

## CHAPTER 93: NUISANCES

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### **GENERAL PROVISIONS**

#### **§ 93.01 DEFINITION.**

(A) For purposes of this subchapter, the term *NUISANCE* means 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 or 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, happiness and emotional stability because of decreased property values and the unattractiveness and livability of neighborhoods.

(B) Further, the Board of Commissioners 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 of the town are a nuisance and therefore unlawful:

(1) Overgrowth or heavy growth of weeds, bushes, poison oak, poison ivy or other noxious vegetation or overgrowth of grass and weeds over ten inches in height;

(2) Conditions which have become or will become, if not corrected, a breeding ground or harbor for mosquitoes, snakes, rats or other pests;

(3) A collection place for lumber, brick, blocks, nails and building materials unless such conditions are temporary in nature and caused by current construction in progress pursuant to a lawfully issued building permit;

(4) A collection place for garbage, food waste, litter, animal waste, trash and refuse or any other rotten or putrescible matter of any kind;

(5) Rotten, damaged or dilapidated sheds, outbuildings, garages or other uninhabited structures which have collapsed or partially collapsed or pose a danger of fire or pose a risk to neighborhood children or to adjacent property and property owners;

(6) An open or unsecured storage or collection place for chemicals, oils, gasoline, flammable liquids or other similar harmful or dangerous substances, gases or vapors;

(7) A collection or storage place for old, worn-out, broken or discarded machinery, car parts, junk, furniture, stoves, refrigerators and appliances, cans or containers, household goods or plumbing and electrical fixtures or other similar materials;

(8) A collection place or pool or pond of stagnant or foul water caused by any manmade berm, dam, ditch or impoundment;

(9) A storage place or place of collection for broken bottles, glass, tin, aluminum and other sharp, pointed, jagged or rusted metal;

(10) Barns, animal pens and enclosures, dog lots and runs or other similar places that house animals and which are not kept in a sanitary condition, attract flies and other pests or emit foul odors;

(11) A collection place for sewage and sewage drainage or the seepage from septic tanks;

(12) A collection place for tree limbs, dried brush, dead vegetation or other rubbish;

(13) Any discharge into or polluting of any stream, creek, river or other body of water of any dangerous substance or any other material likely to harm the water or any vegetation, fish or wildlife in or along the water or the storage of such harmful materials and substances in a manner so that it is likely that such streams, creeks, rivers or other bodies of water will be polluted;

(14) Any conditions or use of property which results in the emission of pollutants and particles into the atmosphere or causes noxious odors and stenches to be emitted into the air;

(15) Any other act or condition declared to be a nuisance in the manner provided in this subchapter by the Board of Commissioners.  
(`93 Code, § 8-26) (Ord. passed 11-20-90)

### **§ 93.02 FINDINGS; POLICY.**

(A) The Board of Commissioners finds as a fact that there are many parcels of land and vacant lots throughout the town which are overgrown with weeds and other noxious growth, have become a collection place for trash, garbage, debris, junk or other undesirable material or have specific unattractive conditions located thereon. The Board of Commissioners further finds as a fact that such conditions adversely affect one or more of the following:

- (1) The safety of the citizens of the town;
- (2) The general health and welfare of the citizens of the town;
- (3) The health and safety of children who are attracted to such conditions;
- (4) The quality of urban attractiveness and aesthetic appearance of the town;
- (5) The protection of property values throughout the town;
- (6) The preservation of the livability and attractiveness of neighborhoods;
- (7) The opportunities for full economic development of the town;
- (8) The comfort, happiness and emotional stability of occupants of property in the vicinity of unattractive conditions and nuisances;
- (9) The full use, ownership and enjoyment of property in the vicinity of such conditions.

(B) It is the policy of the town that each person is entitled to live in a community which is generally safe and free of conditions which adversely affect the general health and welfare of the community. Citizens also ought to have the right to live in an attractive community free of litter, garbage and unsightly junk especially when such conditions do not further individual rights or ownership of property. To protect against such conditions, the town intends to define, prohibit and restrain nuisances or to cause such nuisances to be removed from the town. The Town Manager shall be responsible for the administration and enforcement of this subchapter, except that the Board of Commissioners may from time to time designate others to administer and/or enforce this subchapter.

(`93 Code, § 8-27) (Ord. passed 11-20-90)

### **§ 93.03 NUISANCES PROHIBITED.**

It shall be unlawful for any person to create or cause a nuisance to be created or for the owner, lessee, occupant, caretaker or person in possession of any lot, parcel or tract of land in the town to create a nuisance or otherwise permit, allow or suffer a nuisance to be created or to allow a nuisance to remain on such property after it has been declared a nuisance.

(`93 Code, § 8-28) (Ord. passed 11-20-90) Penalty, see § 93.99

### **§ 93.04 EXCEPTIONS.**

Notwithstanding the provisions of § 93.03, the use of property for a lawful business or commercial purpose pursuant to all required licenses and permits and in full compliance with the zoning rules and regulations in effect in the town shall not be considered as a nuisance so long as the use of the property and the conditions created thereon further such lawful business use or commercial use.

(`93 Code, § 8-29) (Ord. passed 11-20-90)

### **§ 93.05 REMOVAL OF ABATEMENT.**

(A) Upon investigation and discovery of any of the conditions set out in § 93.03, the Town Manager 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.

(B) Prior to ordering the removal of unattractive conditions which do not threaten the public safety or pose a general threat to the health, safety and general welfare of the citizens of Huntersville, the Town Manager shall first determine that such conditions are visible from adjacent property or from a nearby street or highway and that the aesthetic 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 apparent 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, happiness and emotional stability of area residents.  
(`93 Code, § 8-30) (Ord. passed 11-20-90)

#### **§ 93.06 ISSUANCE OF NOTICE.**

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

(B) The notice may be served upon owner, occupant or person in possession of the premises as follows:

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

(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 officer, employee or agent of a corporation, partnership or business; or

(4) If, after a due and diligent effort, the person cannot be located within the town, by posting a copy of the written notice in a prominent place upon the real property.  
(`93 Code, § 8-31) (Ord. passed 11-20-90)

#### **§ 93.07 EMERGENCY ACTION.**

Notwithstanding the notice provisions set out in § 93.06, the Town Manager shall have authority to summarily remove, abate or remedy any condition that is dangerous or prejudicial to the public health or public safety.  
(`93 Code, § 8-32) (Ord. passed 11-20-90)

#### **§ 93.08 OTHER NUISANCES NOT ENUMERATED.**

(A) In addition to the conditions declared to be a nuisance enumerated above, the Board of Commissioners may, by ordinance, define, prohibit, regulate or abate other acts, omissions or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the town.

(B) Prior to adopting such ordinance, the Board of Commissioners shall conduct a hearing at any regularly scheduled or specially convened meeting of the Board after giving written notice to the owner, occupant or person in possession of the premises on which the conditions alleged to be a nuisance are located. The notice shall describe the conditions believed to be a nuisance and shall set forth the date, place and time of the public hearing. The notice shall be served in the same manner other notices are served in this subchapter; except, that if the notice is served by posting on the property, then such notice shall also be advertised once in a newspaper having local circulation at least ten days prior to the hearing.

(C) At the hearing, the Board of Commissioners may receive and consider evidence in the form of testimony, affidavits, statements, documents or other written proof and the property owner, occupant or person in possession of the premises shall have a right to appear and show cause why the conditions are not a nuisance or ought not to be abated.

(D) If the conditions are thereafter determined by the Board to be a nuisance, the Board may order the removal or abatement of the nuisance or take such other remedial action as may be appropriate except that the Board may not declare unattractive conditions a nuisance and order the abatement thereof without finding in writing that the aesthetic benefits of removing or abating the conditions outweigh the burdens imposed upon the private property owner. Such special findings shall be based upon a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance, including protection of property values, promotion of economic and community development opportunities, indirect protection of the public health and safety, preservation of the character and integrity of the community and the promotion of the comfort, happiness and emotional stability of area residents.

(`93 Code, § 8-33) (Ord. passed 11-20-90)

#### **§ 93.09 ABATEMENT BY TOWN; RECOVERY OF COSTS.**

(A) Whenever the Town Manager has determined that a nuisance exists and given proper notice thereof, the property owner, occupant or person in possession of the premises on which the nuisance is located may contract with the town to remove such conditions at a fee and upon such terms and conditions as the Town Manager may approve, except that as a condition of all such agreements the landowner, occupant or person in charge of the premises shall release the town from any liability arising from or resulting from the removal of such conditions.

(B) Upon the failure of the property owner, occupant or person in possession of the premises to take the corrective action ordered by the Town Manager within the time specified, the Town Manager may remove, abate or remedy the condition that is dangerous or prejudicial to the public health or public safety and the expense of such action shall be paid by the person in default pursuant to G.S. § 160A-193. If not paid, such expenses shall become a lien upon the land or premises where the trouble arose and may be collected as unpaid taxes.

(`93 Code, § 8-34) (Ord. passed 11-20-90)

**LITTERING****§ 93.25 DEFINITIONS.**

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

**COMMERCIAL VEHICLE.** A vehicle that is owned or used by a business, corporation, association, partnership or sole proprietorship or any other entity conducting business for economic gain.

**LITTER.** Any garbage, rubbish, trash, refuse, can, bottle, box, container, wrapper, paper product, tire, appliance, mechanical equipment or part, building or construction material or discarded material or in any form resulting from domestic, industrial, commercial, mining, agricultural or government operations. **LITTER** does not include political pamphlets, handbills, religious tracts, newspapers or other printed materials that unsolicited distribution of which is protected by the Constitution of the United States and North Carolina.

**VEHICLE.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon fixed rails or tracks. A bicycle shall be deemed a vehicle and every rider of a bicycle upon a highway shall be subject to the same provisions as a vehicle. Exceptions to the definitions of a vehicle are the same as those defined in G.S. § 20-4.01(49).

(Ord. passed 9-20-99)

**§ 93.26 LITTERING PROHIBITED.**

(A) It shall be unlawful for any person to intentionally or recklessly throw, scatter, spill or place litter upon any street, sidewalk or public right-of-way within the Town of Huntersville.

(B) It shall be unlawful for any person, firm or corporation to intentionally or recklessly cause or allow litter to be blown, scattered, spilled, thrown, placed or otherwise disposed of from any private or commercial vehicle upon any public right-of-way within the Town of Huntersville.

(C) When litter is blown, scattered, spilled, thrown or placed from a vehicle, the operator thereof shall be presumed to have committed the offense.

(Ord. passed 9-20-99) Penalty, see § 93.99

**§ 93.27 EXCEPTIONS.**

The following provisions are exceptions to this subchapter:

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(A) Property inside the Town of Huntersville that is designated by the state or political subdivision thereof for the disposal of garbage or refuse, and such person is authorized to use such property for such purpose;

(B) When placing litter into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements and the receptacle is designated for the disposal of litter;

(C) Vehicles transporting agricultural products or supplies when the litter from the vehicle is a nontoxic, biodegradable agricultural product.

(Ord. passed 9-20-99)

**NOISE****§ 93.40 UNNECESSARY NOISE PROHIBITED.**

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

(93 Code, § 8-86) Penalty, see § 93.99

**§ 93.41 PROHIBITED ACTS ENUMERATED.**

(A) The following acts, among others, are declared to be loud, disturbing, annoying and unnecessary noises in violation of this subchapter.

(1) *Motor vehicles*. The operation of a motor vehicle in such a way as to cause, suffer or allow any loud, excessive or unusual noise in the operation or use of such motor vehicle upon any streets of the town.

(2) *Blowing horns*. To unreasonably sound any horn, signal, device or in any other manner or circumstances or for any other purpose than required by the laws of the state.

(3) *Racing engine*. To race the engine of any motor vehicle while such vehicle is not in motion, except when necessary to do so in the course of repairing, adjusting or testing the same. The racing of an engine at a personal residence, to make repairs or adjustments shall only be conducted between the hours of 8 a.m. and 9 p.m.

(4) *Use of vehicle*. To use or permit to be used any automobile, truck, bus, motorcycle or other vehicle, stationary or moving, with an engine, instrument, device or other thing so out of repair, so

loaded or such a manner as to create loud and unnecessary grading, grinding or other noise or to create any loud and excessive noise in connection with the loading or unloading of any vehicle or in the opening or destruction of bales, boxes, crates or containers.

(5) *Sound amplification equipment.* The use of sound amplification equipment on public streets or on private property which produces a sound which is cast upon the public streets or sidewalks for the purpose of commercial advertising or attracting attention of the public to any sound or structure is prohibited. The use of such equipment for amplification or broadcasting of music, speeches or general entertainment of a noncommercial nature is prohibited when it results in the sound being plainly audible at a distance of 100 feet from the point of broadcast or if it creates an obstruction to pedestrian or vehicular traffic. Sound amplification equipment installed in automobiles shall not be audible at a distance of 50 feet while the vehicle is being operated on a street or in a public vehicular area. This section shall not apply to warning devices on authorized emergency vehicles. This subsection shall not apply to any event held in recognition of a community celebration of national, city or state events, public festivals or the like.

(6) *Shouting, calling and the like to attract attention.* To make any noise upon any public street or in such proximity to such public street as to be distinctly and loudly audible upon such street by any kind of crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of attracting attention or inviting patronage of any person or any business or to thereby create an annoyance upon persons on any public street or on neighboring premises or otherwise create a public nuisance.

(7) *Radios, phonographs and the like.* The use, operating or permitting to be played, used or operated any radio, receiving set, musical instruments, phonographs or other device for producing or reproducing sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which machine or device is operating.

(8) *Pets.* To own, keep and have in one's possession or harbor any animal or bird which by frequent or habitual howling, yelping, barking or otherwise shall cause loud noises and produce serious annoyance or disturbance to any person or to the neighborhood.

(9) *Construction site.* Site preparation and excavating and the construction, demolition, alteration or repair of any building or structure located on a site that is within 1,000 feet of an occupied residence other than between the hours of 7 a.m. and 8 p.m., Monday through Saturday, and between the hours of 12 p.m. and 8 p.m. on Sunday, unless such work is entirely within a completely enclosed area so as not to be audible beyond the property line of the lot upon which the work is conducted. The Chief of Police or designee may approve exceptions in cases of urgent necessity in the interest of public safety.

(10) *Refuse collection or delivery trucks.* Operating trucks, loaders or other equipment for refuse collection, or for delivery of goods to a site that is within 500 feet of an occupied residence,

except between the hours of 7 a.m. and 8 p.m. Monday through Saturday, and between the hours of 12 p.m. and 8 p.m. on Sunday. The Chief of Police or designee may approve exceptions in cases of urgent necessity in the interest of public safety.

(B) Such enumeration shall not be deemed to be exclusive.

(^93 Code, § 8-87) (Ord. passed 8-5-02)

**Statutory reference:**

*Noise regulations, see G.S. § 160A-184*

**§ 93.99 PENALTY.**

(A) Whoever shall violate any provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99 of this code.

(B) (1) Any violation of §§ 93.01 through 93.09 or the failure to abide by any lawful order issued pursuant to §§ 93.01 through 93.09 shall be punishable as provided in § 10.99.

(2) In addition to the penalty provided in subsection (1) above, any violation of the provisions of §§ 93.01 through 93.09 or a failure to comply with any of its requirements shall also constitute a civil offense and shall subject the offender to a civil penalty in the amount of \$50. Any person violating §§ 93.01 through 93.09 shall be issued a written citation of the violation, which may be issued by any police officer, Town Manager, Building Inspection Officer or such other office as is charged from time to time by the Board of Commissioners with the enforcement of this subchapter. If the offender fails to pay the penalty within 16 days from its issuance to the Tax Collector, the penalty may be recovered by the town in a civil action in the nature of debt.

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

(4) In addition, the provisions of §§ 93.01 through 93.09 may also be enforced through equitable remedies issued by a court of competent jurisdiction, including injunction and order of abatement or any other remedy permitted under §§ 93.01 through 93.09 or at law or equity.

(5) Sections 93.01 through 93.09 may be enforced by any one, all or a combination of the remedies authorized in this section.

(^93 Code, § 8-35)

(C) Sections 93.25 through 93.27 may be enforced by any or both of the following ways as provided by law.

(1) Anyone violating §§ 93.25 through 93.27 shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$100 or imprisoned for not more than 20 days.

(2) A violation of §§ 93.25 through 93.27 shall subject the violator to issuance of a citation in the amount of \$100 for each citation. A citation remaining unpaid to the Town of Huntersville after 15 days from the date of issuance shall subject the violator to a civil penalty, which may be recovered by the town in a civil action. A violation, which is a continuing violation, shall subject the violator to separate citations for each day the violation continues.

(D) Sections 93.40 and 93.41 may be enforced by any or both of then following ways as provided by law.

(1) Anyone violating §§ 93.40 and 93.41 shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50 or imprisoned for not more than 20 days.

(2) A violation of §§ 93.40 and 93.41 shall subject the violator to issuance of a citation in the amount of \$50 for each such citation. A citation remaining unpaid to the Town of Huntersville after 15 days from the date of issuance shall subject the violator to a civil penalty, which may be recovered by the town in a civil action. A violation, which is a continuing violation, shall subject the violator to a separate citation for each day that the violation continues.

(`93 Code, § 8-88) (Ord. passed 9-20-99; Am. Ord. passed 11-20-90)

