

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

Section

Noise

NOISE

- 93.01 Unnecessary noise unlawful
- 93.02 Prohibited noises; list not exclusive
- 93.03 Exceptions; permit requirements
- 93.04 Denial of permit

§ 93.01 UNNECESSARY NOISE UNLAWFUL.

It shall be unlawful for any person, firm, or corporation to create or assist in creating any unreasonably loud, disturbing sound levels in the town, that impacts persons and properties by being audible outside the property of the source of the sound, and audible within at least 100 feet of the source of sound.

Weeds and Refuse

- 93.15 Uncontrolled weeds and accumulation of refuse a nuisance
- 93.16 Complaint; investigation required
- 93.17 Complaint and notice of violation
- 93.18 Failure to abate; abatement by town
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(Ord. 2, passed 7-14-86; Am. Ord. 23, passed 11-11-91) Penalty, see § 93.99

§ 93.02 PROHIBITED NOISES; LIST NOT EXCLUSIVE.

The following activities, among others, are hereby declared to be unreasonably loud, disturbing sound levels, but this enumeration shall not be deemed exclusive: (A) The playing of any musical instrument or electronic sound amplification equipment in a manner or with such volume, so that it impacts persons and properties by being audible outside the property of the source of the sound, and audible at least 100 feet

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Cross-reference:

Nuisance dogs prohibited, see § 91.06

from the source of the sound;

(B) The keeping of any animal or bird which makes frequent or long continued sounds, so that a reasonably prudent person would recognize it that it impacts persons and properties by being audible outside the property of the source of the sound, and audible at least 100 feet from the source of the sound;

(C) The use of any automobile, motorcycle, or vehicle so out of repair, so loaded, or in a manner so as to create unreasonably loud sounds that disturb the quiet enjoyment of persons in the Town that impacts persons and properties by being audible outside the property of the source of the sound, and audible at least 100 feet from the source of the sound;;

(D) The operating of any garage or service station in any residential area so as to cause unreasonably loud, disturbing sounds to be emitted between the hours of 9 p.m. and 7 a.m. on any day that are audible outside the immediate property boundaries of said garage of service station;

(E) The creation of unreasonably loud, disturbing sound levels adjacent to any school, educational facility, or house of worship during normal operating hours, that impacts persons and properties by being audible outside the property of the source of the sound, at least 100 feet from the source of the sound and which a reasonably prudent person would recognize as likely to unreasonably interfere with the working of those institutions, provided

conspicuous signs are displayed indicating that the area is a school, educational facility, church, or house of worship;

(F) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7 a.m. and 7 p.m. on any day, except in the case of urgent necessity in the interest of public safety, and then only under the direction of an appropriate town official;

(G) The use of any electronic sound amplification equipment for conveying a message for advertising, solicitation, religious or political purposes, except with an appropriate permit;

Specific times shall be designated for sound amplified equipment and it shall not be allowed between the hours of 10 p.m. and 8 a.m.

(H) The sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion, only as a danger signal; the creation by means of any herein described signal device of any unreasonably loud or harsh sound; and the sounding of such a device for an unnecessary period of time;

(I) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises there from;

(J) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced;

(K) The creation of loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers; or

(L) Any shouting and crying that disturbs the quiet and peace of the neighborhood, that it impacts persons and properties by being audible outside the property of the source of the sound, and audible at least 100 feet from the source of the sound.

(Ord. 23, passed 11-11-91) Penalty, see § 93.99

§ 93.03 EXCEPTIONS; PERMIT REQUIREMENTS.

(A) Persons wishing to engage in activities regulated by this subchapter may do so when a specific permit is approved by the Town Board. [Alternatively to amend as: Clerk, Mayor or Commissioner for Community Affairs]

(B) Applications shall be submitted on forms supplied by the town. [review and change form to so it conforms to ordinance]

(C) The permit shall not be unreasonably withheld, and may contain appropriate conditions designed to minimize the disruptive impact. Permits for this type of activity will not be unreasonably withheld based upon any distinction between commercial, religious or political nature of the proposed message, in keeping with the

Reed v. Gilbert ruling (U.S. Supreme Court decision from June 18, 2015), and will only be subject to restrictions based upon time, place and manner. Permits issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice.

(D) Exceptions include sounds for call to worship by houses of worship including bells and chimes, and permitted outside events.

(E) Persons shall not be held in violation of this subchapter when acting in conformity with permit conditions, but any permit may be revoked if it is determined that the authorized activity has resulted in generation of unreasonably loud, disturbing sound levels.

(Ord. 23, passed 11-11-91)

§ 93.04 DENIAL OF PERMIT.

(A) In case an application is denied, a permit is approved with conditions unacceptable to the applicant, or a permit is revoked, the applicant or permit holder shall be entitled to a prompt, informal hearing with the Town Board, upon submission of a written request, for which a written decision will be given to the applicant within three (3) business days of receipt of said written request.

(B) Any person aggrieved by a matter regulated by this subchapter may submit to the Manager Clerk written comments, including requests for appropriate relief, for which a written decision will be given to the

applicant within three (3) business days of receipt of said written request.

(Ord. 23, passed 11-11-91 passed 7-20-15)

WEEDS AND REFUSE

§ 93.15 UNCONTROLLED WEEDS AND ACCUMULATION OF REFUSE A NUISANCE.

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

(A) Any weeds or other vegetation having an overall height of more than 12 inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants.

(Ordinance passed 9-19-11)

(B) Any trees or shrubbery that shall interfere with or endanger the use of the public streets, interfere with or obstruct illumination of street lights, obscure sight distance or create a traffic hazard, interfere with the visibility of any traffic-control device or sign, obstruct or impair the free passage of pedestrians on sidewalks, project into or overhang town sidewalks or other town or state rights-of-way at a vertical clearance of less than seven feet, or endanger the life, health, safety, or property of the public;

(C) Any accumulation of rubbish, trash, or junk in yards or on front porches causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind, which is or may be dangerous or prejudicial to the public health and general welfare. These include ,but are not limited to mattresses ,boxes ,paper, garbage, trash such as cans, bottles and similar items, refuse, brush ,old clothes ,rags or any other combustible materials or objects of a like nature.

(Ordinance passed 8-14-2014)

(D) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health in yards or

on front porches;

(ordinance passed 8-14-2014)

(E) The open storage, in yards or on front porch of any abandoned ice box, refrigerator, stoves or any other household appliances, household items unrelated to outdoor reasonable porch activity ,broken glass, building materials not approved by the Town Code enforcement officer for an upcoming construction project to be accomplished within a reasonable time period, building material rubbish, or similar items;

(Ordinance passed 8-14-2014)

(F) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(Ord. 20, passed 3-13-89) *Penalty, see § 93.99*

(G) Accumulation in an open place of hazardous or toxic materials and chemicals

(H) No open storage or accumulation on front porches of automobile tires and tubes , engine blocks or other automotive parts of any kind ,

no storage of gasoline ,kerosene or outdoor cooking grills of any type ,lawn mowers and outdoor power lawn care tools, exercise equipment such as weight benches and bar bells ,

no large trash receptacles as those used for curbside garbage pickup or recycle bins.

(Ordinance passed 8-14-2014)

(I) Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Enforcement Officer can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.

No laundry clothes lines may be installed in front yards or on front porches ;

wood used for indoor fireplaces or heating systems will be seasonably limited on front porches to a pile of split logs , 3feet long by 2 feet high and 30 inches deep stacked at one end of the porch from October 1st through may 1st.

(Ordinance Passed 8-14-2014)

(J) Any condition which blocks ,hinders or obstructs in any way the natural flow of branches ,streams ,creeks, surface waters, ditches or drains ,to the extent that the premises is not free from standing water.

(K) Nuisance vehicle: A vehicle on public or private property that is determined and

declared to be a health or safety hazard public nuisance, and unlawful, including a vehicle found to be:

(1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or

(2) A point of heavy growth of weeds or other noxious vegetation which exceeds (8) inches in height; or

(3) In a condition allowing the collection of pools or ponds of water, or

(4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or

(5) An area of confinement which cannot be operated from inside, such as, but not limited to, trunks or hoods ; or

(6) So situated or located that there is a danger of it falling or turning over ; or

(7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind ; or

(8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.

(L) The outside or outdoors use of any furniture originally intended for interior use such as , but not limited to, couches ,sofas

,chairs, recliners, indoor carpet or other like items.

(Ordinance passed 8-14-2014)

(M) DOG WASTE IN PUBLIC AREAS

It shall be unlawful for an owner or responsible party to allow, willfully or through failure to exercise due care or control ,of a dog to commit a defecation upon:

The sidewalk of any public street

The public area or any private property not belonging to the owner of said animal

The responsible party shall remove from the public area or the private property the waste product of the defecation and deposit it in an appropriate trash receptacle ,sanitary disposal unit , plastic bag or other sealed container.

(A) It is the duty of each person in control of a dog to promptly remove and dispose of , in a sanitary manner, feces left by such dog.

(B) It shall be the duty of each person in control of a dog to be in possession of materials to remove feces left by such dog.

(Ordinance passed 12-15-2014)

§ 93.16 COMPLAINT; INVESTIGATION REQUIRED.

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

(Ord. 20, passed 3-13-89)

§ 93.17 COMPLAINT AND NOTICE OF VIOLATION.

(A) When any condition in violation of this section is found to exist, the Code Administrator, or such persons as may be designated by the Town Board, shall give notice to the owner of the premises to abate or remove such conditions within ten days.

Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten days, the town may proceed to correct the same as authorized by this section.

Further, if a violation is determined to be a repeat offence, (any additional violation of the same nature, on the same property, with the same owner, within 180 days of the previous warning citation) the code officer will abate the violation without further notice to the owner and all expenses

incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected.

All such expenses shall constitute a lien against the property on which the work was done.

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

(1) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of 16 years and a member of the family of the owner;

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

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

(Ord. 20, passed 3-13-89)

§ 93.18 FAILURE TO ABATE; ABATEMENT BY TOWN.

If the owner of any property fails to comply with a notice given pursuant to this section,

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

(Ordinance passed 8-15-2006)

§ 93.19 PROCEDURE IS ALTERNATIVE

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

In addition to the remedies provided herein ,any violation of the terms of this article shall subject the violator to the penalties and remedies , either criminal or civil or both, as set forth in Section 10.99 of the Code of the Town of Cooleemee.

All expenses incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of that lot or parcel of land, and it shall be the duty of the County Tax Collector to mail a statement of these charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt thereof.

(Ord. 20, passed 10-19-04)

§ 93.20 DUTY OF PROPERTY OWNER OR OCCUPANT

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

(Ordinance passed 10-19-2004).

§ 93.99 Penalty

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

(Ordinance passed 1-24-2006)