

## **PART 8** **Nuisances**

### **ARTICLE A** **Authority, Purpose, Enactment**

#### **Section 8-1001 Authority.**

**This chapter and subsequent chapters, is adopted pursuant to the authority granted to North Carolina municipalities through the North Carolina General Statutes Chapter 160A, Article 8. (Ord. of 3/25/86)**

#### **Section 8-1002 Purposes.**

**It is in the intent of this part 8 and its subsequent chapters, to encourage a clean, healthy and satisfying environment for its citizens, one free from nuisances, eyesores, unhealthy or devaluating conditions. To these ends, this part 8 seeks to regulate, identify and provide a means to enforce the regulations, to protect the health, safety, and welfare of residents and property owners. (Ord. of 3/25/86)**

#### **Section 8-1003 Enactment.**

**For the purposes cited above and for the general purposes of promoting the health, safety, and general welfare of the Town, the Board of Commissioners does hereby ordain, adopt, and enact this part 8 in its entirety, including text, and all regulations, all of which shall be known the Erwin Nuisance Ordinance. This part 8 shall apply to all land within the corporate limits of the Town. (Ord. Of 3/25/86)**

#### **Section 8-1004 Conflicting ordinances.**

**All ordinances or parts of ordinances in conflict with this part 8 or inconsistent with its provisions, specifically including previous ordinances of the Town or amendments thereto, are hereby repealed or superseded to the extent necessary to give this part 8 full force and effect. (Ord. of 3/25/86)**

#### **Section 8-1005 Separability.**

**Should any provision of this part 8 be declared invalid or unconstitutional by a court of competent jurisdiction, such declaration shall not affect this part 8 as a whole or any part hereof except that specific provision which was the subject of the declaration. (Ord. of 3/25/86)**

#### **Section 8-1006 Inclusions.**

**Current sections of part 8 of the Code of Ordinances for the Town, that will remain in effect and incorporated into this new part 8 are as follows:**

Part 8 Chapter 2, Articles A--Animals and B--Dogs  
 Part 8 Chapter 1, Disorderly Conduct renumbered to Chapter 7  
 Part 8 Chapter 5, General Health Regulations renumbered to Chapter 6  
 and  
 Part 8 Chapter 6, Other General Nuisances renumbered to Chapter 8

(Ord. of 3/25/86)

Sections 8-1007 through 8-1009 reserved

## ARTICLE B

### Definition/Procedure

#### Section 8-1010 Definition.

For the purpose of this chapter, a public nuisance is a thing, act occupation, or use of property or things that:

- (a) A nuisance is a thing, act, occupation, or use of property or things that:
- (1) Annoys, injures, or endangers the safety, health, comfort, welfare, or repose or any considerable number of persons;
  - (2) Without permission of the owner or the trustee thereof, interferes obstructs, or tends to obstruct, or renders dangerous or hazardous for use, any navigable water or public place;
  - (3) In any way renders any considerable number of persons insecure in life, physical safety, or in the use of property;
  - (4) Adversely and unreasonably affects the community or neighborhood.
- (b) This Chapter, as well as other Sections of the Code, declare certain uses, actions, and activities to be public nuisances. It is the express intent of the Town Board that those declarations in addition and not subject to, the generic determinations of public nuisances contained in and authorized by this Section. Further, none of the express declarations of public nuisances contained in this Chapter or the Code are to or shall be construed to be exclusive or in any other way to limit the authority of the Town to identify and abate public nuisances pursuant to Town, County, State, or Federal law.
- (c) For the purposes of this Chapter, “animal” means every organism of the animal kingdom, one of the three divisions into which natural objects have been traditionally divided, the others being mineral and plant. “Animal” includes but is not limited to, any amphibian, bird, mammal, reptile, fish, or insect.

#### Section 8-1011 Illustrative enumeration.

**HEALTH NUISANCES** The following are expressly declared to be public nuisances adversely affecting the public health:

- (a) All decayed, infected, or unwholesome food, bartered, sold, or offered for sale to the public, or designed or offered for human consumption, including milk from diseased or otherwise unfit animals;
- (b) All animals affected with disease or animal disease carriers, when the disease is one that may adversely affect health of humans or other animals;
- (c) All ponds, pools, depressions, or vessels holding stagnant water in which mosquitoes may breed;
- (d) All ponds, pools, or vessels holding stagnant water that is generating or may tend to generate offensive or dangerous gasses;
- (e) All uncovered or inadequately covered accumulations of manure, plant material, fruits, or rubbish that provide a breeding place for flies, mosquitoes, or vermin, or which release gases;
- (f) Pollution or contamination of any water supply or water course by sewage, creamery, industrial, chemical, oil, junk, debris, or any other waste or product;
- (g) Smoke, fumes, gas, dust, soot, cinders, or other particulate matter in such quantities as to render the occupancy or use of property uncomfortable to a person of ordinary sensibilities;
- (h) Public exposure of persons having a contagious disease, one defined as contagious by State law, that is subject to ready transmission to others;
- (i) Maintenance, existence, or presence of a livery stable, brick yard, or automobile wrecking yard, or the depositing, storage, maintenance, existence, or presence of junk or junk iron or metal, abandoned or salvaged appliances or furniture, or automobile parts or dilapidated or dismantled vehicles or vehicle parts, or manure or fertilizer, within any residential district in the Town as the same are or hereafter are defined and described by the Town Zoning Code; and
- (j) Any other acts, conditions, occupations, and uses of property that are in fact a menace to the public health.

**PUBLIC NUISANCES ADVERSELY AFFECTING THE PUBLIC PEACE AND SAFETY** The following are expressly declared to be public nuisances adversely affecting the public peace and safety:

- (a) Storage, leakage, release, or use of any explosive, flammable liquid, or other dangerous, toxic or hazardous substance in any manner or in any amount other than as permitted pursuant to this Code and County, State, or Federal Laws;
- (b) All buildings and alteration of buildings, or parts thereof, made or erected in violation of Chapter 8, or any applicable County, State, or Federal laws prescribing the manner and materials for the construction or alteration;
- (c) Obstructions, impediments, or excavations that interfere with the ordinary use by the public of any public street, way, or sidewalk or an attraction of persons, except when and as permitted pursuant to this Code or State law;
- (d) Rainwater or drainage water issuing in a collected directed manner or filling from any building, structure, or paved area upon any sidewalk or pedestrian way, or flowing across any sidewalk or pedestrian way;

- (e) Any barbed wire or electrified fence within a plane of four (4) horizontal from any public street, way, sidewalk, path, or park; any wire, twine, or rope fences, consisting of one or more strands or wire, twine, or rope fences, that is less than three (3) feet in height and is less than (3) feet from any public street, way, sidewalk, path or park;
- (f) Any dangerous, unguarded machinery or appliances left in any public place or so operated or situated on private property so as to attract the public;
- (g) Any dead diseased, infested, or dying tree or shrub on any property so near to a street, public right-of-way, or a public utility easement as to constitute a danger to street trees, public utility services' streets, sidewalks, vehicle travel, persons, or property, other than that of the owner of the tree;
- (h) Vines or climbing plants growing into or over any street tree, fire hydrant, pole, utility wire, or electrolier;
- (i) Branches, roots, trees, shrubs, or foliage that interfere with visibility on, illumination of, or the free, safe, or undamaged use of, or access to or along, any portion of any public street or sidewalk;
- (j) Hedges or dense, thorny shrubs extending into the public right of way;
- (k) Branches of trees or shrubs that expend within eight (8) vertical feet from any portion of a public sidewalk or within fourteen (14) vertical feet from any portion of a public street;
- (l) Weeds or vegetation allowed to grow to a height greater than twelve (12) inches on the average, or any accumulation of dead weeds, grass, or brush, on any occupied or unoccupied lot or land less than one acre in area excluding woodlands, that may provide safe harborage for rats, snakes, and other vermin;
- (m) Generation of intense glare or heat that unreasonably affects use and enjoyment of neighboring property or confuses or interferes with travel along a street or sidewalk;
- (n) Excavations or ponds that are open and attractive to persons; and
- (o) Any other act, occupation, and use of property that in fact endangers or jeopardizes the public peace and safety.

**PROPERTY NUISANCES** The following are expressly declared to be public nuisances:

- (a) Buildings or structures that are structurally unsafe or which constitute a fire hazard, or which are otherwise dangerous to human safety and life;
- (b) Buildings that are in violation of Chapter 8;
- (c) Erosion, undercutting, excessive sloping, subsidence, saturation of soil, or surface water drainage of magnitude or effect to be injurious or potentially injurious to the public or adjacent properties, whether caused by grading operations, excavations, or fill, directed or disregarded drainage, or as a result of the topography, geology, or configuration of the land in its natural or altered state;
- (d) Accumulation of debris or rank overgrowth constituting a hazard, potential to become a fire hazard, or a likely harborage for vermin;

- (e) Buildings, fences, signs, or other structures that are or have been abandoned, boarded up, partially destroyed, or permitted to remain in a state of partial construction for a period of ninety (90) days or more, except in the case of partial construction, in which case the time shall be for a period of 180 days or more, and where continuation of the condition is unsightly or is hazardous to the public health, safety, or welfare;
- (f) Unpainted buildings causing or tending to cause dry rot, warping, or termite infestation;
- (g) Buildings with windows containing broken glass or missing glass, where the opening is of a type that normally contains glass and invites trespassers and malicious mischief;
- (h) Trees, weeds, or other vegetation, which by reason of being overgrown, dead, decayed, or diseased, are:
  - (1) Likely to harbor vermin; or
  - (2) A serious risk of physical injury to inhabitants or occupants of the premises or to the public;
- (i) Any wrecked, disabled, inoperative, salvaged or dismantled vehicle, vessel, equipment, appliances, or parts stored or parked for more than seven (7) consecutive days or more than ten (10) days total during a calendar month where the vehicle, vessel, equipment, or parts are visible from a public street or adjacent property, unless the vehicle, vessel, equipment, or parts are stored or parked pursuant to the provisions of this Code for operation of a dismantler, new or used vehicle or vessel dealer, automotive or boat repair or body shop, or junkyard;
- (j) Packing boxes, litter, garbage, junk metal, automobile parts, or any other refuse or refuse or debris that by reason of its volume, type, or length of storage has promoted or will promote:
  - (1) Infestation by rats, vermin or other pests; or
  - (2) A serious risk of harm to inhabitants or occupants of the premises or the public;
- (k) Broken, inoperative, or discarded furniture or other household equipment kept in front or side yard required by the Town Zoning Code for more than seven (7) consecutive days or more than ten (10) days during any calendar month;
- (l) Clotheslines in a front yard;
- (m) Condition of premises that is so defective, unsightly, deteriorated, or disrepaired as to be materially detrimental to the use and enjoyment or value of nearby properties and improvements; and
- (n) Emanation of noise or vibrations of such loud, unusual, unnecessary, penetrating, lengthy, raucous, annoying, untimely, or boisterous nature as to unreasonably disturb, annoy, injure, interfere with, or endanger the comfort, repose, health, peace, safety, or welfare of the users of neighboring property.

**Section 8-1012 Prohibited.**

**It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance. (Ord. of 3/25/86)**

**Section 8-1013 Notice to abate.**

Whenever a nuisance is found to exist within the Town or within the Town's extraterritorial jurisdiction, the Town manager or his assigns shall give written notice to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. (Ord. of 3/25/86)

**Section 8-1014 Contents of notice.**

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- (1) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (2) The location of the nuisance, if the same is stationary.
- (3) A description of what constitutes the nuisance.
- (4) A statement of acts necessary to abate the nuisance.
- (5) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Town will abate such nuisance and assess the cost thereof against such person. The opportunity for a hearing with the Town manager and/or Town attorney shall be granted upon written request, properly delivered to the Town manager within the allotted time. (Ord. of 3/25/86)

**Section 8-1015 Service of notice.**

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law. (Ord. of 3/25/86)

**Section 8-1016 Abatement by Town.**

Upon the failure of the person upon whom in time notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, the police chief or other duly designated officer of the Town shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof. (Ord. of 3/25/86)

**Section 8-1017 Payment of costs.**

Upon completion of the abatement of any nuisance by the Town under the provisions of this chapter, the police department shall deliver to the Town clerk a statement including the costs of labor, hauling or other necessary items of expense for such abatement. The Town clerk shall thereupon mail to the owner of the lot a bill covering the costs. As provided in G.S. 160A-193, the amount of the bill shall become a lien upon said property and if not paid within thirty (30) days shall be collected in the same manner as provided for the collection of delinquent taxes. (Ord. of 3/25/86)

**Section 8-1018 Criminal action, other civil remedies.**

**Violations of this part 8 shall constitute a criminal liability. The procedure set forth in this part 8 shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances and this Part 8 shall not prevent the Town from proceeding in a criminal action against any person, firm or corporation violating the provisions of this ordinance as provided in G.S. 14-4. In addition, violators shall be civilly liable for costs incurred by the town to abate said nuisances. (Ord. of 3/25/86)**

**Section 8-1019 Effective date.**

**The sections of this chapter and subsequent chapters of Part 8 of the Code of Ordinances for the Town will become effective as of the date of passage. (Ord. of 3/25/86)**

## CHAPTER 2

### Animals

#### ARTICLE A

##### In General

- Section 8-2001 Animals at large.
- Section 8-2002 Disposal of dead animals.
- Section 8-2003 Animal; chicken fighting prohibited.
- Section 8-2004 Bird sanctuary designated.
- Section 8-2005 Unlawful to kill birds.
- Section 8-2006 Same; weapons regulated.
- Section 8-2007 Same; signs permitted.
- Section 8-2008 Same; penalty.
- Sections 8-2009 through 8-2010 reserved.

#### ARTICLE B

##### Dogs

- Section 8-2011 Definitions.
- Section 8-2012 Number of dogs allowed.
- Section 8-2013 Dogs running at large.
- Section 8-2014 Public nuisances.
- Section 8-2015 Teasing or molesting.
- Section 8-2016 Penalties.
- Section 8-2017 Conflict.
- Section 8-2018 Cats.
- Sections 8-2019 through 8-2029 reserved.

#### ARTICLE C

##### Livestock

- Section 8-2030 Livestock definition.
- Section 8-2031 Keeping livestock.
- Section 8-2032 Limit on number, area requirements.
- Section 8-2033 Distance to dwellings.
- Section 8-2034 Cleanliness.
- Section 8-2035 Hog slaughtering.
- Section 8-2036 Reserved.
- Section 8-2037 Reserved.
- Section 8-2038 Enforcement.
- Section 8-2039 Penalties.

## ARTICLE A

### **In General**

#### **Section 8-2001 Animals at large.**

**It shall be prohibited the running or going at large of any domestic animals, including dogs and cats, within the corporate limits of the Town. Animals allowed to run at large in violation of this ordinance may be seized and sold or destroyed after reasonable efforts to notify their owner.**

#### **Section 8-2002 Disposal of dead animals.**

**No person shall deposit, or cause to be deposited, the carcass of any dead animal in the streets, roads, alleys, woods or waters within the corporate limits of the Town. (Ord. of 3/25/86)**

#### **Section 8-2003 Animal; chicken fighting prohibited.**

**No person shall incite or cause, any dogs or other animals or any chicken to fight within the Town. (Ord. of 3/25/86)**

#### **Section 8-2004 Bird sanctuary designated.**

**The area embraced within the corporate limits of the Town, and all lands owned or leased by the Town outside the corporate limits, is hereby designated as a bird sanctuary. (Ord. of 4/3/69, Sec. 1; Ord. of 3/25/86)**

#### **Section 8-2005 Unlawful to kill birds.**

**It shall be unlawful to trap, hunt, shoot or otherwise kill, within the sanctuary established by section 8-2004, any native wild bird; provided that it shall be lawful to trap starlings or similar birds or fowls when such birds or fowls are found to be congregating in such numbers in a particular locality that they constitute a nuisance or a menace to health or property. (Ord. of 4/3/69, Sec. 2; Ord. of 3/25/86)**

#### **Section 8-2006 Same; weapons regulated.**

**It shall be unlawful for any person, within the area hereby established to shoot or project any stone, rock, shot or other hard substance by means of sling shot, bean shooter, air rifle, pip-gun, bow, or other similar contrivance, or to fire any pistol, gun or other fire-arm within the said area, except on archery ranges, firing ranges, or in legally established shooting galleries or ranges, or in the discharge of duty of law enforcement officers; provided, that the use of fire-arms in the destruction of rodents or similar animals or reptiles that are considered a menace to public health or property may be permitted by special permission of the chief of police. (Ord. of 4/3/69, Sec. 3; Ord. of 3/25/86)**

**Section 8-2007 Same; signs permitted.**

The bird clubs of the Town are hereby granted permission to erect such artistic signs, giving notice of the regulations herein provided, at such places and of such design as may be approved by the Board. (Ord. of 4/3/69, Sec. 4; Ord. of 3/25/86)

**Section 8-2008 Same; penalty.**

Any person violating the provisions of section 8-2004, 8-2005 or 8-2006 shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding fifty dollars (\$50) or imprisoned not more than thirty (30) days, in the discretion of the court. (Ord. of 4/3/69, Sec. 5; Ord. of 3/25/86)

Sections 8-2009 through 8-2010 reserved.

**ARTICLE B**

**Dogs**

**Section 8-2011 Definitions.**

(a) As used in this Article, unless the context clearly requires otherwise and except as modified in subsection (b) of this section, the term:

(1) "**Dangerous dog**" means

a. A dog that:

1. Without provocation has killed or inflicted severe injury on a person; or
2. Is determined by the Animal Control Officer designated by the Town responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed in subdivision (2) of this subsection.

b. Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

(2) "**Dog**" means both male and female, more than six (6) months old.

(3) "**Owner**" means any person or legal entity that has a possessory property right in a dog.

(4) "**Owner's real property**" means any real property owned or leased by the owner of the dog, but does not include any public right-of-way or a common area of a condominium, apartment complex, or townhouse development.

(5) "**Potentially dangerous dog**" means a dog that the Animal Control Officer determines to have:

- a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or

- b. Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
  - c. Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack.
- (6) **"Proper enclosure"** A structure from which a dog cannot escape, or an outside area enclosed by a fence at least six (6) feet high secured to the ground in a manner that the dog cannot escape. (Ord.of 3/25/86)
  - (7) **"Severe injury"** means any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.
- (b) The provisions of this Article do not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
  - (2) A dog being used in a lawful hunt;
  - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
  - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury, was committing a willful trespass or other tort, was tormenting, abusing, or assaulting the dog, had tormented, abused, or assaulted the dog, or was committing or attempting to commit a crime.
- (c) The Town shall designate a **"Animal Control Officer"** to be responsible for determining when a dog is a "potentially dangerous dog" and shall designate a separate Board to hear any appeal. The person or Board making the determination that a dog is a "potentially dangerous dog" must notify the owner in writing, giving the reasons for the determination, before the dog may be considered potentially dangerous under this Article. The owner may appeal the determination by filing written objections with the appellate Board within three days. The appellate Board shall schedule a hearing within 10 days of the filing of the objections. Any appeal from the final decision of such appellate Board shall be taken to the superior court by filing notice of appeal and a petition for review within 10 days of the final decision of the appellate Board. Appeals from rulings of the appellate Board shall be heard in the superior court division. The appeal shall be heard de novo before a superior court judge sitting in the county in which the appellate Board whose ruling is being appealed is located.

**Section 8-2012 Number of dogs allowed.**

- (a) It shall be unlawful for any person to keep on any lot or premises within the corporate limits more than three (3) dogs. This limitation shall not apply to dogs less than six (6) months of age.
- (b) Any person wishing to keep more than three (3) dogs shall apply to the Town for a license to operate a dog kennel. Prior to the issuing of such license it shall

be determined that the kennel would be in compliance with all Town and State regulations.

- (c) Upon written and signed complaint being made to the Animal Control Officer by a person specifying the location where more than three (3) dogs are being kept in other than a licensed kennel, the Animal Control Officer shall investigate and, if it is determined that section 8-2012 in this article is being violated, the Animal Control Officer shall notify the person or persons responsible for keeping such dogs and upon such notice from the Animal Control Officer, the responsible person or persons shall remove from the premises the number of dogs in excess of three (3) within forty-eight (48) hours from the time of notification.

**Section 8-2013 Permitting dogs to run at large.**

- (a) No person shall allow his dog over six months old to run at large unaccompanied by the owner or by some member of the owner's family, or other person by the owner's permission.
- (b) A fee of five dollars (\$5) will be charged per day for the impoundment and keeping of any dog impounded by the police department. The owner or owners of any dogs impounded hereunder may redeem the same by paying all of the costs, charges, and penalties assessed, if any, that have accrued up to the time of making the redemption. When they are paid to the police department, it shall be the duty of the police department to release the dog from said pound to the owner.
- (c) Impounded dogs shall be kept for not less than seven (7) days unless reclaimed sooner by their owners. If the dog has a registration tag or collar and may be identified therefrom, the impounding officer shall notify the owner of the dog within forty-eight (48) hours of the dog's impoundment. Any dog not claimed by an owner within seven (7) days may be sold to any member of the public for a fee of three dollars (\$3) plus pound expenses. After release, the police department shall be given evidence within twenty-four (24) hours that the dog has been duly vaccinated for rabies. Otherwise, the dog shall be impounded.
- (d) The owner of any dog which is found running at large in violation of this article shall pay a civil penalty in the amount of twenty-five dollars (\$25) within seventy-two (72) hours after receipt of a citation for violation. (Ord. of 3/25/86)

**Section 8-2014 Permitting dogs to run at large at night; penalty; liability for damage.**

No person shall allow his dog over six (6) months old to run at large in the nighttime unaccompanied by the owner or by some member of the owner's family, or some other person by the owner's permission. Any person intentionally, knowingly, and willfully violating this section shall be guilty of a Class 3 misdemeanor, and shall also be liable in damages to any person injured or suffering loss to his property or chattels.

**Section 8-2015 Owners liability.**

**1. Precautions against attacks by dangerous dogs.**

(a) It is unlawful for an owner to:

- (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;
- (2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person, the owner shall provide written notice to:

- (1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and
- (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.

(c) Violation of this section is a Class 3 misdemeanor.

**2. Penalty for attacks by dangerous dogs.**

The owner of a dangerous dog that attacks a person and causes physical injuries requiring medical treatment in excess of one hundred dollars (\$100.00) shall be guilty of a Class 1 misdemeanor.

**3. Strict liability.**

The owner of a dangerous dog shall be strictly liable in civil damages for any injuries or property damage the dog inflicts upon a person, his property, or another animal.

**4. Liability for injury to livestock or fowls.**

If any dog, not being at the time on the premises of the owner or person having charge thereof, shall kill or injure any livestock or fowls, the owner or person having such dog in charge shall be liable for damages sustained by the injury, killing, or maiming of any livestock, and costs of suit.

**5. Permitting bitch at large.**

If any person owning or having any bitch shall knowingly permit her to run at large during the erotic stage of copulation he shall be guilty of a Class 3 misdemeanor.

**Section 8-2016 Public nuisances.**

- (a) The keeping or maintenance outside a proper enclosure of any dog or dogs having dangerous propensities is hereby declared to be a public nuisance and shall be abated as provided herein.
- (b) The keeping or maintenance of any dog or dogs which by prolonged and habitual barking, howling, or whining cause annoyance to neighboring residents and interfere with the reasonable use and enjoyment of the premises

occupied, by such residents, or with the reasonable enjoyment of the public streets, sidewalks or other public areas, is hereby declared to be a public nuisance, and shall be abated as provided herein.

- (c) **Complaint and notice.** Upon the receipt of a detailed written and signed complaint being made to the police department by any resident or residents that any person is maintaining a public nuisance as described in this section, the chief of police shall cause the owner as keeper of the dog or dogs in question to be notified that a complaint has been received, and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing by the investigating officer.
- (d) **Abatement.** If the written findings of the investigating officer indicate that the complaint is justified, the chief of police shall cause the owner or keeper of the dog or dogs in question to be so notified in writing, and ordered to abate such nuisance within forty-eight (48) hours. In the event the owner or keeper of the dog or dogs is unknown or cannot be ascertained, such notice and order, along with a general description of the dog or dogs, shall be posted for forty-eight (48) hours at the municipal building.
- (e) **Impoundment.** If any person being the owner or keeper of a dog or dogs described in this section shall fail or refuse to abate such nuisance upon order of the chief of police within the specified time, the chief shall cause the dog or dogs in question to be apprehended or impounded in a suitable place, and the owner or keeper shall be notified in writing of such impoundment. If the owner or keeper shall so request, the dog or dogs shall be released to him upon his execution of a written agreement to comply with the abatement order, and payment of any penalties incurred in accordance with this article. If no such request and execution is made by the owner or keeper within seven (7) days after written notice is sent, the chief of police shall cause such dog or dogs to be destroyed. In the event of a dog or dogs, the owner or keeper of which was unknown, the chief shall cause apprehension and impoundment to be carried out if no one claims such dog within forty-eight (48) hours after the notice, order, and description were posted, and shall cause a notice of impoundment, along with a general description of the dog or dogs to be posted at the municipal building. If no request for release of such dog or dogs and execution or agreement to comply with the order of abatement is made within such seven (7) day period, the chief shall cause such dog or dogs to be destroyed. (Ord. of 3/25/86)

#### **Section 8-2016 Teasing or molesting.**

It shall be unlawful for any person to tease, molest, bait or in any way bother any dog not belonging to him or legally under his control. (Ord. of 3/25/86)

#### **Section 8-2017 Penalties.**

- (a) If any person, being the owner or keeper of a dog or dogs for which an order is given under this article, shall fail or refuse to comply as ordered, he shall be guilty of a misdemeanor, punishable upon conviction by a fine not

exceeding fifty dollars (\$50) or by imprisonment of not more than thirty (30) days.

- (b) Enforcement of this article may be by injunction, restraining order, or order of abatement in a court of competent jurisdiction, as provided in G.S. 160A-175 (d) and (e). (Ord. of 3/25/86)

**Section 8-2018 Conflict.**

Any ordinance or part of any ordinance in conflict with this article is hereby repealed. (Ord. of 3/25/86)

**Section 8-2019 Cats.**

The words of this article (Article B, Part 8 Chapter 2) apply to cats, over six (6) months of age. In addition, the word "cat" may be substituted for "dog". (Ord. of 3/25/86)

Sections 8-2019 through 8-2029 reserved.

**ARTICLE C**

**Livestock**

**Section 8-2030 Livestock definition.**

For the purpose of this article, livestock shall be defined as any animals (excluding rabbits, dogs, and cats), including farm animals, wild animals, and exotic or unusual animals; or any animal used for breeding purposes. (Ord. of 3/25/86)

**Section 8-2031 Keeping livestock.**

Except as herein provided, it shall be unlawful for any person, firm or corporation to possess or harbor any livestock within the corporate limits of the Town. This section shall not apply to traveling zoos, circuses or other traveling commercial animal exhibitions, bona fide farms as defined in section 9-4012, horses, not for breeding purposes, or small native wildlife species where possession has been specifically permitted by the North Carolina Wildlife Resources Commission. (Ord. of 3/25/86)

**Section 8-2032 Limit on number, area requirements.**

It shall be unlawful for any person to locate, keep or maintain on any lot or parcel of land within the corporate limits more than one (1) horse or animal per acre of land in excess of the land to gain the required distances from dwellings as defined in section 8-2033. (Ord. of 3/25/86)

**Section 8-2033 Distance to dwellings.**

It shall be unlawful for any person to locate, keep, tie or stake any animal, except cats or dogs, within two hundred (200) feet of any dwelling or other structure used

for human habitation or to suffer or permit any such animal at any time to be within such distance of such dwelling or other structure. (Ord. of 3/25/86)

**Section 8-2034 Cleanliness.**

All animal enclosures or yards shall at all times be kept in a clean condition by taking such other action as is deemed necessary by the State Board of Health to prevent any condition detrimental to the public health of the Town. (Ord. of 3/25/86)

**Section 8-2035 Hog slaughtering.**

This section shall not be deemed to prohibit unloading of a shipment of swine, as for the slaughtering of hogs or pigs; provided, that such swine are slaughtered within seventy-two (72) hours. (Ord. of 3/2/586)

**Section 8-2036 reserved.**

**Section 8-2037 reserved.**

**Section 8-2038 Enforcement.**

Upon receipt of a complaint, the Town manager or his assigns will investigate the complaint. If a complaint is, in his discretion warranted, he will notify the person against whom the complaint is derived, and thereupon said person shall abate the nuisance within fifteen (15) days of notification. (State law reference G.S. 160A-186) (Ord. of 3/25/86)

**Section 8-2039 Penalties.**

Persons found guilty of violating this article shall be guilty of a misdemeanor, punishable upon conviction by a fine not exceeding fifty dollars (\$50) or by imprisonment of not more than thirty (30) days. (Ord. of 3/25/86)

## CHAPTER 3

### Abandoned/Nuisance Vehicles

- Section 8-3001 Definitions.
- Section 8-3002 Administration
- Section 8-3003 Abandoned vehicle unlawful; removal authorized.
- Section 8-3004 Nuisance vehicle unlawful; removal authorized.
- Section 8-3005 Removal of abandoned or nuisance vehicles; pre-towing notice requirements.
- Section 8-3006 Exceptions to prior notice requirements.
- Section 8-3007 Removal of vehicles; post towing notice requirements.
- Section 8-3008 Right to probable cause hearing before sale or final disposition of vehicle.
- Section 8-3009 Redemption of vehicle during proceedings.
- Section 8-3010 Sale and disposition of unclaimed vehicle.
- Section 8-3011 Conditions an removal of vehicles from private property
- Section 8-3012 Protection against criminal or civil liability.
- Section 8-3013 Exceptions.
- Section 8-3014 Unlawful removal of impounded vehicles.
- Section 8-3015 Injunctive relief.
- Section 8-3016 Penalties.

#### Section 8-3001 Definitions.

The meaning of the terms used in this chapter shall be as follows.

- (a) *Abandoned vehicle.* An abandoned motor vehicle is one that is:
- (1) Left upon a street or highway in violation of a law or ordinance prohibiting parking;
  - (2) Left on a public street or highway for longer than seven (7) days;
  - (3) Left on property owned or operated by the Town for longer than twenty-four (24) hour;; or
  - (4) Left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.
- (b) *Authorizing official.* The supervisory employee of the police department or the inspections department, respectively, designated to authorize the removal of vehicles under the provisions of this ordinance.
- (c) *Motor vehicle or vehicle.* A machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

- (d) ***Nuisance vehicle.*** A motor vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:
- (1) A breeding ground or harbor for mosquitoes or other insects or a breeding ground or harbor for rats or other pests;
  - (2) A point of heavy growth of weeds or other noxious vegetation over eight (8) inches in height;
  - (3) A point of collection of pools or ponds of water;
  - (4) A point of concentration of quantities of gasoline, oil and other flammable or explosive materials as evidenced by odor;
  - (5) One which has areas of confinement which cannot be operated from the inside such as trunks, hoods, etc.;
  - (6) One which presents a substantial risk of injury to minors or other persons because of broken glass, jagged edges or protrusions, or otherwise;
  - (7) So situated or located that there is a danger of its falling or turning over; or
  - (8) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners. (Ord. of 11/5/87)

#### **Section 8-3002 Administration**

The police department and inspections department of the Town shall be responsible for the administration and enforcement of this ordinance. The police department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the Town, and property owned by the Town. The inspections department shall be responsible for administering the removal and disposition of abandoned and nuisance vehicles located on private property. Nothing in this ordinance shall be construed to limit the legal authority or powers of officers of the police department in enforcing any other laws or otherwise carrying out their duties. (Ord. of 11/5/87)

#### **Section 8-3003 Abandoned vehicle unlawful; removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined in this chapter.
- (b) Upon investigation, proper officials of the Town may determine that a vehicle is an abandoned vehicle as defined in this chapter and order the vehicle removed. (Ord. of 11/5/87)

#### **Section 8-3004 Nuisance vehicle unlawful; removal authorized.**

- (a) It shall be unlawful for the registered owner of a motor vehicle or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, proper officials of the inspections department may determine and declare that a vehicle is a health or safety hazard and a

nuisance vehicle as defined in this chapter and order the vehicle removed. (Ord. of 11/5/87)

**Section 8-3005 Removal of abandoned or nuisance vehicles; pre-towing notice requirements.**

- (a) Except as set forth in section 8-3006 below a vehicle to be towed or otherwise removed because it has been abandoned, as defined herein, or declared to be a nuisance vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. In such instances, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle, a notice indicating that the vehicle will be removed by the Town on a specified date (no sooner than seven (7) days after the notice is affixed), unless the vehicle is moved by the owner or legal possessor prior to this time.
- (b) With respect to abandoned vehicles on private property and nuisance vehicles, if the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned or a nuisance vehicle, such appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. (Ord. of 11/5/87)

**Section 8-3006 Exceptions to prior notice requirements.**

- (a) The requirement that notice be affixed to an abandoned or nuisance vehicle at least seven (7) days prior to removal may, as determined by the authorizing officer, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.
- (b) For vehicles left on the public streets and highways, such circumstances include, and the Board of Commissioners hereby determines that immediate removal of such vehicles is warranted when they are:
  - (1) Obstructing traffic;
  - (2) Parked in a no stopping or standing zone;
  - (3) Parked in loading zones; or
  - (4) Parked in violation of temporary parking restricted zones.
- (c) With respect to abandoned or nuisance vehicles left on Town-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving the minimum seven (7) days prior notice only in those circumstances where the authorizing official finds, and enters such findings in appropriate daily records, a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration but not limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. (Ord. of 11/5/87)

**Section 8-3007 Removal of vehicles; post towing notice requirements.**

(a) Any vehicle which has been determined to be an abandoned or a nuisance vehicle may be removed to a storage garage or area owned by the Town. Whenever such a vehicle is removed, the authorizing Town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) This notice shall, if feasible, be given by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in sections 8-3001 through 8-3005 above, shall, unless this notice is waived in writing by the vehicle owner or his agent, also be mailed to the owner's last known address.

(c) If the vehicle is registered in the State, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the State, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

(d) Whenever an abandoned or nuisance vehicle is removed, and such vehicle has no valid registration or registration plate, the authorizing Town official shall make reasonable efforts, including the checking of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information as set forth in sections 8-3001 through 8-3005 above. (Ord. of 11/5/87)

**Section 8-3008 Right to probable clause hearing before sale or final disposition vehicle.**

After the removal of an abandoned motor vehicle or a vehicle declared to be a nuisance vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the County magistrate designated by the chief district court judge to receive hearing requests. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-222, as amended. (Ord. of 11/5/87)

**Section 8-3009 Redemption of vehicle during proceedings.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the vehicle by paying the towing and storage fees or posting a bond for double the amount of these fees to the private tow truck operator or towing business having custody of the removed vehicle. (Ord. of 11/5/87)

**Section 8-3010 Sale and disposition of unclaimed vehicle.**

Any vehicle declared to be an abandoned or a nuisance vehicle under this ordinance which is not claimed by the owner or other party entitled to possession, will be disposed of by the private tow truck operator or towing business having custody of the vehicle or by the Town. Disposition of such a vehicle shall be carried out in coordination with the Town and in accordance with G.S. 44A-1. (Ord. of 11/5/87)

**Section 8-3011 Conditions on removal of vehicles from private property.**

As a general policy, the Town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is declared a nuisance vehicle. The Town may require any person requesting the removal of an abandoned or nuisance vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage or sale, thereof. (Ord. of 11/5/87)

**Section 8-3012 Protection against criminal or civil liability.**

No person shall be held to answer to any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned or nuisance vehicle, for disposing of such vehicle as provided in this article. (Ord. of 11/5/87)

**Section 8-3013 Exceptions.**

Nothing in this section shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town. Provided however, that the premises of a business enterprise which contains one or more nuisance vehicles is not being operated in a lawful place or manner. (Ord. of 11/5/87)

**Section 8-3014 Unlawful removal of impounded vehicles.**

It shall be unlawful for any person to remove or to attempt to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of this code, unless and until all towing and impoundment fees, or bond in lieu of such fees, have been paid. (Ord. of 11/5/87)

**Section 8-3015 Injunctive relief.**

This ordinance may be enforced by an appropriate equitable remedy as provided in G.S. 160A-175. (Ord. of 11/5/87)

**Section 83016 Penalties.**

In addition to or in lieu of other available remedies, violations of this ordinance shall constitute a misdemeanor, punishable as provided in G.S. 14-4. (Ord. of 11/5/87)

## CHAPTER 4

### Weeds, Hedges, Tall Grass and Other Vegetation

**Section 8-4001 Definitions.**

**Section 8-4002 Weeds or vegetative nuisance unlawful.**

**Section 8-4003 Enforcement.**

**Section 8-4004 Abatement by the Town.**

**Section 8-4005 Trimming plants at intersections.**

**Section 8-4006 Destruction of trees or bushes.**

**Section 8-4007 Trimming plants extending over streets.**

**Section 8-4008 Removal of unsafe trees by owner.**

**Section 8-4009 Assessment of costs by Town.**

**Section 8-4010 Penalty**

**Section 8-4001 Definitions.**

Weeds and nuisance vegetation under this chapter shall include the following which may occur on any lot within the corporate limits of the Town:

- (1) Weeds or tall grass exceeding an average of twelve (12) inches in height, or vegetation providing safe harborage for rats, mice, snakes, and other vermin;
- (2) Vegetation which obstructs the safe view of traffic at an intersection or driveway;
- (3) Vegetation which creates a nuisance by its existence (i.e. poison ivy, kudzu);
- (4) Dead or dying trees or plants which may cause a hazardous situation if they fall. (Ord. of 3/25/86)

**Section 8-4002 Weeds or vegetative nuisance unlawful.**

It shall be unlawful for property owners to permit a weed or vegetative nuisance condition to exist on their property. (Ord. of 3/25/86)

**Section 8-4003 Enforcement.**

- (a) The Town manager, or his assigns, upon notice from any person of the possible existence of any of the conditions described in section 8-4001, shall cause an investigation to be made to determine whether conditions exist which may constitute a public nuisance as described in section 8-4001. (Ord. of 3/25/86)
- (b) If it appears that such conditions exist, the Town manager or his assign, shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice stating the reasons why the conditions may constitute a

violation and that a hearing will be held before the Town manager or his assign, at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

- (c) If a determination is made that such conditions constituting a public nuisance exist, the Town manager shall notify, in writing, the owner of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen (15) days from the receipt of such written notice. (Ord. of 3/25/86)

#### **Section 8-4004 Abatement by the Town.**

If the owner, having been notified to abate such a public nuisance, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within fifteen (15) days from receipt of said order, the Town Manager or his designee shall cause said condition to be improved or otherwise remedied by having employees of the Town or independent contracted services go upon said premise and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Town Manager.

#### **Section 8-4005 Trimming plants at intersections.**

The owner or occupant of any lot or lands lying and abutting on any intersection of two streets or any combination thereof in the Town and having shrubs or bushes on such lot or lands, shall trim or cause to be trimmed all shrubs and bushes located within twenty (20) feet of the intersection of the property lines nearest to the street intersection and abutting the sidewalk or the normal sidewalk location, so that no bush or shrub shall exceed three (3) feet in height above the surface of either the sidewalk or the normal sidewalk location. (Ord. of 3/25/86)

#### **Section 8-4006 Destruction of trees or bushes.**

No person, except by direction or authority of the director of public works, shall box, bore, cut, break down, deface, injure or destroy any trees, shrubs or bushes on any street or right-of-way. (Ord. of 3/25/86)

#### **Section 8-4007 Trimming plants extending over streets.**

The owner or occupant of any lot or lands lying and abutting on any street in the Town and having trees, shrubs or bushes on his lot or lands extending over the property line onto such street shall trim or cause to be trimmed such trees to the clear height of not less than nine (9) feet above the surface of the sidewalk or street. (Ord. of 3/25/86)

**Section 8-4008 Removal of unsafe trees by owner.**

The director of public works shall have the authority, and it shall be his duty to order trimming, preservation or removal of trees or plants upon private property when he finds such an act necessary to public safety or to prevent the spread of disease or insects in public trees or places. The owner shall not fail to trim, remove or take steps to preserve such tree within thirty (30) days of the order to trim, remove or preserve the tree. (Ord. of 3/25/86)

**Section 8-4009 Assessment of costs by Town.**

Whenever any tree, plant or shrubbery, or part thereof, or weeds and grass are growing in any street, public place or upon private property contiguous to a street or sidewalk or public place and such is trimmed or removed by the Town, then, after the work is done, the Town clerk shall give notice, by regular mail, to the owner of such lot or parcel of land at his last known address or best obtainable address, to pay the cost of such trimming or removal of trees, plants, shrubbery, grass or weeds, or parts thereof. Such notice shall be accompanied by a statement of the amount of cost incurred, and in the event the same is not paid within thirty (30) days after the mailing of such notice, then the amount shall be certified to the Town attorney for collection the same as other taxes and assessments are collected. (G.S. 160A-193)(Ord. of 3/25/86)

**Section 8-4010 Penalty.**

Whoever violates any provision of this provision of this chapter is guilty of a civil penalty and the Town may carry out the provisions of Section 8-4004 and 8-4009, as well. Each day's violation shall constitute a separate offense, and upon conviction of said civil penalty, is punishable by a fine of twenty-five (25) dollars for each violation.

## CHAPTER 5

### Rubbish, Litter

- Section 8-5001 Definitions.  
 Section 8-5002 Litter in public places.  
 Section 8-5003 Polluting rivers.  
 Section 8-5004 Scattering rubbish.  
 Section 8-5005 Placement of litter in receptacle so as to prevent scattering.  
 Section 8-5006 Sweeping litter into gutters prohibited.  
 Section 8-5007 Merchant's duty to keep sidewalks free of litter.  
 Section 8-5008 Litter thrown by persons in vehicles.  
 Section 8-5009 Truck loads causing litter.  
 Section 8-5010 Litter in parks, lakes and fountains.  
 Section 8-5011 Litter on occupied and vacant private property; owners' duty.  
 Section 8-5012 Clearing of litter from private property by Town.  
 Section 8-5013 Penalties.

#### Section 8-5001 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivatives shall be defined as follows:

- (1) *Garbage* means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (2) *Litter* means garbage, refuse and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
- (3) *Park* means any park, reservation, playground, beach, recreation center or any other public area in the Town owned or used by the Town and devoted to active or passive recreation.
- (4) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.
- (5) *Private premises* means any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

- (6) *Public place* means any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and buildings.
- (7) *Refuse* means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.
- (8) *Rubbish* means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, leaves, weeds, brush, shrubbery and similar materials.
- (9) *Vehicle* means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Ord. of 3/25/86)

**Section 8-5002 Litter in public places.**

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Town except in public receptacles or in private receptacles for collection. (Ord. of 3/25/86)

**Section 8-5003 Polluting rivers.**

No person shall deposit any rubbish, paper, paper waste, rags or waste material of any kind in any river, stream or natural waterway or upon the banks of same. (Ord. of 3/25/86)

**Section 8-5004 Scattering rubbish.**

No person shall deposit in or upon, or scatter over or upon any of the streets, parks or public grounds within the Town any papers, paper waste, rags or waste material of any kind. No person who is the owner or lessee of any lot or land within the Town shall deposit any such material upon any such lot or land, or allow such to be deposited thereon. (Ord. of 3/25/86)

**Section 8-5005 Placement of litter in receptacle so as to prevent scattering.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other grounds within the Town. (Ord. of 3/25/86)

**Section 8-5006 Sweeping litter into gutters prohibited.**

No person shall sweep into or deposit in any gutter, ditch, street or other public place within the Town the accumulation of litter from any building or lot or from the public sidewalks. Nor shall any owner or tenant abutting a public thoroughfare allow or suffer to remain litter upon the adjacent public sidewalk including medians, so that litter, rubbish and refuse shall not be allowed to pile up or accumulate on such public right of way. (Ord. of 3/25/86)

**Section 8-5007 Merchants' duty to keep sidewalks free of litter.**

No merchant or business within the Town shall allow litter to accumulate, and shall clean and otherwise rid his premises, including sidewalks, of waste matter and litter although the same may not have been deposited by him, his agents, or his patrons. (Ord. of 3/25/86)

**Section 8-5008 Litter thrown by persons in vehicles.**

No operator or passenger in any motor vehicle shall throw or deposit litter on any public street, right-of-way, sidewalk or upon private premises while such vehicle is either stopped or in motion. (Ord. of 3/25/86)

**Section 8-5009 Truck loads causing litter.**

No operator of any truck or hauling motor vehicle shall cause to be scattered on or about public or private premises or streets while in motion or stopped, any litter, refuse, mud, dirt, sticky substances or rubbish. All loads shall be secured in such a manner so as to effect compliance with this section. (Ord. of 3/25/86)

**Section 8-5010 Litter in parks, lakes and fountains.**

No camper, spectator, participant, pedestrian, person engaged in recreational pursuit, or other person shall cause litter, rubbish or refuse to be cast, thrown, deposited or scattered in or around public parks, lakes, waterways or other public lands, except in containers and receptacles designed for such use. (Ord. of 3/25/86)

**Section 8-5011 Litter on occupied and vacant private property; owner's duty.**

Litter, rubbish, or refuse shall not be cast, scattered, thrown, or deposited on or about private property within the corporate limits to the detriment of public health, safety and welfare. The owner, lessees, agents or others in charge of premises within the Town shall rid such lands and abutting sidewalks and medians of such nuisance or place it in an authorized receptacle. It shall likewise be unlawful for any person to dump, place or scatter litter, refuse or rubbish on or about private premises, whether such premises are vacant or inhabited. (Ord. of 3/25/86)

**Section 8-5012 Clearing of litter from private property by Town.**

- (a) If it appears that such conditions exist, the Town manager shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Town manager at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the place and time fixed in the notice. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.

The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings.

- (b) If a determination is made that such conditions constituting a public nuisance exist, the Town manager shall notify, in writing, the owner of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within seven (7) days from the receipt of such written notice. (Ord. of 3/25/86)

**Section 8-3013 Penalties.**

Any person violating this chapter shall be guilty of a misdemeanor and if found guilty of said misdemeanor, is punishable upon conviction by a fine not exceeding fifty dollars (\$50) or imprisonment of not more than thirty (30) days, for each violation. (Ord. of 3/25/86)

State Law Reference: G.S. 160A-174

## CHAPTER 6

### General Health Regulations

**Section 8-6001 Enforcement of this chapter under supervision of County health officer.**

**Section 8-6002 Unlawful to hinder health officer or assistants.**

**Section 8-6003 Right to enter.**

**Section 8-6004 Property kept clean.**

**Section 8-6005 Human waste.**

**Section 8-6006 Regulation of turkey shoots**

**Section 8-6007 Sale of food; eating establishments.**

**Section 8-6008 Debris from construction**

**Section 8-6009 Spitting on sidewalks.**

**Section 8-6010 Penalties.**

**Section 8-6001 Enforcement of this chapter under supervision of County health officer.**

The enforcement of this chapter shall be under the supervision of the County health officer. (Code 1967, Ch. G, Art. I, Sec. I)(Ord. of 3/25/86)

**Section 8-6002 Unlawful to hinder health officer or assistants.**

It shall be unlawful for any person to hinder, obstruct or delay the health officer or any of his assistants in the lawful discharge of their duties. (Code 1967, Ch. G, Art. I, Sec. 2)(Ord. of 3/25/86)

**Section 8-6003 Right to enter.**

The health officer or any of his assistants have the right to enter at any reasonable time any premises for the purpose of making the inspection or investigations as required by this chapter. (Code 1967, Ch. G, Art. I, Sec. 3)(Ord. of 3/25/86)

**Section 8-6004 Property kept clean.**

Owners or occupants of premises required to keep the same clean. Every person owning or occupying any premises in the corporate limits shall keep the premises free from weeds, trash, and all other forms of animal or vegetable refuse which may be dangerous or prejudicial to the public health, or which may constitute a public nuisance. No owner or occupant of any premises shall bury therein any animal or vegetable matter which, upon decaying may become dangerous or prejudicial to the public health, or may constitute a nuisance. (Ord. of 3/25/86)

**Section 8-6005 Human waste.**

No person shall urinate or deposit any human waste of any kind on any street, lot or premises except in approved sanitary facilities. (Code 1968, Ch. G, Art. I, Sec. 5)(Ord. of 3/25/86)

**Section 8-6006 Regulation of turkey shoots.**

Any person, firm or corporation shall comply with the following requirements prior to sponsoring, hosting or operating a turkey shoot or any target shooting contest where guns are fired.

**(a) Application for permit.**

- (1) Any person, firm or corporation wanting to host, sponsor or operate a turkey shoot shall apply for a permit from the Town manager at the Town Hall in Erwin from 9 a.m. to 5 p.m. Monday through Friday. There shall be a twenty-five dollar (\$25) permit application fee for each application submitted.**
- (2) Each individual applicant shall be at least twenty-one (21) years of age, and shall not have been convicted of a felony or misdemeanor. Traffic offenses, except for those related to alcohol or drug, are hereby excepted.**

**(b) Time. No person obtaining a permit shall be allowed to operate a turkey shoot before 12 o'clock noon or after 10:30 p.m. at night during weekdays or on Saturdays. Turkey shoots are expressly prohibited on Sundays and holidays.**

**(c) General operation, equipment and parking.**

- (1) The site for a turkey shoot shall be approved by the Town manager as safe with no danger of weapon fire directed toward any nearby road, highway, residence of any type or other building, whether occupied or not.**
- (2) The applicant or the applicant's agent, whose name shall be on file at the police department, shall be on the premises and accessible to Town officials or Town employees during the hours of operation.**
- (3) Any person, firm or corporation who receives a permit shall be the owner of the premises used for the turkey shoot or, at the time of making application for a permit, present a written agreement with the owner authorizing a turkey shoot on the premises.**
- (4) Only .410, .20, .16, and .12 gauge shotguns with the barrel or barrels at least eighteen (18) inches in length may be used. No slugs or buckshot shall be fired from any shotgun. Only birdshot with a number four or higher classification shall be permitted.**
- (5) The site for a turkey shoot shall have sufficient lighting if used during a time thirty (30) minutes prior to or after sunset. Other reasonable precautions such as hay bales or similar objects to absorb the discharges, shall be in place prior to opening a turkey shoot.**
- (6) The applicant shall not allow any alcohol or illegal drug; to be consumed or used by any person while at the site of a turkey shoot. Violation of this ordinance shall result in the immediate revocation of the permit; revocation shall be in writing, signed by the Town manager, served on the operator or**

person in charge of the turkey shoot, and provide for a hearing on the next business day before the Town manager who shall hear the permittee and rule on the revocation. The Town manager may hear any evidence and no specific rules of evidence shall apply.

- (7) Parking of motor vehicles at the site of a turkey shoot by competitors or spectators shall not impede or any way block the normal flow of traffic on public streets or highways.
- (d) Conducting any of the activities referred to in this section without a permit or after a permit is revoked and prior to reinstatement, shall constitute a misdemeanor as referred to elsewhere in these ordinances, and shall be punished as such. (Ord. of 11-5-87)

**Section 8-6007 Sale of food; eating establishments.**

All persons, firms, or corporations selling food of any kind or serving prepared meals shall comply with all requirements pertaining thereto of the North Carolina State Board of Health. (Code 1968, Ch. G, Art. I, Sec. 7)(Ord. of 3/25/86)

**Section 8-6008 Debris from construction.**

All refuse and debris, remaining both as a result of the repair of any buildings, or of the erection and completion of any buildings, shall be removed by the property owner within thirty (30) days from the completion of the aforesaid work. (Code 1968, Ch. G, Art. I, Sec. 8)(Ord. of 3/25/86)

**Section 8-6009 Spitting on sidewalks.**

- (a) It shall be unlawful to expectorate or spit in or upon any public building or sidewalk.
- (b) In addition to or in lieu of other available remedies, violations of this ordinance shall constitute a misdemeanor, punishable as provided in G.S. 14-4. (Ord. of 1/7/88)

**Section 8-6010 Penalties.**

Any person violating this chapter shall be guilty of a misdemeanor, and if found guilty of said misdemeanor, is punishable upon conviction by a fine not exceeding fifty (\$50) dollars or imprisonment of not more than thirty (30) days, for each violation. (Ord. of 3/25/86)

## CHAPTER 7

### Disorderly Conduct

**Section 8-7001 General.**

**Section 8-7002 House of ill fame.**

**Section 8-7003 Profanity and boisterous conduct.**

**Section 8-7004 Public drunkenness.**

**Section 8-7005 Drinking in public.**

**Section 8-7006 Penalties**

**Section 8-7007 through 8-7009 reserved.**

**Section 8-7001 General.**

No occupant of any house whether residence or business shall permit same to be kept in an indecent and offensive or disorderly manner or permit loafers or idle persons to congregate therein or in front of same to the annoyance of persons passing by or living in the vicinity. (Code 1967, Ch. 1, Art. I, Sec. 1)(Ord. of 3/25/86)

**Section 8-7002 House of ill fame.**

No person shall keep a house or other place of ill fame in the Town and no person shall knowingly rent any house to be used as a house of ill fame. All adult persons living in such house shall be considered as keepers thereof and be subject to the penalties of this code. (Code 1967, Ch. 1, Art. I, Sec. 3)(Ord. of 3/25/86)

**Section 8-7003 Profanity and boisterous conduct.**

It shall be unlawful for any person to use loud and boisterous language so as to become a nuisance or use any form of profanity or indecent language on the street or in a gathering or audience or assembly, or in any public place whatsoever, or to indecently expose themselves within the corporate limits. (Code 1967, Ch. 1, Art. I, Sec. 4)(Ord. of 3/25/86)

**Section 8-7004 Public drunkenness.**

It shall be unlawful for any intoxicated person to be on or upon any public street or other public place. (Code 1967, Ch. 1, Art. I, Sec. 5)(Ord. of 3/25/86)

**Section 8-7005 Drinking in public.**

It shall be unlawful for any person to consume or sell beer, unfortified wine, whiskey, or alcoholic beverages of any kind on any property owned or occupied by the Town. (Ord. of 3/25/86)

**Section 8-7006 Penalties.**

**Any person violating this chapter shall be guilty of a misdemeanor, and if found guilty of said misdemeanor shall be punishable upon conviction by fine not exceeding fifty dollars (\$50) or imprisonment of not more than thirty (30) days, for each violation. (Ord. of 3/25/86)**

**Sections 8-7007 through 8-7009 reserved.**

## CHAPTER 8

### Other General Nuisances

**Section 8-8001 Unreasonably loud noise prohibited.**

**Section 8-8002 Noises expressly prohibited.**

**Section 8-8003 Firearms regulated.**

**Section 8-8004 Posting bills; other advertising.**

**Section 8-8005 Firebomb and "molotov cocktails" prohibited.**

**Section 8-8006 Quiet zones.**

**Section 8-8007 Penalties.**

**Section 8-8001 Unreasonably loud noise prohibited.**

It shall be unlawful for any person, firm or corporation 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 1967, Ch. 1, Art. II, Sec. I)(Ord. of 3/25/86)

**Section 8-8002 Noises expressly prohibited.**

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

- (a) The sounding of any horn or signal device or any 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 keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person in the vicinity.
- (d) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker, 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.

- (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 as a warning of danger.
- (g) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, 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 or business district other than between the hours of 7 a.m. and 9 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town clerk, which permit may be renewed for a period of three (3) 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 are in session, or within one hundred fifty (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 without receiving a permit for the same, and notification of the Town.
- (k) The creation of any excessive noise on Sundays on any street adjacent to any church, provided, conspicuous signs are displayed in such streets adjacent to churches indicating that the same is a church street.
- (l) The creation of loud and excessive noise in connection with loading or unloading any vehicle, of 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, loud speaker 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 loud speakers 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 therefrom between the hours of 11 p.m. and 7 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. (Code 1967, Ch. I, Art. II, Sec. 2)(Ord. of 3/25/86)

**Section 8-8003(A) Firearms regulated.**

**It shall be unlawful for any person to discharge any firearm of any type within the corporate limits except a peace officer in the performance of his duty, or persons in self-defense of in the protection of property, or within a building licensed under Section 8-8003(B). (Code 1967, Ch. I, Art. II, Sec. 3)(Ord. of 3/25/86)  
Section 8-8003(B) Conditional Discharge of Firearms Permitted.**

**Upon application made on forms approved by the Town Manager or his designee, the owner or occupant of a building may apply to the Town Board for a permit allowing the discharge of firearms in an indoor firing area, but only in accordance with the following standards :**

- (1) The primary business engaged on the premises is the sale and/or repair of firearms.**
- (2) The building containing the indoor firing area shall be fully enclosed.**
- (3) The walls, ceiling. and floor of the indoor firing area shall be constructed such that rounds, ammunition, or projectiles utilized in the firing area cannot penetrate the walls, ceiling, or floor of the firing area.**
- (4) There shall be no unreasonably loud or disturbing noise outside the building resulting from the direct use of firearms.**
- (5) During all hours of the indoor firing area, there shall be on premises a supervisor, who shall have obtained a certificate of completion of the National Rifle Association's Firearms Safety Course or an equivalent course or an appropriate governmental agency, educational institution, or nationally recognized private firearms safety training certification organization as approved by the Council.**

**Section 8-8004 Posting bills; other advertising.**

**No person shall stick, paint, brand, stamp, write or put upon any house, fence, wall, pavement, post or upon any property, owned by any person, firm, or corporation, or owned by the Town, any printed, written, painted or other advertisement, bill, notice, sign or poster, without first having obtained the permission of the owner of such property. (Code 1967, Ch. I, Art. II, Sec. 4)(Ord. of 3/25/86)**

**Section 8-8005 Firebombs and "molotov cocktails" prohibited.**

- (a) Definitions. For the purpose of this section, the following terms shall have the meanings herein ascribed:**
  - (1) "Molotov cocktail" is defined as any breakable container or any container which is designed in such a manner that upon being propelled it will at impact empty its contents, which is filled with a flammable fluid or substance, and which is fitted with a fuse or wick.**
  - (2) "Firebomb" is defined as any type of object designed or constructed so that upon being propelled it will explode or ignite its area of impact. (Code 1967, Ch. L, Art. II, Sec. 1)**

- (b) Prohibited acts. It shall be unlawful for any person or persons to manufacture, possess, transport or use any molotov cocktail or other firebomb. (Code 1967, Ch. L, Art. II, Sec. 2)**
- (c) Possession of materials restricted. It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture molotov cocktails or other firebombs, other than on his or their premises. (Code 1967, Ch. L, Art. II, Sec. 3) (Ord. of 3/25/86)**

**Section 8-8006 Quiet zones.**

**The creation of any excessive noise on any street adjacent to any school, institution of learning, library, or sanitarium, or court while the same is in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the working of such institutions; provided, that conspicuous signs are displayed in such streets indicating that the same is a school, court or hospital street, shall be deemed a violation of this article. (Ord. of 3/25/86)**

**Section 8-8007 Penalties.**

**Any person violating this chapter shall be guilty of a misdemeanor, and if found guilty of said misdemeanor, is punishable upon conviction by a fine not exceeding fifty dollars (\$50) or imprisonment of not more than thirty (30) days, for each violation. (Ord. of 3/25/86)**