

(B) Each day's continuing violation shall be considered a separate, and distinct, offense.

(C) Notwithstanding subsection (A) above, provisions of this article may be enforced through equitable remedies issued by a court of competent jurisdiction.

(D) In addition to, or in lieu of, remedies authorized in subsections (A) and (C) above, violations of any articles of this chapter may be prosecuted as a misdemeanor, or otherwise, in accordance with G.S. § 160A-175.

(Ord. 22-2018, passed 12-3-2018)

§ 14-112 RIGHT OF ENTRY.

The Code Official, or appointed designee, is hereby given full power and authority to enter upon the premises upon which a nuisance is found to exist under the provisions of this article for the purpose of abating the nuisance, as provided in this article.

(Ord. 22-2018, passed 12-3-2018)

§ 14-113 COST OF ABATEMENT DECLARED LIEN.

(A) The actual cost incurred by the town in removing, or otherwise remedying, a public nuisance shall be charged to the owner of such lot, or parcel of land, and it shall be the duty of the Finance Department or Public Services Department to mail a statement of such charges to the owner, or other person in possession of such premises, with instructions that such charges are due, and payable, within 30 days from the receipt thereof.

(B) If charges for the removal, or abatement, of a public nuisance are not paid within 30 days after the receipt of a statement of charges, such charges shall become a lien upon the land, or premises, where the public nuisance existed, and shall be collected as unpaid taxes.

(C) The procedure set forth in this article shall be in addition to any other remedies that may exist under law for the abatement of public nuisances, and this article shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this article.

(D) All ordinances, or parts of ordinances, in conflict with this article are hereby repealed. If any part of this article shall be adjudged invalid, such adjudication shall apply only to such part so adjudged, and the remainder of the article shall be deemed valid and effective.

(Ord. 22-2018, passed 12-3-2018)

§ 14-114 OPEN BURNING.

(A) Open burning shall be permitted only in accordance with 15A N.C.A.C.02D.1903, and such other statutes and rules as may be adopted by the state. The statute 15A N.C.A.C.02D.1903 authorizes open burning without a state permit for several purposes, including, but not limited to, the following:

(1) Open burning of leaves, tree branches, or yard trimmings, excluding logs and stumps, if the following conditions are met:

- (a) The material burned originates on the premises of private residences, and is burned on those premises;
- (b) There are no public pick up services available;
- (c) Non-vegetative materials, such as household garbage, lumber, or any other synthetic materials, are not burned;
- (d) The burning is initiated no earlier than 8:00 a.m., and no additional combustible material is added to the fire between 6:00 p.m. on one day and 8:00 a.m. on the following day;
- (e) The burning does not create a nuisance; and
- (f) Material is not burned when the Division of Forest Resources has banned burning for that area.

(2) Open burning for land clearing or right-of-way maintenance if the following conditions are met:

(a) The wind direction at the time that the burning is initiated, and the wind direction as forecasted by the National Weather Service at the time that the burning is initiated, are away from any area, including public roads within 250 feet of the burning, as measured from the edge of the pavement or other roadway surface, which may be affected by smoke, ash, or other air pollutants from the burning; and

(b) The location of the burning is at least 1,000 feet from any dwelling, group of dwellings, or commercial or institutional establishment, or other occupied structure not located on the property on which the burning is conducted.

(B) For a complete list of open burning activities authorized without a state permit, a property owner should contact either the Code Enforcement Officer, or the staff at the NC DENR, Division of Air Quality.

(Ord. 22-2018, passed 12-3-2018)

ARTICLE II: NOISE

Section

- 14-201 Unnecessary noises prohibited
- 14-202 Same: noise expressly prohibited
- 14-203 Penalty

Statutory reference:

Authority to regulate noise, G.S. § 160A-184.

§ 14-201 UNNECESSARY NOISES PROHIBITED.

It shall be unlawful to create, or assist in creating, permit, continue, or permit the continuance of, any unreasonably loud, disturbing, and unnecessary 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.

(Code 1976, § 11.2) Penalty, see § 14-203

§ 14-202 SAME: NOISE EXPRESSLY PROHIBITED.

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

- (A) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after, or as brakes are being applied, and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary, and unreasonable, period of time;
- (B) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle;
- (C) The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker, or any other instrument, or sound amplifying devices, so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance; provided, however, that upon application to the Town Manager, permits may be granted to responsible organizations to produce programs in music, speeches, or general entertainment; church chimes and bells operated between the hours of 7:00 a.m. through 11:00 p.m. shall not violate this article;
- (D) The keeping of any animal or bird which, by causing frequent or loud continued noise, shall disturb the comfort and repose of any person in the vicinity;
- (E) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded, or in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise;
- (F) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin, or stop, work, or as a warning of danger;
- (G) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud, or explosive, noises therefrom;
- (H) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced;
- (I) The erection (including excavation), demolition, alteration, or repair of any building in a residential district, other than between dawn until dusk, except in the case of urgent necessity in the interest of public safety, and then only with a permit from the Town Manager, which permit may be renewed for a period of three days, or less, while the emergency continues;
- (J) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same is in session, or within 150 feet of any hospital, which unreasonably interferes with the working of such institution; provided, conspicuous signs are displayed in such streets indicating that the same is a school, court, or hospital street;
- (K) The creation of any excessive noise on Sabbath days on any street adjacent to any church, or other religious institution; provided, conspicuous signs are displayed in such streets adjacent to churches, or other religious institutions, indicating that a church, or other religious institution, is located on the street;
- (L) 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;
- (M) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof;
- (N) The shouting and crying of peddlers, barkers, hawkers, and vendors which disturbs the quiet and peace of the neighborhood;
- (O) The use of any drum, loudspeaker, or other instrument, or device, for the purpose of attracting attention by creation of noise to any performance, show, or sale, or display of merchandise;
- (P) The use of any mechanical loudspeakers or amplifiers on trucks, or other moving vehicles, for advertising purposes, or other purposes except where specific license is received from the Board;
- (Q) The conducting, operating, or maintaining of any garage, or filling station, in any residential district so as to cause loud, or offensive, noises to be emitted there from between the hours of 11:00 p.m. and 7:00 a.m.;
- (R) The firing, or discharging, of squibs, crackers, gunpowder, or other combustible substance in the streets, or elsewhere, for the purpose of making noise or disturbance, except by permit from the Town Manager; and
- (S) It shall be unlawful for any person to play, use, or otherwise operate, either from a motor vehicle or as a pedestrian, any radio, tape player, or other sound amplification device emitting sound that is audible from a distance of 50, or more, feet from the source of the sound, unless such device is being used to request assistance, or warn against an unsafe condition.

(Code 1976, § 11.3) (Ord. 17-93, passed 10-18-1993; Ord. 30-98, passed 8-31-1998) Penalty, see §14-203

Cross-reference:

Animals, Ch. 4; Buildings and Building Regulations, Ch. 5; peddlers, soliciting, and itinerant merchants, §§ 6-401 et seq.; firearms regulated, § 15-101; Streets, Sidewalks, and Other Public Places, Ch. 19; Traffic and Motor Vehicles, Ch. 20.

§ 14-203 PENALTY.

Violation of this article shall be a misdemeanor. The penalty for any offense shall be a fine of \$50. This article may also be enforced by any, or all, method set forth in § 1-111.

(Ord. 17-93, passed 10-18-1993; Ord. 5-98, passed 2-16-1998)

ARTICLE III: COMMUNITY APPEARANCE STANDARDS

[Repealed]

Cross-reference:

The provisions of this article have been moved to §14-101.