

TITLE XIII: GENERAL OFFENSES

Chapter

- 130. MISCELLANEOUS OFFENSES**
- 131. LITTERING**
- 132. GRAFFITI CONTROL**

CHAPTER 130: MISCELLANEOUS OFFENSES

Section

- 130.01 Discharge of firearms
- 130.02 Disturbing public meetings
- 130.03 Injuring town property
- 130.04 Unnecessary noise
- 130.05 Curfew
- 130.06 Vandalism at the reservoir
- 130.07 Alcoholic beverages in public places

' 130.01 DISCHARGE OF FIREARMS.

(A) It shall be unlawful for any person to fire or discharge any rifle, gun, pistol, pellet gun, air gun, air pistol, air rifle, bow and arrow, bean shooter, India rubber sling, cannon cracker or other fireworks within the town, on or off his or her premises.

(B) Any person who shall knowingly and willfully permit his or her minor child under 18 years of age to discharge, fire, shoot or operate, within the town any air rifle, BB gun or pellet gun, shall be guilty of a misdemeanor.

(C) This section shall not apply to discharging of firearms in case of necessity for the legal protection and defense of person and property.

(1993 Code, ' 84.01) (Ord. 8, passed - -) Penalty, see ' 10.99

Statutory reference:

Authority to regulate and restrict firearms and pellet guns, see G.S. " 160A-189 and 160A-190

' 130.02 DISTURBING PUBLIC MEETINGS.

It shall be unlawful to behave in a boisterous or indecent manner or to create any disturbance at or near any public entertainment or meeting.

(1993 Code, ' 84.02) Penalty, see ' 10.99

' 130.03 INJURING TOWN PROPERTY.

It shall be unlawful to injure, damage, deface, trespass upon, break or injure any property belonging to the town.

(1993 Code, ' 84.03) Penalty, see ' 10.99

' Section 130.04 OFFENSES OF UNREASONABLE OR DISTURBING NOISE

Sec. 130.04(A) - Unlawful noises and sounds.

Subject to the provisions of this section, it shall be unlawful for any person, persons, or business entity to make, permit, continue, cause to be made, or to create any unreasonably loud, disturbing or unnecessary noise within the Town limits which does annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of persons or causes damage to property or business.

For purposes of this section, the following definitions shall apply:

(1) *Unreasonably loud.* Noise which is substantially incompatible with the time and location where created or heard to the extent that it brings about an actual or imminent interference with peace, rest, or good order.

(2) *Disturbing.* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of an area.

(3) *Unnecessary.* Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

In determining whether a noise is unreasonably loud, disturbing, or unnecessary, the following factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; whether the nature of the noise is usual or unusual; whether the origin of the noise is natural or unnatural; statements of any complaining witnesses, including any pictures or audio/video documentation produced by complaining witnesses; the character, nature and zoning of the area from which the noise emanates; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

Sec. 130.04(B) - Unlawful noise producing activities.

Notwithstanding any other provision of this section, the following acts and activities are declared to be unreasonably loud, disturbing, and unnecessary in violation of section 130.04(A), but this enumeration shall not be deemed to be exclusive.

- (1) *Blowing horns.* Sounding any horn, whistle or signal device on any automobile, motorcycle, bus or other vehicle or railroad train, except as a danger signal or as required by law, creating any unreasonably loud or disturbing sound or sounding such device for an unreasonable period of time.
- (2) *Radios, record players, etc.* Playing any radio, television set, record player, or musical instrument as to annoy or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, hotel, apartment, or any type of residence.
- (3) *Sound-producing equipment in vehicles.* Playing any radio, tape recorder, cassette player, compact disc, or other similar device for reproducing sound located on, or in, any motor vehicle on a public street, highway, or within, the motor vehicular area of any public or private parking lot or park, or drive through, if the sound generated or noise vibration therefrom is audible or can be felt at a distance of thirty (30) feet from sound producing equipment.
- (4) *Animals.* Keeping any animal or bird, which, by causing frequent or long continued noise, disturbs the comfort and repose of any person in the vicinity.
- (5) *Operation of vehicles.* Using any automobile, motorcycle, or other vehicle in such a manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise.

(6) *Blowing whistles.* Blowing 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.

(7) *Exhaust discharge.* Discharging 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 any unreasonably loud, disturbing, or unnecessary noise therefrom.

(8) *Compressed air devices.* Using any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(9) *Building operations.* Erection, demolition, alteration, or repair of any building (including excavation and grading), in a residential or business district between the hours of 6:00 p.m. and 7:00 a.m. of any day, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Building Inspector, which permit may be renewed for a period of three days or less while the emergency continues;

(10) *Noises near schools, etc.* Creating noise on any street, or public way, or near any school, institution of learning, library, or sanitarium, or court while the same is in session, or adjacent to any hospital, rest home, nursing home, or any real property owned by a religious institution during services, or which otherwise interferes with the working of such institution.

(11) *Bells or gongs.* Sounding any bell or gong which disturbs the quiet or repose of persons in the vicinity.

(12) *Noises to attract attention.* Using any drum, loudspeaker, or other instrumentality for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise.

(13) *Blowers, engines.* Operation of any noise-creating blower, power fan, steam engine, or any internal combustion engine, the operation of which causes noise due to the explosion or expansion of operating gases or fluids, unless the noise emitted there from is sufficiently muffled and the engine is equipped with a muffler device in good working condition and designed to manufacturer's specifications and sufficient to deaden such noise, which causes annoyance to the public or disturbs the rest and quiet of persons on adjacent premises or within the vicinity.

(14) *Appliances and other mechanical devices.* The operation of any noise-producing appliance or other mechanical device which, due to operational deficiencies, malfunction or other type of disrepair, causes noises which unreasonably annoy the public or disturb the rest and quiet of persons on adjacent premises or within the vicinity.

(15) *Vehicular loudspeakers or amplifiers for commercial purposes.* The use of mechanical loudspeakers or amplifiers on, or in, automobiles, trucks, airplanes or other vehicles for advertising or other commercial purposes, except where specific license is received from the Board of Commissioners.

(16) *Street vendors.* Street vendors cannot use sound or permit the sounding of any device which produces noise or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.

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

Section 130.04(C)- Motor vehicle noise.

Notwithstanding any other provision of this section, the following are declared to be unreasonably loud, disturbing, and unnecessary noises in violation of section 130.04(A):

(1) Using any automobile, motorcycle, or other vehicle so out of repair, altered, maintained, or operated in such a manner as to create unreasonably loud, disturbing, or unnecessary noise including, but not limited to, engaging in jackrabbit starts, spinning tires, burn-outs, or other such operation; excessive acceleration or deceleration while in motion where there is no emergency need; racing or reeving engines by manipulation of the accelerator, gas pedal, or carburetor in applying fuel to the engine in a greater amount than is necessary whether the vehicle is either in motion or standing still; or the using of an engine braking system which is in any way activated or operated by the compression of the engine of any vehicle or any part thereof, except in cases of an emergency.

(2) Operating any automobile, motorcycle, or vehicle of any size and regardless of the year or manufacture that meets one or more of the following criteria:

(a) It is not equipped with an adequate muffler in constant operation, free of defects and modifications, that prevents the escape of any unreasonably loud or disturbing noise;

(b) It has a muffler system that is equipped with a straight pipe exhaust system, regardless of the presence of baffles;

(c) It has a hollow core muffler;

(d) It has a muffler that is labeled for off-road course competition use;

(e) It has a muffler system that has a cut-out, bypass, or similar device designed or so installed so that it can be used continually or intermittently to bypass or otherwise reduce or eliminate the effectiveness of a muffler or muffler system;

(f) It has a muffler system that has been modified in a manner which will amplify or increase the noise emitted by the exhaust.

Section 130.04(D)- Enforcement.

The Town in its discretion may through the Police Department, the Code Enforcement Officer, or anyone designated in writing by the Board of Commissioners take one (1) or more of the following enforcement actions for violations of this section against any responsible person, persons or business entity:

(a) Issue a written warning.

(b) Issue a citation subjecting a violator to a civil penalty of one hundred dollars (\$100.00). A second violation by the same person or business within one (1) year of the first violation shall subject such person or business to a penalty of three hundred dollars (\$300.00). All subsequent violations by the same person or business within one (1) year of the first violation shall subject such person or business to a civil penalty of five hundred dollars (\$500.00). The Board of Commissioners or their designee may on request and for good cause shown adjust a civil penalty.

(c) Failure to pay a civil penalty imposed under this section within ten (10) days shall subject the offender to an additional \$75.00 delinquency charge. Any unpaid penalty or delinquency charge may be recovered by the Town in a civil action in the nature of a debt.

(d) Each separate day of a continued violation shall be a separate and distinct offense and shall give rise to a separate and distinct penalty.

(e) Violators may also be prosecuted under the provisions of *N.C. Gen. Stat. § 14-4 (Violation of local ordinances misdemeanor)* for a misdemeanor criminal offense punishable by a fine of not more than five hundred dollars (\$500.00) and/or imprisonment as designated for a Class 3 misdemeanor.

(f) This section may also be enforced by civil action for injunction and order of abatement.

(g) This section may be enforced by any remedy either severally or in conjunction with other remedies. (Ord. passed 5-14-2020.)

' 130.05 CURFEW.

(A) (1) All children under the age of 16 years must be off the streets by 9:30 p.m. unless on the way home from some special gathering, accompanied by parents or properly chaperoned.

(2) This section does not apply to a minor who is:

(a) Accompanied by the minor=s parent or guardian;

(b) On an errand at the direction of the minor=s parent or guardian, without any detour or stop;

(c) In a motor vehicle involved in interstate travel;

(d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(e) Involved in an emergency;

(f) On the sidewalk abutting the minor=s residence or abutting the residence of a next door neighbor if the neighbor did not complain to the Police Department about the minor's presence;

(g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, or another similar entity that takes responsibility for the minor;

(h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly; or

(i) Married or had been married or had disabilities of minority removed in accordaning with state law.

(B) A curfew hour is hereby set at 12:00 midnight with no loitering around any place. When a business establishment closes before midnight, the curfew shall be in effect at once.

(1993 Code, ' 84.05) (Ord. passed ; Ord. 50, passed ; Ord. 104, passed ; Ord. 213, passed 7 12-2012)

' 130.06 VANDALISM AT THE RESERVOIR.

No person shall vandalize the reservoir. There shall be no swimming in the reservoir.

(1993 Code, ' 84.06) (Ord. 119, passed) Penalty, see ' 10.99

' 130.07 ALCOHOLIC BEVERAGES IN PUBLIC PLACES.

No person shall consume, serve or drink wine, beer, whiskey or alcoholic beverages of any kind on or in the public streets, boulevards, alleys, parks, sidewalks or public buildings (such as, town owned, post office and the like) within the town.

(1993 Code, ' 84.07) (Ord. 110, passed) Penalty, see ' 10.99

CHAPTER 131: LITTERING

Section

- 131.01 Littering prohibited
- 131.02 Littering from vehicles
- 131.03 Maintenance of public areas
- 131.04 Receptacles

above.

(B) The receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish or other materials deposited therein.
(1993 Code, ' 82.0

' 131.01 LITTERING PROHIBITED.

It shall be unlawful for any person to throw or deposit on any street or sidewalk, or on any private property, except with written permission of the owner or occupant of the private property, any trash, refuse, garbage, building material, cans, bottles, broken glass, paper or any type of litter.

(1993 Code, ' 82.01) Penalty, see ' 10.99

' 131.02 LITTERING FROM VEHICLES.

It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter on any street or other public place within the town, or on private property.

(1993 Code, ' 82.02) Penalty, see ' 10.99

' 131.03 MAINTENANCE OF PUBLIC AREAS.

Every owner, lessee, tenant, occupant or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access areas and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie within ten feet of any public street or other public way, shall keep and maintain the areas clean and free from trash, litter, rubbish and any materials liable to be blown, deposited or cast on the street or other public way.

(1993 Code, ' 82.03) Penalty, see ' 10.99

' 131.04 RECEPTACLES.

(A) Suitable receptacles may be provided in parking or access areas within the meaning of ' 131.03

CHAPTER 132: GRAFFITI CONTROL

Section

- 132.01 Graffiti defined
- 132.02 Public nuisance
- 132.03 Application of graffiti a prohibited act
- 132.04 Removal of graffiti by perpetrator
- 132.05 Unemancipated minor; parents/legal guardian responsible
- 132.06 Premises to be kept free of graffiti; property owner ultimately responsible
- 132.07 Notice to remove; removal; lien for cost
- 132.08 Right to appeal

- 132.99 Penalty

(B) Graffiti is destructive of the rights and values of property owners.

(C) Graffiti has been used as a forum for gang related activities and can lead to an increase in crime activity, which is detrimental to the health and safety of the citizens. Therefore, the presence of graffiti constitutes a public nuisance which may be abated in accordance with the provisions of this chapter, or any other applicable provision of law.
(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

' 132.01 GRAFFITI DEFINED.

As used in this chapter, the word **GRAFFITI** shall refer to any inscription, word, figure, painting, picture or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, engraved or otherwise affixed to any surface of public or private property that is readily visible in a location open to the public, without prior written consent of the property owner.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

' 132.02 PUBLIC NUISANCE.

(A) Graffiti on public or private property creates a condition tending to reduce the value of the property, to promote blight and deterioration, to reflect poorly on the community, and may be injurious to the general welfare of the community.

(A) (1) In addition to the provisions of ' 132.03 above, any person caught applying graffiti as defined in ' 132.01 above, by a sworn law enforcement officer,

' 132.03 APPLICATION OF GRAFFITI A PROHIBITED ACT.

(A) Any person who applies graffiti to any natural or human-made surface of any publicly or privately owned property, without written permission of the owner, shall be subject to prosecution in accordance with the statutes relating to malicious injury to property, G.S. ' 14-127, G.S. ' 14-160 and any other applicable statute.

(B) The application of graffiti constitutes a violation of this chapter. Any person caught applying graffiti will be subject to a fine of up to \$500.
(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008) Penalty, see ' 132.99

' 132.04 REMOVAL OF GRAFFITI BY PERPETRATOR.

shall have the duty to remove the graffiti within 24 hours after notice to remove is given by the law enforcement officer.

(2) The notice to remove may be given in any manner deemed appropriate by the law enforcement officer.

(B) Removal of graffiti, by the perpetrator, shall be done in a manner that effectively removes or obscures the graffiti and does not further diminish the value of the property or cause a condition detrimental to the health and safety of the public.

(C) The cost of removal or obscuring shall be borne by the perpetrator.

(D) Failure of any person to remove or obscure graffiti within 24 hours after notice to remove is given and/or failure to pay for the costs associated with the removal or obscuring shall constitute an additional violation of this chapter.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008) Penalty, see ' 132.99

**' 132.05 UNEMANCIPATED MINOR;
PARENTS/LEGAL GUARDIAN RESPONSIBLE.**

Where graffiti is applied by an unemancipated minor, the parents or legal guardian shall also be responsible for the abatement or the costs thereof.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

**' 132.06 PREMISES TO BE KEPT FREE OF
GRAFFITI; PROPERTY OWNER
ULTIMATELY
RESPONSIBLE.**

(A) Every person, owning or occupying any premises in the town shall keep the premises free from graffiti.

(B) If graffiti is not removed by the perpetrator in accordance with ' 132.04 above, the graffiti shall be removed, by the property owner, pursuant to " 132.06, 132.07 and 132.99 of this chapter.

(C) When notice to remove graffiti is given, to the property owner, as provided in ' 132.07, the property owner shall cause the graffiti to be eliminated within 72 hours of the notice.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008) Penalty, see ' 132.99

**' 132.07 NOTICE TO REMOVE; REMOVAL;
LIEN FOR COST.**

(A) The Chief of Police, or his or her designee, may serve a notice to remove graffiti to anyone owning property where graffiti, as defined in ' 132.01 above, is present.

(B) The notice to remove graffiti must:

(1) Properly identify the address and location of the property that contains graffiti;

(2) Identify the exact portion or area of the property where the graffiti appears;

(3) State the date and time that the notice was served;

(4) Identify the property owner on whom the notice was served;

(5) Provide notice that the graffiti must be eliminated within 72 hours, unless the person served the notice appeals the order, as authorized by this chapter; and

(6) Be signed by the Chief of Police.

(C) Should the property owner refuse, or fail to abate the nuisance, the Chief of Police may proceed to remove it or have it removed in a manner that does not diminish the value of the property. The cost of the removal shall be charged to the property owner. The town will bill the property owner, within ten days of the removal of the nuisance. Should the property owner fail to pay the amount charged within 30 days of the date of the bill, the cost shall be charged against the premises and shall become a lien upon the lot, and be collected in the manner as is provided for the collection of delinquent taxes.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

' 132.08 RIGHT TO APPEAL.

(A) Anyone receiving a notice to remove graffiti may appeal the notice to the Town Manager.

(B) The Town Manager is authorized to relieve the obligation to eliminate the graffiti only if one of the following is established:

(1) Impracticability of eliminating the graffiti. Elimination of the graffiti is impracticable when the only method of elimination available will further diminish the value of the property or will cause a condition that is detrimental to the health and safety of the public; or

(2) Lack of authority to eliminate the graffiti. If it is established that the person served with the notice to remove graffiti is not the perpetrator or the property owner or does not have authority to eliminate the graffiti, the obligation to eliminate the graffiti may be relieved.

(Ord. 194, passed 9-11-2008; Ord. 196, passed 9-11-2008)

' 132.99 PENALTY.

Anyone receiving a notice to remove graffiti is subject to a civil penalty of \$50 for each 24-hour period or portion thereof that the graffiti remains beyond 72 hours of the date and time the notice is given.

