

**CHAPTER 94: NUISANCES**

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**GENERAL PROVISIONS**

**§ 94.01 PREMISES TO BE FREE OF WEEDS, GARBAGE, REFUSE AND THE LIKE; REMOVAL OF CONDITION.**

(A) Every person owning or occupying any premises within the corporate limits shall keep the premises free from noxious weeds, garbage, trash, straw, boxes or other debris 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.

(B) Persons violating this section shall be notified. If any person shall violate the provisions of this section, it shall be the duty of the Health Officer to give notice to the owner or person in possession of such premises that within ten days or sooner from the date of such notice, the violation or cause of such violation must be corrected or removed. Failure to comply with such notice shall constitute a misdemeanor and each day such person remains in violation shall be deemed a separate offense.

(\*81 Code, § 7-6) Penalty, see § 10.99

**§ 94.02 LITTERING PROHIBITED.**

It shall be unlawful for any person to place, dispose or throw, drop, cast or deposit upon any street, alley, sidewalk, stream or other body of water or any yard or premises, public or private, any filth of any kind, garbage cans, paper, trash, paper containers, rubbish, bottles, wood shavings, brush, tree trimmings or any other form of litter or

waste matter.

('81 Code, § 8-1) (Ord. passed 2-14-72) Penalty, see § 10.99

## ***NOISE CONTROL***

### **§ 94.10 LOUD AND DISTURBING NOISE.**

(A) Subject to the provisions of this section, it is prohibited in the Town of Tryon to create, cause or allow the continuance of any unreasonably loud, disturbing noise. Noise of such character, intensity and duration as to be detrimental to the health, safety or welfare of any reasonable person of ordinary firmness and sensibilities in the vicinity is prohibited. For the purposes of this section, the following definitions shall apply:

(1) Unreasonably Loud. Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace and good order.

(2) Disturbing. Noise which is perceived by a person of ordinary firmness and sensibilities as interrupting the normal peace and calm of the area.

In determining whether a noise is unreasonably loud and disturbing, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of mechanical means; the nature and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity or is the result of some use for individual purposes; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(B) The following acts, among others, are declared to be loud and disturbing in violation of this section if they annoy or disturb the quiet, comfort or repose of any reasonable person of ordinary firmness and sensibilities in the vicinity where created, caused, or continued, but this enumeration shall not be deemed to be exclusive.

(1) The use of any loud, boisterous or raucous language, yelling, or shouting, whether or not amplified.

(2) The congregation of persons at and participation in any party or gathering of people from which noise emanates of a sufficient volume or of such nature as to disturb the peace, quiet and comfort of any reasonable person of ordinary firmness and sensibilities in the vicinity.

(3) The keeping, owning, possessing, harboring or controlling of any animal or bird which barks, bays, yelps, howls, cries, squawks or makes any other unreasonably loud disturbing noise continuously or incessantly for a period of ten (10) minutes or

intermittently for a period of thirty (30) minutes or more thereby causing a noise disturbance.

(4) The playing of any radio, television, phonograph, drum, musical instrument, or sound production, reproduction or amplification equipment in such manner or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m., so as to annoy or disturb the peace, quiet, comfort or repose of any person of ordinary firmness and sensibilities in the vicinity, provided, however, that permits for outdoor amplified noise may be obtained from the Town Manager.

(5) The playing of any radio, cassette player, compact disc, or other similar device for production or reproduction of sound located in or on any motor vehicle on a public street, highway, within a public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in any unreasonably loud or disturbing manner as defined above.

(6) The intentional sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger signal or as required by law, so as to create any unreasonably loud or disturbing noise as defined above, or the sounding of such a device for an unnecessary and, or the sounding of such a device for an unreasonable period of time.

(7) The operation of any automobile, motorcycle or other vehicle, or remote control model vehicle in such a manner as to create loud grating, grinding, rattling, screeching of tires, or other unreasonably loud or disturbing noise.

(8) The repair, rebuilding or testing of any motor vehicle, particularly during the hours between 9:00 p.m. and 7:00 a.m. which creates unreasonably loud and disturbing noises.

(9) Operating or permitting the operation of any motor vehicle or motorcycle not equipped with a muffler or other device in good working order so as to effectively prevent loud or explosive noises there from, or which has its muffler-exhaust or other noise control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

(10) Operating or permitting the operation of any motor vehicle or motorcycle that engages in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.

(11) 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 adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.

(12) The erection (including excavation), demolition, alteration or repair of any

building in a residential or business district other than between the hours of 7:00 a.m. and 7:00 p.m. on any day, except in the case of urgent necessity of the interest of public safety, and then only with a permit from the Town Manager.

(13) The use of any electronic sound amplification equipment for advertising or solicitation purposes, except with a permit from the Town Manager.

(Ord 1991-1, passed 12-16-91; Am. Ord. 2010-02, passed 02-16-10)

**§ 94.11 EXCEPTIONS.**

(A) The following uses and activities, among others, are not governed by and shall be exempt from the noise ordinance set forth in this Chapter. It is expressly provided, however, that the following enumeration shall not be deemed or considered exclusive, and any activity that is not expressly prohibited as set forth in § 94.10 shall be exempt from this Chapter.

(1) Noise caused by public safety personnel, when responding to an emergency call or engaged in other official business.

(2) Noise caused by the operator of a public utility vehicle, when utilizing two-way communications equipment.

(3) Noise caused by the activation of a theft alarm signal device.

(4) Noise associated with or resulting from the normal operations of any facility that is properly licensed by the North Carolina Department of Agriculture, Veterinary Division, as a boarding kennel, pet shop or dealer, in accordance with the North Carolina Animal Welfare Act (N.C. Gen. Stat. Chapter 19A-20, et seq.), as may be amended.

(5) Noise caused by the discharge of firearms by law enforcement officers in the performance of their official duties or during the course of official firearms training.

(6) Noise resulting from farming operations, including but not limited to noises generated by machinery, equipment and farm animals.

(7) Noise associated with any event held in recognition of a community celebration of national, state or county events or public festivals.

(8) Noise associated with any public or private school activity or camp activity except that it shall be unlawful for any person to use any unreasonably loud, disturbing, boisterous, raucous language or shouting in violent or offensive manner while attending such activities.

(9) Noise associated with the chimes or bells of businesses, schools, camps or religious institutions in the daytime hours, provided that they operate for no more than 10 minutes in any hour.

(10) Non-amplified crowd noise resulting from activities by student, government, camp or community groups.

(11) Persons holding a valid permit for outdoor sound issued by the Town, when operating in accordance with the conditions of the permit.

(B) If any exceptions stated in this Chapter would limit obligation, limit liability or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of proving that the exception applies and that the terms of the exception have been met.

(Ord 1991-1, passed 12-16-91; Ord 1995-6A, passed 9-25-95; Am. Ord. 2006-10, passed 2-21-06; Am. Ord. 2010-02, passed 02-16-10)

#### **§94.12 PERMITS.**

(A) Persons wishing to engage in activities regulated by this subchapter may do so when a specific permit is approved by the Town Manager. Applications shall be submitted on forms supplied by the town.

(B) The permit shall not be unreasonably withheld, and may contain appropriate conditions, including maximum decibel levels, designed and minimize the disruptive impact. Permits for such activities significantly for religious or political purposes shall be granted, subject only to reasonable time, place and manner restrictions. Permits issued under this section may specify that the permission granted will continue for a stated period or until revoked after actual notice.

(C) Persons shall not be held in violation of this ordinance 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.

(D) 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 Manager, upon submission of a written request. Any person aggrieved by a matter regulated by this subchapter may submit to the council written comments, including request for appropriate relief.

(Ord 1991-1, passed 12-16-91)

#### **§ 94.13 TRAIN SIGNALS.**

While a train or engine is in motion within the town, the bell shall be run

continuously and no steam whistle on such engine shall be blown within the town, except to make such signals as may be necessary in the operation of the train, and the whistle shall not be blown for an unnecessary length of time nor in an unnecessarily loud or annoying manner in making such signals. All railroad crossings within the town having automatic electric signals that the railroad maintains, said railroad shall be required to have the same so regulated that after a train has cleared the crossing, such bell shall cease ringing and so that the same shall not ring while the train is on and upon said crossing.

('81 Code, § 8-6) Penalty, see § 10.99

## ***PENALTIES***

### **§94.99 PENALTY.**

(A) Violations of the provisions of Sections 94.10 and 94.11 shall be subject to the civil penalties set forth in Table IV of the Table of Special Ordinances of this Code. All other violations of this chapter shall constitute an infraction punishable by a fine of not more than \$50.00.

(B) In addition to the civil penalties provided for above, the town may enforce the provisions of this chapter by appropriate equitable remedies as set forth in § 10.99.

(C) This chapter may be enforced by employees of the town police department as designated by the Chief of Police, and by other employees of the town as designated by the Town Manager. Animal control officers employed by the town, or employees of an animal control agency working under contract with the town for the enforcement of animal control ordinances, and who have been designated by the Chief of Police may enforce the provisions of this article relating to animals and animal noises.

(D) Upon the written complaint of three (3) or more individuals from at least three (3) separate households that a person or persons are violating provisions of §§ 94.10 or 94.11, and after said person or persons have had notice and opportunity to be heard on the complaint, the Chief of Police may find that a violation of this Chapter has occurred, and such finding shall be a sufficient basis for issuance of a civil citation as provided in § 10.99. Complaints shall be submitted to the Town Clerk on a form available at Town Hall. Hearing of complaints shall occur within fifteen (15) days of receipt of three (3) complaints. The Chief of Police's decision shall be issued and served within ten (10) days of the hearing. Appeals from decisions of the Chief of Police may be made to the Town Manager, but must be in writing and delivered to the Town Manager within ten (10) days of issuance. The Manager may consider such appeal with or without a hearing, and shall issue and serve a decision on such appeal within ten (10) days of its receipt; which time may be extended by the Town Manager. Decisions that are not appealed to the Town Manager are final upon expiration of the time for taking an appeal. Decisions of the Town Manager are final upon issuance.

(Ord. 2006-10, passed 2-21-06, Am. Ord. 2010-02, passed 02-16-10)