

HEALTH AND SANITATION; NUISANCES

Cross-reference:

Nuisance dogs prohibited, see §91.06

NOISE

§93.01 UNECESSARY NOISE UNLAWFUL.

It shall be unlawful for any person, firm, or corporation to create or assist in creating any unreasonably loud, disturbing sound levels in the town, taking into consideration volume, duration, frequency, or other characteristics of sound.

(Ord. passed 7-14-86; Am.Ord. passed 11-11-91)

Penalty, see §93.99

§93.02 PROHIBITED NOISES; LIST NOT EXCLUSIVE.

The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but this enumeration shall not be deemed exclusive:

- (A) The playing of any musical instrument or electronic sound amplification equipment in a manner with such volume, so that a reasonably prudent person would recognize it as likely to unreasonably disturb persons in the vicinity;
- (B) The keeping of any animal or bird which makes frequent or long continued sounds, so that a reasonably prudent person would recognize it as likely to unreasonably disturb persons in the vicinity;

- (C) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in a manner so as to create loud, disturbing sounds;
- (D) The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted between the hours of 9 p.m. and 7 a.m. on any day;
- (E) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, church, or court during normal operating hours, or within 150 feet of any hospital, which a reasonably prudent person would recognize as likely to interfere with the working of those institutions, provided conspicuous signs are displayed indicating that the area is a school, educational facility, church, court, or hospital area;
- (F) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7 a.m. and 7 p.m. on any day, except in the case of urgent necessity in the interest of public safety, and then only under the direction of an appropriate town official;
- (G) The use of any electronic sound amplification equipment for advertising or solicitation purposes, except with an appropriate permit;
- (H) 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; the creation by means of any herein described signal device of any unreasonably large or harsh sound; and the sounding of such a device for an unnecessary period of time;

- (I) 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;
- (J) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced;
- (K) 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; or
- (L) Any shouting and crying that disturbs the quiet and peace of the neighborhood.

Penalty, see §93.99
(Ord. passed 11-11-91)

§93.03 EXCEPTIONS; PERMIT REQUIREMENTS.

- (A) Persons wishing to engage in activities regulated by this subchapter may do so when a specific permit is approved by the Town Board.
- (B) Applications shall be submitted on forms supplied by the town.
- (C) The permit shall not be unreasonably withheld, and may contain appropriate conditions designed to minimize the disruptive impact. Permits for this type of activity significantly for religious or political purposes shall be granted, subject only to reasonable time, place, and manner restrictions. Permits issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice.
- (D) Exceptions include church bells and permitted outside events.
- (E) Persons shall not be held in violation of this subchapter when acting in conformity with permit conditions, but any permit may be revoked if it

is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels.

(Ord. passed 11-11-91)

§93.04 DENIAL OF PERMIT.

- (A) In case an applicant is denied, a permit is approved with conditions unacceptable to the applicant, or a permit is revoked, the applicant or permit holder shall be entitled to a prompt, informal hearing with the Town Board, upon submission of a written request.
- (B) Any person aggrieved by a matter regulated by this subchapter may submit to the Manager written requests for appropriate relief.

(Ord. passed 11-11-91)

WEEDS AND REFUSE

§93.15 UNCONTROLLED WEEDS AND ACCUMULATION OF REFUSE A NUISANCE.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (A) Any weeds or other vegetation having an overall height of more than 14 inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.

- (B) Any trees or shrubbery that shall interfere with or endanger the use of the public streets, interfere with or obscure illumination of street lights, obscure sight distance or create a traffic hazard, interfere with the visibility of any traffic-control device or sign, obstruct or impair the free passage of pedestrians on sidewalks or other town or state rights-of-way at a vertical clearance of less than seven feet, or endanger the life, health, safety, or property of the public;
 - (C) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind, which is or may be dangerous or prejudicial to the public health;
 - (D) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats mice, snakes, or vermin of any kind, which is or may be dangerous or prejudicial to the public health;
 - (E) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, or similar items;
 - (F) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department;
 - (G) Accumulation in an open place of hazardous or toxic materials and chemical;
 - (H) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature;
 - (I) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Town Manager or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises;
 - (J) Any condition which blocks, hinders, or obstructs in any way the natural flow of branches, streams, creeks, surface waters, ditches, or drains, to the extent that the premises is not free from standing water;
 - (K) Nuisance vehicle: A vehicle on public or private property that is determined and declared to be health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
 - (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - (2) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height; or
 - (3) In a condition allowing the collection of pools or ponds of water; or
 - (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
 - (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
 - (6) So situated or located that there is a danger of it falling or turning over; or
 - (7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
 - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.
 - (L) The outside or outdoors use of any furniture originally designed or intended for interior use such as, but not limited to, couches, sofas, chairs, recliners or other like items.
- Penalty, see §93.99
 (Ord. passed 3-13-89; Am. Ord. passed 10-19-04; Am. Ord. passed 8-15-06)

§93.16 COMPLAINT; INVESTIGATION REQUIRED.

The Code Administrator, upon notice from any person of the possible existence of any of the conditions described in §93.15, shall cause to be made by the appropriate County Health Department official, or town official, investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared above in §93.15. (Ord. passed 3-13-89)

§93.17 COMPLAINT AND NOTICE OF VIOLATION.

(A) When any condition in violation of this section is found to exist, the Code Administrator, or such person as may be designated by the Town Board, shall give notice to the owner of the premises to abate or remove such conditions within ten days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten days, the town may proceed to correct the same as authorized by this section.

Further, if a violation is determined to be a repeat offense, (any additional violation of the same nature, on the same property, with the same owner, within 180 days of the previous warning citation) the code officer will abate the violation without further notice to the owner and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

(B) Service of such notice shall be any one of the following methods:

- (1) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is

over the age of 16 years and a member of the family of the owner;

- (2) By depositing the notice in the United States Postal Office addressed to the owner at his or her last known address with postage prepaid thereon;

- (3) By posting and keeping posted, for ten days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by subsection (1) or (2) above.

(Ord. passed 3-13-89)

§93.18 FAILURE TO ABATE; ABATEMENT BY TOWN.

If the owner of any property fails to comply with a notice given pursuant to this section, within ten days after the service of such notice, he or she shall be subject to prosecution for violation of this section in accordance with law and each day that such failure continues shall be a separate offense. In addition, the Town Board may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

Penalty, see §93.99
(Ord. passed 3-13-89)

§93.19 PROCEDURE IS ALTERNATIVE.

Nothing in this Article nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms

of this Article shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in Section 10.99 of the Code of the Town of Cooleemee.

(Am. Ord. passed 10-19-04)

§93.20 DUTY OF PROPERTY OWNER OR OCCUPANT.

It shall be the duty of every person occupying, owning, or having control of property abutting on a street or highway right-of-way that utilizes a portion of unused street or highway right-of-way as a yard or any other use to maintain said right-of-way in the same character and manner as the abutting use.

§93.99 PENALTY.

Any person, firm or corporation who violates any provision of this chapter shall be subject to the penalties as set forth in Section 10.99, however, no notice of violation is required to be issued and a civil citation may be issued immediately to the violator.

(Ord. passed 3-13-89; Am. Ord. passed 11-11-91; Am. Ord. passed 1-24-06)