

TITLE XIII: GENERAL OFFENSES

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CHAPTER 130: OFFENSES AGAINST MUNICIPAL REGULATIONS

§130.01 DISCHARGE OF FIREARMS; PERMIT REQUIRED.

(A) It shall be unlawful for any person to shoot or discharge within the corporate limits of the town any pellet gun, rifle, shotgun, pistol, spring gun, or other similar device or firearm which impels with force a shot or pellet of any kind, except as provided in divisions (B) and (C) below; provided, however, that this prohibition shall not apply to the discharging of BB guns. The Police Chief or any member of the Police Department is hereby authorized to seize, and hold subject to order of court, any pellet gun, rifle, shotgun, pistol, spring gun, or other similar device or firearm which impels with force any shot or pellet of any kind, which shall be used, shot, or discharged within the town in violation of this section.

(B) Nothing in this section shall prevent a person over 21 years of age from securing a permit from the Police Chief for the purpose of using a .22 rifle with blank or shot cartridges for the purpose of firing upon pigeons, squirrels, or rats (when not in violation of state law) upon or around an apartment or dwelling. Any permit of this type shall be issued only if, in the reasonable estimation of the Police Chief, those activities can be conducted without jeopardizing public safety. The permit shall run for not more than 30 days, and shall authorize firing during daylight hours on weekdays only upon the premises owned or occupied by the applicant, and shall be revocable by the Police Chief upon a violation of its conditions or upon complaint that the permit holder

is not exercising his or her privilege in a careful and prudent manner and with due regard to life and property.

(C) This section shall not prohibit the discharge of these devices either during a course of instruction in their use conducted by the Police Department of the town or on a firing range completely enclosed within the town, after inspection of the building and approval of the use of the range by the Police Department from the standpoint of public safety.

(Ord. passed 5-25-87; Am. Ord. passed 6-8-87)

Penalty, see §10.99 *Statutory reference:*

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

§130.02 DAMAGING OR TRESPASSING ON TOWN PROPERTY PROHIBITED.

It shall be unlawful to damage, deface, trespass upon, break, or injure any property belonging to the town. Penalty, see §10.99

§130.03 BREAKING POLICE AND FIRE LINES RESTRICTED.

At the time of any public parade, accident, riot, public peril, or other circumstances causing people to congregate or assemble, it shall be unlawful for any person to enter, break through, or remain within the danger lines or other bounds established by the police, or by or under the direction of any authorized town official, for the preservation of public safety,

peace, and order, unless that person is authorized to do so by an officer in charge.
Penalty, see §10.99

§130.04 DISTURBANCE IN PUBLIC PLACES OR ASSEMBLAGES PROHIBITED.

It shall be unlawful for any person to make, aid, countenance, or assist in making, any improper noise, or to incite or engage in any riot or disturbance, or to indulge or engage in improper and disorderly conduct or conversation in any street, park, or other public place, or in any theatre or place of amusement, or in any room or building in which any number of persons are lawfully assembled.
Penalty, see §10.99

§130.05 FILLING AND DUMPING PROHIBITED.

It shall be unlawful for any person to fill any land or dump, upon any vacant lot within the town, with garbage, dead animals, decaying vegetable or animal matter, or any offensive material.
Penalty, see §10.99

§130.06 IMPROPER MAINTENANCE OF RESIDENTIAL PREMISES PROHIBITED.

It shall be unlawful for the owner or occupant of a residential building, structure, or property to utilize the premises of that residential property for the open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, or similar items. It shall be the duty and responsibility of every owner or occupant to keep the residential property clean and to remove from the premises all abandoned items listed above, including but not limited to weeds, dead trees, trash, garbage, and the like, upon notice from the code enforcement personnel.
Penalty, see §10.99

§130.07 BEER AND WINE CONSUMPTION; CONTAINER DISPOSAL.

- (A) It shall be unlawful for any person to consume any malt beverages or wine (fortified or unfortified), on any public property, or upon any public street.
- (B) It shall be unlawful for any person to drop, throw, cast, or deposit any malt beverage or wine (fortified or unfortified) container in any public place or upon any public street or upon the private premises of another without permission of the owner or person entitled to possession of those premises.
(Ord. passed 7-14-86)
Penalty, see §10.99

§130.08 BEGGING AND SOLICITING PROHIBITED.

For the purposes of this chapter, begging or soliciting shall be defined as any action or request as described herein for the donation, benefaction, charity, beneficence, contribution, offering, or otherwise canvassing the public for the private benefit of the solicitor or any other person.

- (A) No person shall beg or solicit in or on the streets or other public places, nor in the entrances or corridors to or of any public building without a permit thereof from the town hall.
- (B) No person shall sell or offer for sale any pencils, shoestrings, chewing gum, or similar objects in or on the streets or other public places as an indirect method of soliciting, nor shall any person offer a cup or other receptacle for the deposit of money or take up any collection in connection with the playing of any musical instrument in or on the streets or other public places, without having a permit thereof from the town hall.
- (C) In the interest of maintaining a clear flow of traffic, no person shall beg or solicit, directly or indirectly, in the entrances, rooms, or corridors of

buildings owned, leased, or maintained by the town irrespective of any permit which may have been issued pursuant to Chapter 112.

- (D) No person shall beg or solicit, directly or indirectly, upon any private property or residence, irrespective of any permit which may have been issued pursuant to Chapter 112, without prior invitation of the owner/occupant thereof.
- (E) A violation of this Section shall constitute either a Class 3 misdemeanor punishable by fine not to exceed fifty (\$50) dollars or imprisonment as provided by North Carolina General Statutes, Section 14-4, as amended, or at the election of the Town, shall subject the offender to civil penalties, remedies, and enforcement procedures contained in Section 10.99.

§130.10 KEEPING OF HOGS, COWS, HORSES, GOATS, SHEEP AND OTHER FARM ANIMALS, LIVESTOCK AND FOWL.

It shall be unlawful for any person to keep any hogs, cows, horses, goats, sheep or any other farm animals, including fowl within the corporate limits of the town on any property less than one (1) acre in area.

In keeping any animal as provided above, the owners of such property must collect and remove all waste materials from the property and deposit the same in an approved compost or as otherwise authorized by law. At no time shall the owner of such property allow such waste to drain, runoff, or be washed onto an adjoining property, into a drainage ditch, stream, creek or other storm water collection system or area.

A violation of this Section shall constitute either a Class 3 misdemeanor punishable by fine not to exceed fifty (\$50) dollars or imprisonment as provided by North Carolina General Statutes, Section 14-4, as amended, or at the election of the Town, shall subject the offender to civil penalties, remedies, and enforcement procedures contained in Section 10.99.

§130.11 RULES AND REGULATIONS FOR THE RIVERPARK.

- (A) It shall be unlawful for any person to violate any of the following park rules:
 - (1) No person is allowed on park property between sunset and 8am;
 - (2) No alcoholic beverages or illegal drugs are permitted;
 - (3) No firearms are allowed;
 - (4) No littering or dumping is permitted;
 - (5) All pets must be on a leash and owners are responsible to clean up after their pets;
 - (6) No soliciting or sales are allowed without the issuance of a permit from the Town of Cooleemee and the president of Riverpark Board;
 - (7) No glass beverage containers are allowed;
 - (8) Children under 12 years of age must be supervised by an accompanying adult;
 - (9) No open fires are allowed without the issuance of a permit from the Town of Cooleemee and the president of Riverpark Board, and no grills are allowed under the picnic shelter at any time;
 - (10) No horses are permitted in the park; and
 - (11) Coolers, backpacks, and packages are subject to search by authorized law enforcement personnel.
- (B) A violation of this section shall constitute either a Class 3 misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00) as provided by North Carolina General Statute, Section 14-4, as amended, or, at the election of the Town, shall subject the offender to civil penalties, remedies and enforcement procedure as set forth in Section 10.99 of the Code of Ordinances of the Town of Cooleemee.
- (C) No provision hereof shall make unlawful any act necessarily performed by any law enforcement officer, park employee or designated agent of the

Town of Cooleemee in the proper and necessary execution of these rules, applicable local, state and federal statutes or maintenance of park property and security of its patrons.

- (D) No provision hereof shall amend, alter or rescind the provisions set forth in Section 35.19 of the Code of Ordinances of the Town of Cooleemee, which applies to all other park property owned by the Town of Cooleemee.

(Ord. passed 3-17-2009)

CHAPTER 131: PROVIDING FOR YOUTH PROTECTION

§131.01 PURPOSE.

The purpose of this chapter is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles under the age of sixteen (16) years in the Town of Cooleemee. The Youth Protection Ordinance is intended to reinforce and promote the role of the parent in training and guiding children, and promote the health, safety, and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

§131.02 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the following meanings:

- Direct Route.** The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.
- Emergency.** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.
- Establishment.** Any privately owned place of business operated for profit to which the public has access or is invited including but not limited to any place of amusement or entertainment.
- Guardian.** A person who is court-appointed to be the guardian of a juvenile.
- Juvenile.** Any person under the age of sixteen (16) years.
- Owner/Operator.** Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.
- Parent.** A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody has been given by court-order.
- Public Place.** Any place that is generally open to and used by the public or a substantial group of the public, whether it is publicly or privately owned, including but not limited to: streets, sidewalks, highways, alleys, right-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to the public, and other common areas open to or accessible to the public.
- Remain.** To linger, to stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

Restricted Hours. The time of night referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time generally observed at that hour by the public in the Town of Cooleemee, North Carolina. Restricted Hours shall mean:

- 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- 11:00 p.m. on any Friday or Saturday until 6:00 a.m. of the following day.

§131.03 OFFENSES.

Except as provided by section 131.04 through 131.06, the following offenses constitute a violation of this chapter:

- (A) A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the Town of Cooleemee during the restricted hours.
- (B) A parent or guardian of a juvenile commits an offense if he/she knowingly permits or by insufficient control, allows the juvenile to remain in any public place or on the premises of any establishment within the Town during the restricted hours. The term “*knowingly*” includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent’s legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities, conduct or whereabouts of such juvenile.
- (C) The owner, operator, or any employee of an establishment commits an offense if he/she knowingly allows a juvenile to remain upon the

premises of the establishment during the restricted hours. The term “*knowingly*” includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for “*knowingly*” shall be applied through an objective test as to whether a reasonable person in the operator or employee’s position should have known that the patron was a juvenile in violation of this chapter.

- (D) It shall be a violation of this chapter for any person, sixteen (16) years of age or older, to aid or abet a juvenile in the violation of this chapter.
- (E) It shall be a violation of this chapter for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.

§131.04 EXCEPTIONS.

A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this chapter if the juvenile is:

- (A) Accompanied by his parent or guardian.
- (B) Accompanied by an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile to take the parent or guardian’s place in accompanying the juvenile for a designated period of time and purpose within a specified area.
- (C) On an errand, using a direct route, at the direction of the juvenile’s parent or guardian until the hour of 12:30 a.m.
- (D) In a motor vehicle with parental consent engaged in interstate travel through the Town of Cooleemee or originating or terminating in the Town of Cooleemee.
- (E) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult eighteen (18) years of age or older authorized by the parent or guardian of such juvenile

to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area.

- (F) Engaged in a lawful employment activity, or using a direct route to or from their place of employment, either at the beginning or end of their work hours.
- (G) Reacting or responding to an emergency.
- (H) Attending or traveling to or from, by direct route, an official school, religious, or recreational activity that is supervised by adults and sponsored by a public or private school, the Town of Cooleemee or other governmental entity, a civic organization, or another similar entity that accepts responsibility for the juvenile.
- (I) Married or emancipated.

§131.05 SPECIAL INDIVIDUAL PERMIT.

When necessary nighttime activities or circumstances of an individual juvenile may be inadequately provided for by other provisions of this chapter, a written application, signed by the juvenile and by the parent or parents of the juvenile, may be submitted to the Chief of Police, or his designee, in request for a "Special Individual Permit." Upon the findings of reasonable necessity for the use of a public place to the extent warranted by such written application and circumstance the Chief of Police, or his designee, may authorize and issue a "Special Individual Permit." Such application and permit shall have the following information document.

- (A) the name, age and address of the juvenile.
- (B) the name, address, and telephone number of the parent thereof.
- (C) the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile
- (D) the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable

(E) the public place where the juvenile will be during the restricted hours.

(F) the beginning and ending of the period of time involved by date and hour.

NOTE: The Chief of Police or his designee may grant a permit or modify such application for the juvenile's use of a public place at such hours, as in the opinion of the Chief of Police, may reasonably be necessary and consistent with the purposes of this chapter.

§131.06 SPECIAL EVENT PERMIT.

When necessary nighttime activities or circumstances of a group of juveniles or a group sponsored event may be inadequately provided for by other provisions of this chapter, the sponsor of the event may submit a written application to the Chief of Police, or his designee, in request for a "Special Event Permit." Normally such application should be submitted to the Chief of Police or his designee, providing for sufficient time for review, issue of such permit, and to provide for appropriate publicity through news media and through other agencies such as the schools. Such application shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one (1) hour beyond the time for termination of the sponsored activity. No such permit shall be approved unless it is found to be reasonably necessary and is consistent with the purpose of this chapter.

§131.07 DEFENSE.

It shall be a defense to prosecution under subsection §130.03(3) that the owner, operator, or employees of an establishment promptly notify the police department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

§131.08 ENFORCEMENT.

Before taking any enforcement action under this chapter, a police officer shall ask the apparent of-

fender's age and reason for being in the public place or establishment during restricted hours.

The officer shall not prepare a juvenile arrest report, issue a citation, or make an arrest under this chapter unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no exception or defense as described herein is present.

§131.09 PENALTIES.

A juvenile who violates any provision of this chapter is subject to be adjudicated delinquent. The Court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juveniles Code for any juvenile who is delinquent.

Any person, other than a juvenile, who violates any provision of this chapter shall be guilty of a Class 3 misdemeanor and shall be subject to a fine not to exceed fifty (\$50) dollars and imprisonment in the discretion of the court in accordance with N.C. G.S. 14-4.

§131.10 SEVERABILITY.

If any section, subsection, sentence, term, or exception of this chapter, or any application thereof to any person or circumstance is adjudged to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of this chapter or its application to any other person or circumstance.