

GENERAL REGULATIONS

ABANDONED VEHICLES

§ **90.01 ADMINISTRATION.**

The Police Department and Zoning Department of the town shall be responsible for the administration and enforcement of this chapter. 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 Zoning Department shall be responsible for administering the removal and disposition of abandoned and nuisance vehicles located on private property. The Town shall, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned vehicles and nuisance vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority to powers of officers of the Town Police Department in enforcing any other laws or otherwise carrying out their duties.
(Ord., passed 8-9-93)

§ **90.02** **DEFINITIONS.**

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 days;

(3) Left on property owned or operated by the town for longer than 24 hours;
or

(4) Left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours.

AUTHORIZING OFFICIAL. The Chief of Police or Zoning Administrator are designated to authorize the removal of vehicles under the provisions of this chapter.

MOTOR VEHICLE or ***VEHICLE.*** A machine designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

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 rates or other pests;

(2) A point of heavy growth of weeds or other noxious vegetation over eight 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 and the like;

(6) One which presents a substantial risk of injury to minors or other persons because of broken glass, jagged edges or protrusions;

(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 Town Board.
(Ord., passed 8-9-93)

§ **90.03 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 § 90.02.

(B) Upon investigation, proper officials or the town may determine that a vehicle is an abandoned vehicle as defined in § 90.02 and order the vehicle removed.

(Ord., passed 8-9-93) Penalty, see § 10.99.

§ **90.04** **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 Zoning Department may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined in § 90.02 and order the vehicle removed.

(Ord., passed 8-9-93) Penalty, see § 10.99

§ **90.05** **REMOVAL OF ABANDONED OR NUISANCE VEHICLES;
PRETOWING NOTICE REQUIREMENTS.**

(A) Except as set forth in § 90.06, a vehicle to be towed or otherwise removed because it has been abandoned, as defined in § 90.02, 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 indication that the vehicle will be removed by the town on a specified date, no sooner than seven 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 Town Board in writing and heard at the next regularly scheduled meeting of the Board and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
(Ord., passed 8-9-93)

§ 90.06 EXCEPTIONS TO PRIOR NOTICE REQUIREMENTS.

(A) The requirement that notice be affixed to an abandoned or nuisance vehicle at least seven 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 Town Board hereby determines that immediate removal of such vehicles is warranted when they are:

- (1) Obstructing traffic;
- (2) Parked in a no-stopping or no-standing zone;
- (3) Parked in loading zones; or
- (4) Parked in violation of temporary parking restrictions.

(C) With respect to abandoned or nuisance vehicles left on town-owned property other than on streets and highways and on private property, such vehicles may be removed without giving the minimum seven days proper 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., passed 8-9-93)

§ **90.07 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 by the tow truck operator or towing business contracting to perform such services for 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 divisions (A)(1) through (5) 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 two working days. If the vehicle is not registered in the state, notice shall be given to the registered owner within three working days from the removal of the vehicle.

(D) Whenever an abandoned or nuisance vehicle is removed and such vehicle has no valid registration or registration plat, the authorizing town official shall make reasonable efforts, including checking 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 divisions (A)(1) through (5) above.

(Ord., passed 8-9-93)

§ **90.08 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR
FINAL DISPOSITION OF VEHICLE.**

After the removal of an abandoned vehicle or 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 such hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11, as amended.

(Ord., passed 8-9-93)

§ **90.09 REDEMPTION OF VEHICLE DURING PROCEEDING.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the vehicle by paying the towing fee or posting a bond for double the amount of the towing fee to the private tow truck operator or towing business having custody of the removed vehicle.

(Ord., passed 8-9-93)

§ **90.10 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.**

Any vehicle declared to be an abandoned or a nuisance vehicle under this chapter 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. Disposition of such a vehicle shall be carried out in coordination with the town and in accordance with U.S. Chapter 44A, Article 1.

(Ord, passed 8-9-93)

§ **90.11 CONDITIONS OF REMOVAL OF VEHICLE 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., passed 8-9-93)

§ **90.12 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 chapter.
(Ord., passed 8-9-93)

§ **90.13 EXCEPTIONS.**

Nothing in this chapter 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.
(Ord., passed 8-9-93)

§ **90.14 UNLAWFUL REMOVAL OF IMPOUNDED VEHICLE.**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town 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., passed 8-9-93) Penalty, see § 10.99

GENERAL REGULATIONS

ANIMALS

GENERAL PROVISIONS

§ 91.01 KEEPING SWINE PROHIBITED.

No person shall keep any swine within the corporate limits other than at abattoirs.
(’75 Code, § 3-1) Penalty, see § 10.99

§ **91.02 BIRD SANCTUARY CREATED.**

 The area embraced within the corporate limits of the town and all lands owned or leased by the town outside the corporate limits are hereby designated as a bird sanctuary.
(’75 Code, § 3-2)

§ **91.03 CRUELTY TO ANIMALS.**

No person shall willfully abuse or cruelly treat, abandon, neglect, overwork, overdrive, torture, torment or cruelly drive or work when unfit for labor any horse, mule, draught animal, beast of burden or any other animal.

('75 Code § 3-3, Am. Ord., passed 4-13-98) Penalty, see § 10.98

Cross-reference:

Cruelty to animals or police dog owned by town, see § 130.10

DOGS

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AT LARGE. Off the premises of the owner, and not under the control of the owner or a member of his immediate family or some responsible person either by leash, cord, chain or otherwise.

DOG. Both male and female dogs.

OWNER. Any person owning, keeping or harboring a dog.

§ 91.11 *RUNNING AT LARGE.*

(A) It shall be unlawful for any person to permit any dog, either his own or under his control to run at large within the corporate limits.

(B) No dog shall be permitted on the streets of the town unless with the owner or person having control of it, and then such dog shall be under leash.

(C) The owner or custodian of any dog shall be responsible for repairing damage caused by said dog, including the cleaning up of dog droppings, deposited on sidewalks or walkways in the Commercial District or on any other sidewalk, street, walkway or park in the town. In addition, the owner of custodian of any dog shall prevent said dog from trespassing on private property and shall not allow said dog to deposit droppings or otherwise damage private property without permission. Dog owners shall be responsible for clean-up or repair to private property due to droppings or damage caused by trespassing dogs.

('75 Code, § 3-5)(Am. Ord., passed 12-11-95) Penalty, see § 10.98

§ **91.12 TAGS TO BE WORN.**

Dog tags showing proper rabies vaccination required by the state and issued by a veterinarian and proper owner identification shall be attached to a collar of every dog and worn at all times by such dog.

('75 Code, § 3-7)

§ **91.13 BARKING DOGS.**

No dog that habitually or repeatedly barks in such manner or to such extent that it is a public nuisance or creates a disturbance shall be kept, maintained, harbored or cared for within the municipal limits of the town.

('75 Code, § 3-8) Penalty, see § 10.98

§ 91.14 IMPOUNDING.

It shall be the duty of every Police Officer, the Animal Control Officer and the County Dog Warden to apprehend any dog found running at large in violation of this chapter and to impound such dog in the County Pound or a suitable place. The Animal Control Officer (or some designated official) upon receiving any dog shall make a complete record, entering breed, color, sex, approximate height and weight of such dog and whether licensed. If licensed, the officer shall enter the name and address of owner and the license number. If the owner of the dog is known before it is impounded, it shall be the duty of the Animal Control Officer to notify the owner of the dog in writing that they are in violation of Town Code § 91.11 if they let their dog run at large, and § 91.13 if they keep barking dogs. As to known owners, if this section continues to be violated after notice has been given and within 90 days after the giving of said notice, it shall be the duty of the Animal Control Officer or a Police Officer to issue a citation to the owner of any dog found running at large or a dog that habitually or repeatedly barks in such manner or to such extent that it is a public nuisance or creates a disturbance. The citation shall be paid at the Police Department. The citation must be paid within five days after issued. ('75 Code, § 3-9)(Ord., passed 12-10-62; Am. Ord., passed 6-13-83)

§ 91.15 NOTICE TO OWNER OF IMPOUNDMENT; REDEMPTION.

If a dog is impounded it shall be the duty of the Animal Control Officer of a Police Officer to contact the owner by one of the following manners: By written notice delivered to the owner personally; by leaving the said written notice with a responsible adult person at the residence of the owner; or by certified mail with return receipt requested. The notice shall inform the owner that his or her dog has been impounded by the Police Department and is being held by the Police Department or the Human Society. If the owner of such dog is not found within ten days, the dog shall be disposed of according to law. If the owner is located he or she may claim such dog upon payment of the license fees, if unpaid, and all costs and charges incurred by the town for impounding and maintenance of such dog as per the fee schedule on file in the office of the Town Clerk.

('75 Code, § 3-10)(Ord., passed 12-10-62; Am. Ord. passed 6-13-83)

§ **91.16 UNKNOWN OWNER.**

 In the case where a dog is impounded and the owner is unknown, it shall be the duty of the Animal Control Officer to post information about the dog at the Police Department and the Town Hall.

(’75 Code, § 3-11)(Ord., passed 12-10-63; Am. Ord., passed 6-13-83)

LIVESTOCK

§ 91.17 LIVESTOCK.

(A) Livestock and domestic fowl of all descriptions are hereby prohibited in any area of the town except those areas zoned for agricultural purposes by the zoning ordinance. Furthermore, it shall be unlawful, regardless of zoning for any person to maintain, keep, house, or stable any horse, mule, pony, cow, sheep, goat, chicken or other domestic fowl or livestock in the town within one hundred and fifty (150) feet of a neighboring dwelling, school, church, business, commercial or professional establishment and 200 feet from any front property line. Not more than a total of three (3) horses, mules, ponies, cows, sheep, goats or other such animals shall be maintained on one (1) lot and such lot must contain no less than one acre for each such animal maintained. No more than a total of four chickens or other domestic fowl shall be maintained on one lot and such lot must contain no less than one acre for each four or fewer chickens or other domestic fowl maintained.

(B) All proposed stables shall require site plan review and approval prior to construction or habitation by livestock. In all cases, the structure shall be located so as to give the least possible offense to the occupants or residents of adjoining lots. All such stables shall be cleaned and disinfected once each day and kept free of noxious odors.

(C) Non-household animals shall be contained on the property with a fence or other acceptable means. The fence surrounding the property shall be of an appropriate height to protect the non-household animal as well as the neighboring property.

(D) Properties keeping or housing livestock regulated by this section as of the date of adoption of this ordinance shall be allowed to keep said livestock without being forced to comply with the provisions stated herein so long as the keeping of such livestock is not discontinued for a period of 180 days or longer.

(Ord., passed 10-9-95)

GENERAL REGULATIONS

EMERGENCIES

§ 92.01 WHEN STATE OF EMERGENCY DEEMED TO EXIST.

A state of emergency shall be deemed to exist whenever, during the times of great public crisis, disaster, rioting, civil disturbance, catastrophe or for any other reason, municipal public safety authorities are unable to maintain public order or afford adequate protection for lives, safety, health, welfare or property.

('75 Code, § 6-1)

§ **92.02 EMERGENCY AND CURFEW; PROCLAMATION BY MAYOR
 AND PROCLAMATION OF END.**

(A) In the event of a state of emergency threatening or endangering the lives, safety, health and welfare of the people within the town or threatening damage to or destruction of property, the Mayor is hereby authorized and empowered to issue a public proclamation declaring to all persons the existence of such a state of emergency and, in order more effectively to protect the lives, safety and property of people within the town, to define and impose a curfew applicable to all persons within the jurisdiction of the town.

(B) The Mayor is hereby authorized and empowered to limit the application of such a curfew to any area specifically designated and described within the jurisdiction of the town and to specific hours of the day or night; and to exempt from the curfew policemen, firemen, doctors, nurses and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health and welfare needs of the people within the town.

(C) The Mayor shall proclaim the end of such state of emergency and curfew as soon as circumstances warrant or when directed to do so by the Board of Commissioners.

(D) The Board of Commissioners shall be called into session within 24 hours after a state of emergency has been proclaimed by the Mayor.
(’75 Code, § 6-2)

§ 92.03 RESTRICTIONS DURING CURFEW.

During the existence of a proclaimed state of emergency, when a curfew has been defined and imposed, it shall be unlawful for anyone subject to curfew:

(A) To be or travel upon any public street, alley or roadway or upon public property, unless such travel is necessary to obtain medical assistance.

(B) To possess off his own premises, buy, sell, give away or otherwise transfer or dispose of any explosives, firearms, ammunition or dangerous weapons of any kind.

(C) To sell beer, wines or intoxicating beverages of any kind or to possess or consume the same off his own premises.

(D) To sell gasoline or any other similar petroleum products or any other combustible or inflammable substances, except as expressly authorized by the provisions of the curfew imposed.

('75 Code, § 6-3) Penalty, see § 10.99

GENERAL REGULATIONS

FAIR HOUSING

§ **93.01 HOUSING COMMITTEE CREATED.**

The town shall establish a Housing Committee composed of members of the Town Board of Commissioners and an advisory membership consisting of three persons who reside within the planning jurisdiction of the town.
(Ord., passed 3-14-88)

§ 93.02 DUTIES OF COMMITTEE.

(A) The Housing Committee, with the assistance of the Mayor, shall receive and review any and all grievances concerning discrimination in the provision of housing with the town.

(B) The Committee, with the assistance of the Mayor, shall seek to identify all housing resources within the area and provide the residents any information concerning the availability of assistance, financial or otherwise.

(C) The Committee will encourage all local realtors, homeowners and contractors to provide for non-discrimination in the provision of housing within the town.

(D) The Committee will develop other goals and objectives consistent with the purpose and intent of this chapter.

(Ord., passed 3-14-88)

§ **93.03 DUTY OF TOWN.**

The town shall notify the Equal Opportunity Housing area office and the North Carolina Department of Natural Resources and Community Development of all action taken under this chapter.

(Ord., passed 3-14-88)

GENERAL REGULATIONS

FIRE PREVENTION

FIRE LIMITS

§ 94.01 FIRE LIMITS DESIGNATED.

(A) By virtue of the authority granted by G.S. §§ 160A-435 through 160A-438, the downtown area of the Town of Aberdeen is hereby designated as the primary fire limits of the town. The area is more specifically described as follows:

Beginning at a point 150 feet west of where the south side of Maple Street intersects with US 1 Highway; 150 feet west of said US 1 Highway and parallel therewith, in a southerly direction, crossing South Street and continuing 300 feet therefrom; then running in an easterly direction parallel to South Street, crossing Sycamore Street and the Seaboard Coastline Railroad tracks, to a point 175 feet west of the centerline of Pine Street; then running in a northerly direction and parallel to Pine Street, crossing South Street and East Main Street to a point 308½ feet south of Maple Street; then running in a westerly direction crossing the S.A.L. Railway tracks and Sycamore Street to a point 170 feet from the west edge of Sycamore Street; then following the property lines of E.E. Vuncannon and Larry Boles in a northerly direction to a point on the south of Maple Street.

(B) The Town Fire Chief, or such other person as designated by the Town Manager, shall maintain a map of the primary fire limits that shall be available to the public for review during the normal business hours of the Town government.

('75 Code, § 4-6) (Ord., passed 3-10-75) (Amended 6/13/11)

FIRE PREVENTION CODE

§ 94.10 CODE ADOPTED.

There is hereby adopted by the Board of Commissioners for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code recommended by the American Insurance Association, being the current edition and updated amendments, of which code not less than three copies have been and now are filed in the office of the Town Clerk and the same are hereby adopted and incorporated as fully as if set out at length herein. The provisions thereof shall be controlling within the limits of the town.

('75 Code, § 8-1)

§ **94.11** **ENFORCEMENT.**

The Fire Prevention Code shall be enforced by the Chief of the Fire Department.
(75 Code, § 8-2)

§ 94.12 DEFINITION.

Whenever the word “municipality” is used in the Fire Prevention Code, it shall be held to mean the town.

('75 Code, § 8-3)

§ 94.13 MODIFICATIONS.

The Chief of the Fire Department shall have power to modify any of the provisions of the Fire Prevention Code upon application in writing by an owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code; provided, that the spirit of the Fire Prevention Code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Fire Department thereon shall be entered upon the records of the Department and a signed copy shall be furnished to the applicant.

('75 Code, § 8-4)

§ 94.14 APPEALS OF DECISION OF FIRE CHIEF.

Whenever the Chief of the Fire Department shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the Fire Prevention Code do not apply or that the true intent and meaning of such code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Fire Department to the Board of Commissioners within 30 days from the date of the decision appealed.
(’75 Code, § 8-5)

§ 94.15 VIOLATIONS; PENALTIES.

(A) Any person who shall violate any of the provisions of the Fire Prevention Code or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by a court of competent jurisdiction, within the time fixed by a court of competent jurisdiction, within the time fixed herein, shall, for each and every such violation and noncompliance respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such person shall be required to correct or remedy such violations or defects within the reasonable time.

(B) When not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(C) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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

§ **94.16** **KEY BOXES.**

Where access to or within a structure or an area is restricted because of secure openings or where immediate access is necessary for life-saving or fire-fighting purposes, the Code Official is authorized to require a key box to be installed in a accessible location. An approved lock shall also be installed on gates or similar barriers when required by code official.

- a.) The key box shall be of an approved type and shall contain keys to gain access as required by the code official.

(Ord. Adopted 3-12-07)

GENERAL REGULATIONS

§ 94.20 BULK TANKS PROHIBITED IN FIRE ZONE.

It shall be unlawful for any person to erect or have erected any bulk tanks in the fire zone of the town.

('75 Code, § 8-8) (Ord., passed 4-5-48)

§ **94.21 PARKING OF GASOLINE TRANSPORT TRUCKS PROHIBITED.**

It shall be unlawful for any gasoline transport truck to park or stop on any street in the fire zone and, in addition to this, anywhere on South Street from the corner of Pine Street west to where South Street crosses the Aberdeen Creek.

('75 Code, § 8-9) (Ord. 86, passed 10-5-38)

§ **94.22 WOODEN AND FRAME BUILDINGS AND COMBUSTIBLE
 ROOFS PROHIBITED.**

Any person who shall build or erect, or cause to be built or erected, any wooden or frame building or cover any brick or other building with a shingle or other combustible roof within the fire limits of the town shall be guilty of a misdemeanor.

('75 Code, § 8-10) (Ord. 19, passed 4-1-31) Penalty, see § 10.99

§ 94.23 **REQUIREMENTS FOR TRANSPORTING COMBUSTIBLE LIQUIDS ACROSS RAILROADS.**

(A) It shall be unlawful for any person to transport over any grade crossing or any railroad track in the town by motor truck, motor propelled vehicle or combination of motor truck and trailer, 600 or more gallons of gasoline, kerosene, naphtha or other explosive, inflammable or combustible liquids, in bulk, whether the same be contained in one or more compartments, chambers, tanks or other containers, unless the driver of such truck, motor propelled vehicle or combination of motor truck and trailer shall first come to a full stop at a point within 25 to 50 feet of such grade crossing, and after having brought such vehicle to a full stop, diligently and cautiously look and listen, in all directions, for any approaching engine, train or railroad cars.

(B) It shall be unlawful for the driver of any truck, motor propelled vehicle, or combination of motor truck and trailer, transporting gasoline, kerosene or naphtha or other explosive, in flammable or combustible liquids, to proceed across any railway grade crossing within the corporate limits of the town, notwithstanding that he has brought such vehicle to a full stop, as mentioned in division (A) above, if there is any engine, train or railway car in motion, approaching such grade crossing within 200 yards thereof, regardless of whether or not any signals, bells, lights or other warnings are in evidence.

(C) Any person violating the terms of this section shall be deemed guilty of a misdemeanor.

('75 Code, § 8-11) (Ord. 93, passed 11-4-40) Penalty, see § 10.99

§ **94.24 DRIVING NEAR FIRE ENGINE IN SERVICE; PARKING NEAR
 FIRE.**

It shall be unlawful for any person to drive within 500 feet, either in front, beside or behind a fire engine while it is on its way to a fire, and it shall be unlawful for any person to park his automobile or other motor vehicle within one-half block of the fire.

('75 Code, § 8-12) (Ord. 81, passed 11-6-33) Penalty, see § 10.99

§ **94.25 DRIVING OVER FIRE HOSE PROHIBITED.**

It shall be unlawful for any person to drive over, with motor or other vehicle, a fire hose, either when inflated or otherwise.

('75 Code, § 8-12) (Ord. 19, passed 11-6-33) Penalty, see § 10.99

§ **94.26 INTERFERING WITH FIRE TRUCK PROHIBITED.**

It shall be unlawful for any person not a member of the Fire Department to get on or interfere with the fire truck unless called to duty by the Chief of the Fire Department.
(’75 Code, § 8-14) (Ord. 72, passed 4-1-31) Penalty, see § 10.99

OPEN BURNING

§ 94.35 APPLICABILITY.

This subchapter shall apply to all operations involving open burning except those specifically exempted by § 94.38.
(’75 Code, § 8-15)

§ **94.36** **PURPOSE FOR OPNE BURNING REGULATIONS.**

The purposes of this subchapter are to prevent, abate and control air pollution resulting from air contaminants released in the open burning of refuse or other combustible materials.
(’75 Code, § 8-16)

§ 94.37 WHEN PROHIBITED.

No person shall cause, suffer, allow or permit open burning of refuse or other combustible material except as may be allowed in compliance with § 94.38 or except those covered by a permit issued by the board of Water and Air Resources, North Carolina Department of Water and Air Resources under section 143-215 1(c) of the North Carolina Water and Air Resources Act.

('75 Code, § 8-17) Penalty, see § 10.99

§ 94.38 PREMISSIBLE BURNING.

(A) The following types of open burning are permissible as specified if burning is not prohibited by other ordinances, laws and regulations of governmental entities having jurisdiction.

(1) Fires purposely set for the instruction and training of public and industrial fire-fighting personnel.

(2) Fires purposely set to agricultural land for disease and pest control and other accepted agricultural or wildlife management practices acceptable to the North Carolina Board of Water and Air Resources.

(3) Fires purposely set to forest lands for forest management practices acceptable to the Division of Forestry and the North Carolina Board of Water and Air Resources.

(4) Fires purposely set in rural areas for right-of-way maintenance only in instances where there are no other practicable or feasible methods of disposal and under conditions acceptable to the North Carolina Board of Water and Air Resources.

(5) Camp fires and fires used solely for outdoor cooking and other recreational purposes or for ceremonial occasions or for human warmth and comfort.

(6) Open burning of leaves, tree branches or yard trimmings originating on the premises of private residences and burned on those premises in areas where no public pickup facilities are available and such burning is done between 8:00 a.m. and 6:00 p.m. and does not create a nuisance.

(7) Open burning in other than predominantly residential areas for the purpose of land clearing or right-of-way maintenance.

(a) Prevailing winds at the time of burning must be away from the town or a built-up area, the ambient air of which may be significantly affected by smoke, fly-ash or other air contaminants from the burning.

(b) The location of the burning must be at least 1,000 feet from any dwelling located in a predominantly residential area other than a dwelling or structure located on the property on which the burning is conducted.

(c) The amount of dirt on the material being burned must be minimal.

(d) Heavy oils, asphalt materials, items containing natural or synthetic rubber or any materials other than plant growth may not be burned.

(e) Initial burning may generally be commenced only between the hours of 9:00 a.m. and 3:00 p.m., and no combustible material may be added to the fire between 3:00 p.m. of one day and 9:00 a.m. of the following day; except, that under favorable

meteorological conditions deviations from the above state hours of burning may be granted by the air pollution control agency having jurisdiction. It shall be the responsibility of the owner or operator of the open burning operation to obtain written approval for burning during periods other than those specified above.

(8) Fires for the disposal of dangerous materials where there are no alternative methods of disposal and burning is conducted in accordance with procedures acceptable to the state Board of Water and Air Resources.

(B) Permission granted by the town under this section shall be subject to continued review and may be withdrawn at any time.

('75 Code, § 8-18) Penalty, see § 10.99

§ 94.39 WHEN LIABILITY NOT EXCUSED.

The authority to conduct open burning under the provisions of § 94.38 does not exempt or excuse any person from the consequences, damages or injuries which may result from such conduct, nor does it excuse or exempt any person from complying with all applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction even though the open burning is conducted in compliance with such section.
(’75 Code, § 8-19)

GENERAL REGULATIONS

NOISE

§ **95.01 DEFINITIONS.**

EMERGENCY WORK. Any work performed for the purposes of preventing or alleviating physical trauma or property damage threatened or caused by an exiting or imminent peril.

(Am. Ord., passed 7-11-94)

§ **95.02** **NOISES EXPRESSLY PROHIBITED.**

(A) Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or similar device which produces or reproduces sound between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to create excessive and unnecessary noise across a residential real property line or within a noise sensitive area.

(B) Loading and unloading. Loading and unloading, opening, closing or other handling of boxes, crates, containers, equipment, building materials, garbage cans or similar objects between the hours of 10:00 p.m. and 6:00 a.m. on weekdays and 10:00 p.m. and 8:00 a.m. on weekends or holidays in or within fifty (50) yards of a residential area or noise sensitive zone.

(C) Construction and demolition. Operating or causing the operation of any tools used in construction, drilling, repair, alteration or demolition work between the hours of 9:00 p.m. and 6:00 a.m. on weekdays or between 9:00 p.m. and 9:00 a.m. on weekends or holidays in or within fifty (50) yards of any residential area or noise sensitive zone, except for emergency work by public service utilities or by special permit issued by the chief of police. This section shall not apply to the use of domestic power tools.

(D) Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any fire, burglary or civil defense alarm, fire whistle or similar stationary emergency signaling device, except for emergency shall not occur before 7:00 a.m. or after 7:00 p.m. and any testing shall use the minimum cycle test time appropriate for such devices, in no case to exceed sixty (60) seconds. Testing of the complete emergency signaling system, including the functioning of this signaling device and the personnel response to the signaling device shall not occur more than once in each calendar month. Such testing shall occur only on weekdays and not before 7:00 a.m. or after 7:00 p.m. and shall be exempt from the time limit specified herein. The sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, unless such alarm is automatically terminated within fifteen (15) minutes of activation, shall be prohibited.

(E) Domestic power tools. Operating or permitting the operation of any mechanically powered saw, drill, grinder, lawn or garden tool or similar tool between 10:00 p.m. and 6:00 a.m. on weekdays or 10:00 p.m. and 7:00 a.m. on weekends and holidays unless such equipment is operated inside a building or other structure so that the sound there from does not travel across any residential real property line or noise sensitive zone.

(F) Multi-family dwellings. Any excessive noise generated at a volume beyond what is necessary for customary activities or any excessive noise after 10:00 p.m. or before 6:00 a.m. such that nearby residents of dwellings are disturbed.

(G) Refuse collection vehicles. No person shall collect refuse with a refuse collection vehicle between the hours of 7:00 p.m. and 6:00 a.m. on weekdays and 7:00 p.m. and 10:00 a.m. on weekends and holidays within a residential area or noise sensitive zone.

(H) Unnecessary noise. Subject to the provisions of this article, the creation of any unreasonably loud, disturbing and unnecessary noise in the town between the hours of 7:00 a.m. and 10:00 p.m. within one hundred (100) yards of a dwelling unit house, trailer or other building ordinarily occupied by another person, when such person who owns or is in control of such building has not given prior consent or within twenty-five (25) yards of a publicly maintained road or public vehicular area, is prohibited.

(I) Detrimental noise. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited within the town, no matter what the distance of the source of such noise is to any dwelling unit, house, trailer or building occupied by such other person, unless the person in control of such unit, house, trailer or building has given specific consent for such noise to continue.

(J) Schools. The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session or within 150 feet of any hospital or medical institution, which unreasonably interferes with the working of such institution; provided, that conspicuous signs are displayed in every such street indicating that the same is a school, court or hospital.

(K) Sundays. The creation of any excessive noise on Sundays on any street adjacent to any church; provided, that conspicuous signs are displayed in every such street adjacent to a church indicating that the same is a church street.

(Am. Ord., passed 7-11-94)

§ **95.03 PROHIBITED ACTS GENERALLY.**

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

(A) Blowing horns. The sounding of any horn or signal on any automobile, motorcycle, bus or other vehicle except as a danger signal, so as to create any unreasonably loud or harsh sound or the sound of such device for an unnecessary and unreasonable period of time.

(B) Radios, phonographs, etc. The playing of any radio, phonograph or musical instrument in such manner, or with such volume, as to unreasonably annoy or disturb the quiet, comfort or repose of any person in any dwelling unit, house, trailer, building or other type of residence.

(C) Pets. The keeping of any animal or bird, which by causing frequent or long continued noise, shall unreasonably disturb the comfort and repose of any person in the vicinity.

(D) Use of vehicle. The use of any automobile, motorcycle or vehicle so loaded or operated in such manner as to create an unreasonably loud or unnecessary grating, grinding, rattling or other noise.

(E) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
(Am. Ord., passed 7-11-94)

§ **95.04** **MOTOR VEHICLE NOISE.**

No person shall operate or cause to be operated any motor vehicle unless the exhaust system of such vehicle is:

- (A) Free from defects which affect sound reduction;
 - (B) Equipped with a muffler or other noise dissipative device; and
 - (C) Not equipped with any cut-out, bypass or similar device.
- (Am. Ord., passed 7-11-94)

§ 95.05 BARKING DOGS.

(A) It shall be unlawful for anyone to permit a dog, under his or her exercise or control, to bark, bay, cry, howl or make any other noise continuously and/or excessively for a period of ten (10) minutes or more, or who barks, bays, cries, howls or makes any other noise intermittently for one-half hour or more to the disturbance of any person at any time.

(B) It shall not be a violation of this section if at the time the dog is barking, baying, crying, howling or making any other noise a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated or for any legitimate cause which teased or provoked the dog.

(C) Any resident, owner, occupant or tenant of property upon which the dog is situated shall be deemed a person in charge or otherwise exercising control over said dog.
(Am. Ord., passed 7-11-94)

§ **95.06 ENFORCEMENT RESPONSIBILITY FOR CONTROL OF EXCESS NOISE.**

(A) The chief of police of the Town of Aberdeen shall have primary enforcement responsibility for this chapter as it relates to stationary sources and as it relates to motor vehicle sources. Violation shall be subject to the enforcement provisions prescribed by section 10/98 of the Code of Ordinances.

(B) Powers of arrest or citation. Any police officer shall issue a citation for any violation under this article, except they may arrest for instances when:

(1) The alleged violator refuses to provide the officer such person's name and address and any proof thereof as may be reasonably available to the alleged violator; or

(2) The alleged violator refuses to cease such illegal activity after being issued a citation.

(Am. Ord., passed 7-11-94)

§ 95.07 **NOISE FROM RADIOS, TAPE PLAYERS, LOUDSPEAKERS,
SOUND AMPLIFIERS.**

(A) No person shall play, use or operate or permit to be played, used or operated, any radio, tape recorder, cassette player or other machine or device for reproducing sound as follows:

(1) Any portable unit described above in or on any public property, including any public street, highway, building, sidewalk, park, thoroughfare or public or private parking lot; or

(2) Any unit described above which is installed in a motor vehicle and operated on a public street, highway, public space or within the motor vehicular area of any public or private parking lot or park;

if at the same time the sound generated is audible at a distance of thirty (30) feet from the radio, tape recorder, cassette player or other machine or device that is producing the sound.

(B) Possession by a person or person of any radio, tape recorder, cassette player or other machine or device for reproducing sound as enumerated in subsection (a) above shall be prima facie evidence that such person operates, or those person operate, the radio, tape recorder, cassette player or other machine or device for reproducing sound.

(Am. Ord., passed 7-11-94)

GENERAL REGULATIONS

PICKETS, PARADES, PUBLIC ASSEMBLIES, AND SPECIAL EVENTS

Article I. Pickets, Parades and Public Assemblies

§ 96.01 DEFINITIONS.

The following words, terms or phrases, when used in this Article, shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning.

- (a.) *Appeals Official* means the Town manager or his designee.
- (b.) *Athletic Event* means any event involving the conduct of exercises, sports or games.
- (c.) *Business Days* means those days in which Town's offices are open for conducting Town business.
- (d.) *Chief of Police* means the Chief of Police of the Town of Aberdeen, or his designee.
- (e.) *Festival* means a concert, fair, exhibition, promotion, community event, block party, or similar event.
- (f.) *Parade* means any athletic event, ceremony, pageant, march, picket, procession, motorcade or other similar activity consisting of persons, animals, vehicles or things, or a combination thereof proceeding along any sidewalk or along the traveled portion of any street within the Town in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street, and which activity is intended, in whole or in part to exercise freedom of expression under the First Amendment of the United States Constitution. A procession in which individuals move single-file along a sidewalk shall not be regarded as interfering with the normal flow of pedestrian traffic along such sidewalk.
- (g.) *Parade/assembly permit* means a permit as required by this Article in order to conduct a parade or public street or sidewalk assembly regulated by this Article.
- (h.) *Picket or picketing* means the stationing of one or more persons by standing, walking, lying, sitting, kneeling, bending, or in any other similar manner, at a particular place within the Town with the purpose of persuading or otherwise influencing another person's actions or conduct or of apprising the public of any opinion or message, excluding purely casual, random, or other everyday forms of communication or conduct.
- (i.) *Public Assembly* means (i) any festival held generally in one location upon any sidewalk or upon the traveled portion of any street within the Town in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street, and which activity is intended, in whole or in part to

exercise freedom protected under the First Amendment of the United States Constitution or (ii) any organized company or persons, or a picket, for a common purpose as a result of prior planning that is collected together generally in one location upon any sidewalk or upon the traveled portion of any street within the Town in such a manner as to interfere with the normal flow of vehicular or pedestrian traffic upon such sidewalk or street, and which activity is intended, in whole or in part, to exercise freedom protected under the First Amendment of the United States Constitution. For purposes of this definition the phrase “held generally in one location” or “collected together generally in one location” means that such festival or activity is conducted generally in a fixed area as opposed to proceeding along the street or sidewalk in such a manner as to constitute a parade. A festival or other organized company of persons or a picket in which the participants do not obstruct or occupy more than one-half of a sidewalk, such that other pedestrians may use the sidewalk for its intended purposes, shall not be regarded as interfering with the normal flow of pedestrian traffic along such sidewalk.

- (j.) *Sidewalk* means that portion of the street right-of-way that is designed for the use of pedestrians and that is paved.
- (k.) *Street* means any place or way set aside or open to the general public for purposes of vehicular traffic, including and curb, berm, shoulder, right-of-way, or median strip, but not including the sidewalk.

(Adopted: 11-13-06)

§

96.02

Regulations for Pickets and Picketing

- (a) For purposes of this Section, the following definitions shall apply:
 - (i) *Private residence* means a single-family dwelling, duplex, or multi-family dwelling within the Town;
 - (ii) *Directed, focused, or targeted at* means that a particular private residence is being made the sole object of picketing, and the picketing takes place solely on that portion of the street or sidewalk that abuts on the property upon which the target residence is located or solely on that portion of any street or sidewalk that abuts on property within fifty feet (measured from that lot line) of the property upon which the particular private residence is located, except the sidewalk on the opposite side of the street from the targeted residence.
- (b) It shall be unlawful for any person to engage in picketing that is directed, focused, targeted at a particular private residence.
- (c) It shall be unlawful for any person participating in any picket to carry or possess any staff or pole for purposes of displaying any sign, poster, flag, banner, plaque or notice unless the staff or pole (i) is made of corrugated material, plastic, or wood (and not made of metal or metal alloy); (ii) is less than 41 inches in length; (iii) is one-fourth inch (1/4") or less in thickness and two inches (2") or less in width, or if not generally rectangular in shape, does not exceed three-fourths inch (3/4") in its thickest dimension; and (iv) is blunt at both ends.
- (d) It shall be unlawful for any person participating in any picket to carry or possess any sign, poster, flag, banner, plaque or notice, whether or not mounted on a length of material as specified in paragraph (c) of this Section, unless such sign, poster, flag, banner, plaque, or notice is constructed or made of a cloth, paper, cardboard, rubber, or plastic material.
- (e) Picketers, pickets, and picketing shall be subject to all other applicable local, state and federal laws.
- (f) Picketers, pickets, and picketing shall not take place in any street or road used by vehicular traffic, any highway road or street median, or any "safety zone" as defined in N.C. Gen. Stat. § 20-4.01 (39), unless a parade or public assembly permit has been obtained under section 96.03 below.

- (g) A picket or picketing that is not prohibited by this Section and that otherwise fits the definition of a parade or public assembly shall be subject to the regulations for parades and public assemblies in Sections 96.03 through 96.15 of this Chapter.

(Adopted: 11-13-06)

§ **96.03** **Permit Required for Parades and Public Assemblies.**

- (a) No parade or public assembly is permitted unless a permit has been first obtained from the Chief of Police allowing the parade or public assembly pursuant to this Article.
- (b) A person seeking to obtain a parade/assembly permit shall file an application with the Chief of Police on forms provided by such official.
- (c) A person seeking to obtain a parade/assembly permit which requires a street closing or otherwise requires police officers to stop or reroute vehicle traffic upon any street because the participant will not comply with normal traffic regulations or controls shall file an application with the Chief of Police at least 72 hours before the time for which the parade or public assembly is proposed to commence. A person seeking to obtain a permit for any other parade or public assembly shall file an application with the Chief of Police at least 48 hours before the time for which the parade or public assembly is proposed to commence. Notwithstanding the preceding sentence, the Chief of Police shall consider an application for a parade/assembly permit which is filed within any shorter time-frames from those prescribed above where the purpose of the parade or public assembly is a spontaneous response to a current event, or where other good and compelling causes are shown.
- (d) The application for a parade/assembly permit shall include the following:
 - (1) The name, address, telephone number (and pager number, facsimile number, email address, if available) of the person seeking to conduct the parade or public assembly, and the name, address, and telephone number (and facsimile number and email address, if available) of the organization with which the person is affiliated or on whose behalf the person is applying to conduct the parade or public assembly (collectively “Applicant”);
 - (2) The name, address, and telephone number (and pager number, facsimile number, and email address, if available) for an individual who shall be designated as the “responsible planner and on-site manager” of the parade or public assembly;
 - (3) The requested date, time, place, and route (from starting point to ending point) of the parade or public assembly, including the location where and time when the parade or public assembly will assemble and disband, and any requested sidewalk or street closing;
 - (4) The anticipated number of persons, vehicles, and things that will constitute the parade or public assembly (including the basis on which this estimate

is made), and a description of the vehicles and things that will be part of the parade or public assembly;

- (5) A list of the number and type of animals that will be part of the parade or public assembly;
 - (6) A description of the extent to which the parade or public assembly will occupy all of a portion of any street or sidewalk;
 - (7) A general description of any activities planned during the parade or public assembly, including whether any alcoholic beverages will be sold or consumed;
 - (8) A general description of any recording equipment and sound amplification equipment, along with general description of the size and composition of any banners, signs, flags or other attention-getting devices to be used In connection with the parade or public assembly;
 - (9) Arrangements for additional police protection, and/or additional emergency medical services, and/or liability insurance, if required under Section 96.04;
 - (10) The approximate number of anticipated spectators of the parade or public assembly; and
 - (11) Any additional information, attachments and submissions that are requested on the application form.
- (e) A parade/assembly permit issued under this Chapter shall include the information set out in paragraph (d) of this Section, which information shall constitute conditions of the permit to the extent such information sets out the time, place and manner of the parade or public assembly.

(Adopted: 11-13-06)

§ **96.04 Police Protection.**

- (a) The Chief of Police shall determine whether and to what extent additional police protection (including additional emergency medical services) may reasonably be necessary for the parade or public assembly for traffic control and public health and safety, The Chief of Police shall make this determination based on an objective consideration of the following factors (and in no case upon the speech content of the proposed parade or public assembly or any anticipated public reaction to such speech content);
- (1) the size, location, duration, time and date, composition, format, configuration, and number of anticipated participants in and anticipated spectators of the proposed parade or public assembly;
 - (2) the expected sale of good or services at the proposed parade of public assembly, including alcoholic beverages if applicable;
 - (3) the extent to which the parade or public assembly requires the closing of any street or sidewalk or portion thereof, taking into account the general traffic conditions in the area and existing traffic control devices;
 - (4) the need to detour, reroute, or otherwise preempt normal vehicular or pedestrian traffic upon any street or sidewalk or portion thereof to accommodate the proposed parade or public assembly;
 - (5) the anticipation weather conditions at the time of the proposed parade or public assembly; and
 - (6) the extent to which the proposed parade or public assembly is reasonably likely to require emergency medical services or police protection or public assembly.
- (b) Regularly scheduled on duty- police officers of the Town will police the parade or public assembly if the use of these resources would not impair or disrupt ordinary police services throughout the Town or otherwise compromise the public's health or safety. However, if additional police officers or additional emergency medical services are deemed necessary by the Chief of Police for the proposed parade or public assembly in light of his/her objective assessment of the factors in paragraph (a) of this Section, the Chief of Police shall inform the applicant for the parade/assembly permit of (i) the number of additional police officers and/or additional emergency medical personnel needed for the event, (ii) the time-period when those services will be needed, and (iii) the specific reason for why the additional police protection and/or emergency medical services are deemed necessary. The applicant then shell have the duty to hire and pay for the additional police protection and/or additional emergency medical services, or the obligation

to reimburse the Town shall become part of the conditions of the parade/assembly permit.

- (c) Persons engaging in parades or public assemblies conducted solely and entirely for the purpose of freedoms protected under the First Amendment are not required to pay for the additional police protection or additional emergency medical services set out in paragraph (b) of this Section, or to provide the insurance set out in paragraph (e) of this Section.
- (d) Notwithstanding the foregoing, the Town may provide the additional police and/or emergency medical services required by paragraph (b) of this Section at no cost, or at a reduced cost, to the applicant should the Town desire to provide such support to the parade or public assembly.
- (e) The applicant for any parade or public assembly that required the hiring of and paying for additional police protection and/or additional emergency medical services under paragraph (b) of this Section shall, as part of the condition of the parade/assembly permit:
 - (1) obtain a comprehensive general liability insurance policy or comparable liability insurance policy that names the Town as an additional insured and that has property damage coverage of at least \$50,00 for each occurrence and bodily injury or death coverage or at least \$100,000 for each person and of at least \$300,000 for each occurrence;
 - (2) agree to indemnify the Town against any additional or uncovered third-party claims against the Town arising out of the event; and
 - (3) agree to reimburse the Town for any damage to Town property.

(Adopted: 11-13-06)

§ **96.05** **Permitting Criteria.**

- (a) The Chief of Police shall issue a parade/public assembly permit when, from a consideration of the application and from such other information as may otherwise be obtained, he/she makes all of the following findings:
- (1) The conduction of the parade or public assembly will not substantially unnecessarily interfere with the safe and orderly movement of other pedestrian or vehicular traffic contiguous to its route or location; and, if such interference is likely to occur, that there are available at the time of the parade or public assembly sufficient police resources to mitigate the interference;
 - (2) There will be available at the time of the parade or public assembly a sufficient number of police officers and traffic control aids to police and protect participants and non-participants at the parade or public assembly and in areas contiguous to the event from the Town at the time of the proposed parade or public assembly;
 - (3) The concentration of persons, animals, vehicles, or things at the parade or public assembly will not prevent proper fire and police protection or emergency medical services at the event or in areas contiguous to the parade or public assembly;
 - (4) The parade or public assembly will not interfere with the use of a sidewalk or street request by another applicant to whom a valid parade/assembly permit application has already been granted or has been received and will be granted;
 - (5) The applicant has secured the additional police protection and/or additional emergency medical services and/or insurance required under Section 96.04(b) and (e);
 - (6) No parade/public assembly permit application for the same time but at a different location has already been granted or has been received and will be granted, and the police resources required for the prior parade or public assembly are not so great that, in combination with the subsequent proposed application, the resulting deployment of police services would have an immediate and adverse effect upon the health or safety of persons or property;
 - (7) No other public event is scheduled elsewhere in the Town where the police resources for that event are so great that the deployment of police services for the proposed parade or public

assembly would have an immediate and adverse effect upon the health or safety of persons or property; and

- (8) The application is fully and completed and executed;
- (9) The application contains no material falsehood or misrepresentation.

(Adopted: 11-13-06)

§ **96.06 Non-Discrimination.**

Applications for parade/assembly permits shall be processed and decided upon a first-in-time basis, and the Chief of Police shall consider each application upon its merits and shall not discriminate in granting or denying any permit based upon political, religious, ethnic, race, disability, sexual orientation or gender related grounds, or upon the content of any speech protection by the First Amendment or upon any anticipated public reaction to such speech content.

(Adopted: 11-13-06)

§ **96.07** **Notice of Decision on Application.**

- (a) The Chief of Police shall make his/her written decision granting or denying a fully completed and executed parade/assembly permit application (or granting an alternative permit under Section 96.08) within three business days after the application has been received by him/her, but in no event less than 24 hours before the time for which the parade or public assembly is proposed to commence. If the application under Section 96.03 is filed within any shorter time-frames than those prescribed in Section 96.03, then the Chief of Police shall make a decision on the application before the time for which the parade or public assembly is proposed to commence.

- (b) As soon as practicable after the written decision on the permit application has been made, the Chief of Police shall notify the applicant of the decision (i) by the most expeditious means practicable (i.e., by telephone, facsimile, or email), and (ii) by mailing a copy of the decision to the applicant by registered or certified mail, return receipt requested, which mailing shall be posted no later than the first business day after the decision has been made. If the decision is to deny the application or grant an alteration permit, the notification to the application shall include the written reasons for the denial of the permit or for the grant of an alternative permit.

(Adopted: 11-13-06)

§ **96.08** **Alternative Permit.**

- (a) If the Chief of Police denies an application for a parade/assembly permit because he/she decides against one or more of the required findings in subparagraphs (a)(1) through (7) of Section 96.05, the Chief of Police shall authorize the conduct of a parade or public assembly on a date, at a time, at a location or over a different route from that named by the applicant. This alternative permit shall, to the extent practicable, authorize a parade or public assembly that will have comparable public visibility and a similar date, time, location, or route to that of the proposed event. An application desiring to accept an alternative parade/assembly permit shall, within at least 24 hours before the time for which the alternative parade or public assembly will commence, file a written notice of acceptance with the Chief of Police.

- (b) An alternative parade/assembly permit shall contain the information called for in paragraph (d) of Section 96.03, which information shall constitute conditions of the alternative parade/assembly permit to the extent such information sets out the time, place, and manner of the alternative parade or public assembly.

(Adopted: 11-13-06)

§ **96.09 Sale and Consumption of Alcoholic Beverages.**

- (a) No alcoholic beverages may be sold or consumed except at an athletic event or festival event for which a parade/assembly permit has been issued under this Article, and if the Chief of Police determines that such sale or consumption will not pose an unreasonable adverse risk to the public health, safety, and welfare.
- (b) For any such event where alcoholic beverages will be sold and consumed, the responsible planner and on-site manager for the event shall ensure that an area within the event area is designated for the sale and consumption of alcoholic beverages. The perimeters of the area shall be clearly marked, and the entrance to the area shall be constructed so as to allow ready control of patrons, including the viewing of identification to prevent underage persons from being permitted into the area.
- (c) Any area designated for the sale and consumption of alcoholic beverages as a part of such event shall be located at least 150 feet from any church, mosque, synagogue or other place of worship.
- (d) No alcoholic beverages may be sold or consumed as a part of such event outside of the designated area.
- (e) Prior to the beginning of such event, the responsible planner and on-site manager shall ensure that all necessary State or other permits relating to the sale and consumption of alcoholic beverages have been secured.

(Adopted: 11-13-06)

§ **96.10** **Appeal Procedure.**

- (a) An application may appeal the denial of a parade/assembly permit in writing to the Town Manager's office within ten business day after notice of the denial has been received by the applicant. Within five business day (or such longer period of time agreed to by the applicant) after the Town has received the written appeal, the appeals official shall hold a quasi-judicial hearing in whether to issue the permit or uphold the denial. The applicant shall have the right to present evidence at the hearing. The decision to issue the permit or uphold the denial shall be based solely on the approval criteria set forth in Section 96.05, and the burden of proof to uphold the denial shall be on the Chief of Police by a preponderance of the evidence. The appeals official shall render a written decision on the appeal within five business days after the date of the hearing. Where the purpose of the proposed parade or public assembly is a spontaneous response to a current event, or where other good and compelling causes are shown, the appeals official shall reasonably attempt to conduct the hearing and render a decision on the appeal as expeditiously as is practicable.
- (b) The decision of the appeals official is subject to review in the Superior Court of Moore County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after the applicant has received notice of the decision of the appeals official. Unless good cause exists to contest a petition for writ of certiorari, the Town shall stipulate to certiorari no later than five business days after the petition requests such stipulations. The Town shall transmit the record to the court no later than five business days after receiving the order allowing certiorari. Notwithstanding the provisions of any local rule of the reviewing court that allows for a longer time period, the Town shall serve its brief upon the petitioners within 15 days after it is served with the petitioner's brief. If the petitioner serves his or her brief by mail, the Town shall add three days to this time limit, in accordance with N.C. Gen. Stat. 1A-1, Rule 5. If the local rule is subsequently amended to provide for a shorter time period for serving a brief, then the shorter time shall control.

(Adopted: 11-13-06)

§ **96.11 Duties of Applicant and Responsible Planner and On-Site Manager.**

- (a) The applicant and responsible planner and on-site manager of the parade or public assembly shall comply with all conditions of the parade/public assembly permit issued pursuant to this Article and with all other applicable local, state, and federal laws.
- (b) The individual designated as the responsible planner and on-site manager of the parade or public assembly shall carry the parade/assembly permit upon his person during the conduct of the parade or public assembly.

(Adopted: 11-13-06)

§ **96.12 Prohibitions.**

The following prohibitions shall apply to all parades and public assemblies:

- (a) It shall be lawful for any person to stage, present, or conduct any parade or public assembly without first having obtained a permit under this Article.
- (b) It shall be unlawful for any person to participate in a parade or public assembly for which the person knows a permit has not been granted.
- (c) It shall be lawful for any participant in a parade or public assembly to knowingly fail to comply with any conditions of the parade/assembly permit.
- (d) It shall be unlawful for any person participating in any parade or public assembly to carry or possess any staff or pole for purposes of displaying any sign, poster, flag, banner, plaque or notice unless the staff or pole (i) is made of corrugated material, plastic, or wood (and not made of metal or metal alloy); (ii) is less than 41 inches in length; (iii) is one-fourth inch (1/4") or less in thickness and two inches (2") or less in width, or if not generally rectangular in shape, does not exceed three-fourths inch (3/4") in its thickest dimension; and (iv) is blunt at both ends.
- (e) It shall be unlawful for any person participating in any parade or public assembly to carry or possess any sign, poster, flag, banner, plaque, or notice, whether or not mounted on a length of material as specified in paragraph (d) of this Section, unless such sign, poster, flag, banner, plaque, or notice is constructed or made of a cloth, paper, cardboard, rubber, or plastic material.
- (f) It shall be unlawful to assign or sell any parade/assembly permit granted under this article.
- (g) All participants in any parade or public assembly shall be subject to all other applicable local, state and federal laws.

(Adopted: 11-13-06)

§ **96.13** **Public Conduct During Parades or Public Assemblies.**

- (a) No person shall unreasonably hamper, obstruct, impede, or interfere with any parade or public assembly or with any person, vehicle, animal, or thing participating or used in a parade or public assembly.
- (b) The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a parade or public assembly. The Chief of Police shall post signs to that effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation of such signs.

(Adopted: 11-13-06)

§ **96.14** **Revocation of Permit.**

- (a) The Chief of Police shall have the authority to revoke a parade or public assembly permit instantly upon violation of any conditions of the permit or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the parade or public assembly would have an immediate and adverse effect upon the health or safety of persons or property.

- (b) After a permit is revoked under paragraph (a) this Section, the Chief of Police shall notify the applicant of the reasons for the revocation in writing by mailing a copy of the revocation to the applicant by registered or certified mail, return receipt requested, which mailing shall be posted no later than first business day after the revocation.

§ 96.15 Penalties.

A violation of any section or subsection of this Article shall be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt or by a misdemeanor punishment by up to a \$500.00 fine as provided in Section 14-4 of the N.C. General Statutes.

Article II

Special Events

§ **96.16** **Activities Covered.**

- (a) This article applies to all street fairs, festivals, athletic events, carnivals, parades, marches, rallies, or other similar activities or public events not intended in whole or in part to exercise freedom protection under the First Amendment of the United States Constitution, or that require the temporary closing or obstruction of a street, sidewalk, or other public right-of-way or any segment thereof or that otherwise substantially hinder or prevent the normal flow of vehicular or pedestrian traffic along any street or other public right-of-way. Any such activity covered by this article shall hereafter be referred to as a “special event.”

- (b) This article shall not apply to:
 - (1) An activity occurring entirely on property owned by Moore County or another unit of government;
 - (2) Funeral processions;
 - (3) Student going to and from school or participating in an educational activity where such activity is under the immediate supervision and direction of proper school authorities; or
 - (4) A governmental agency acting within the scope of its function.

- (c) In addition to the requirements of this ordinance, all Special Events shall comply with the requirements and procedures detailed in the Aberdeen Parks and Recreation Department Outdoor Special Event Guide. In the event that the ordinance and guide conflict, this ordinance shall control.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.17 Permit Required.**

No person may run, operate, or sponsor any special event in any public street or right-of-way without a permit obtained from the Director of Parks and Recreation in accordance with this Article.

(Adopted: 11-13-06; Amended 6-29-15)

§ 96.18

- (a) A person seeking to obtain a special events permit shall file an application with the Director of Parks and Recreation on a form provided by the Parks and Recreation Department no less than 30 days before the date the special event activity will commence, except that if the event requires the temporary closure of one or more streets, the application shall be filed no less than 60 days before the event date. The following information shall be contained in the application:
- (1) The name, address, and telephone number (and email address, if available) of the person seeking to conduct the special event, and the name, address, telephone number (and email address, if available), of the organization with which the person is affiliated or on whose behalf the person is applying to conduct the special event (collectively “Applicant”);
 - (2) The name, address, and telephone number (and email address, if available) for an individual who shall be designated as the “person in charge” or “responsible planner and on-site manager” of the special event;
 - (3) The request date, time, place, and route (from starting point to ending point) of the special event, including the location where and time when the special event will assemble and disband, and any requested sidewalk or street closings;
 - (4) The anticipated number of persons, vehicles, and other elements that will constitute the special event (including the basis on which this estimate is made), and a description of the vehicles and other elements that will be part of the special event;
 - (5) A list of the number and type of animals that will be a part of the special event, and their intended use;
 - (6) Any barrier or traffic control devices that will be erected; and the location of fire hydrants and electrical hook-ups, as well as the location of proposed concession stands, booths, platforms, benches, or bleacher, toilet facilities and garbage facilities;
 - (7) A description of the extent to which the special event will occupy all of a portion of any street or sidewalk;
 - (8) A general description of the activities planned during the special event, including whether any alcoholic beverages will be sold or consumed, and a sketch map of where such beverages will be sold and consumed;

- (9) A general description of any recording equipment and sound amplification equipment, along with a general description of the size and composition of any banners, signs, flags, or other attention-getting devices to be used in connection with the special event;
 - (10) Arrangements for additional police protection, and/or additional emergency medical services and/or liability insurance, if required under Section 96.16 and 96.24;
 - (11) The approximate number of anticipated spectators of the special event;
 - (12) Any additional information, attachments and submissions that are requested on the application form.
- (b) A special event permit issued under this article shall include the information set out in paragraph (a) of the Section, which information shall constitute conditions of the permit to the extent such information sets out the time, place, manner and conditions of the special event.
- (c) The sponsor of a special event that consists of a series of activities spread over more than one day shall be required to obtain only one permit, which will cover the entire duration of the special event. This subsection applies only to special event activities lasting four months or less.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.19 Fees; Costs Incurred by the Town.**

- (a) If the Town is required to provide additional police protection and/or additional emergency medical services or any other extraordinary services or equipment or if the Chief of Police or Fire Chief otherwise determines that such additional police/emergency medical services or other extraordinary services or equipment should be provided for reasons related to public health or safety, the staff person making such determination shall take whatever action is necessary under the Local Government Budget and Fiscal Control Act to make available the necessary funds for the provisions of such services or equipment.
- (b) The Chief of Police or Fire Chief may require the sponsor to pay the Town a fee sufficient to reimburse the Town for providing additional police/emergency medical services or for providing the costs of any extraordinary services or equipment provided by the Town.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.20** **Staff Review.**

Upon receipt of the permit application and applicable fees, the Director of Parks and Recreation shall circulate it to all appropriate department heads of the Town for their comment. The Director of Parks and Recreation may arrange to have a conference on the application with the sponsor and/or applicant and one or more of the department heads of the Town.

(Adopted: 11-13-06; Amended 6-29-15)

§ 96.21

(Adopted: 11-13-06; Revoked and Reserved 6-29-15)

§ **96.22** **Standard for Issuance of Permit.**

- (a) The Director of Parks and Recreation shall issue the permit authorizing the request special event activity unless it finds that:
 - (1) The conducts of the activity will require the assignment of so many police officers that the remainder of the Town cannot adequately be protected; or
 - (2) The activity will interfere with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services cannot be adequately provided throughout the Town; or
 - (3) Allowing the activity to be held would constitute a clear and present danger to the public health or safety; or
 - (4) The activity, if held at the time or location proposed, will cause an unreasonable and unwarranted disruption to vehicular or pedestrian traffic; or
 - (5) The activity will work a severe hardship on property owners or property occupants near the special event location as a result of the denial of access to their properties or for other substantial reasons; or
 - (6) The person in charge and/or the sponsor of the activity has failed to obtain or does not intend to obtain any and all necessary permits or licenses, including but not limited to building permits, and alcohol permit, or the application is otherwise in violation of any provisions of the Aberdeen Code of Ordinances or other applicable law; or
 - (7) If permitted, the activity will conflict with any other activity previously permitted under this chapter by covering any part of substantially the same area or route during substantially the same time frame as allotted to the previously permitted activity.

- (b) The Director of Parks and Recreation may attach any reasonable conditions to the issuance of a permit; and any special event conducted pursuant to a permit issued under this Article shall be conducted strictly in accordance with the terms of the permit, including any conditions attached to the permit.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.23** **Modification: Alteration Permit.**

- (a) If the Director of Parks and Recreation finds that it cannot issue the permit for any reason specified in section 96.22 of this Article, it may request that the applicant modify its application to remove said objection(s) to the issuance of the permit, and the applicant may do so without further notice.

- (c) If the Director of Parks and Recreation finds that it cannot issue the permit for any reason specified in section 96.22 of Article and if modification of the permit does not appear possible, the Director may, in his or her discretion, issue a permit specifying an alternative, location, route or time for special event activity.

(Adopted: 11-13-06; Amended 6-29-15)

§ 96.24 Insurance.

The Director of Parks and Recreation may require as a condition to the issuance of a permit that the sponsor obtain a comprehensive general liability insurance policy or comparable liability insurance coverage that includes the entire area or route of the special event activity. If such policy is required, the Town shall name as an additional insured on the policy. The limits of such policy shall not be less than the following, and the Director may require higher limits if he or she finds that the risks associated with the activity such higher limits:

Personal Injury	\$500,000 for each person;
Personal Injury for Aggregate Liability	\$1,000,000
Property Damage	\$500,000 for each occurrence.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.25 Town Indemnified.**

Any sponsor obtaining a permit pursuant to this article agrees as a condition of the permit to indemnify the Town and hold the Town harmless from any expenses, including but not limited to attorney's fees, litigation costs and judgments, incurred as a result of claims made for damages arising out of the permitted activity.

(Adopted: 11-13-06)

§ **96.26** **Street Closings**

- (a) No such resolution shall be passed affecting streets that are part of the State Highway System without the approval of the North Carolina Department of Transportation.
- (b) A resolution passed pursuant to subsection (a) shall identify the street or portion thereof and shall indicate the date and time when the street or portion thereof is to be closed or access is to be limited in some way. The resolution shall also direct the Town staff to have appropriate traffic control devices installed to give notice of the temporary traffic restrictions.
- (c) No person may operate any vehicle contrary to the traffic control devices installed in accordance with this section.
- (d) At least seven (7) days prior to the start of any special event activity, the Director of Parks and Recreation shall cause written notice to be provided to the occupants, or if they are unavailable the owners, of each property abutting the street(s) to be closed pursuant to a resolution passed under this section. For activities that are scheduled to occur less than seven (7) days after the permit application has been submitted, the Director need only provide such notice as is reasonably possible.

(Amended 6-29-15)

§ **96.27** **Person in Charge/Responsible Planner and on-site Manager.**

- (a) The person in charge shall be the person primarily responsible for complying with the requirements of this Article; for obtaining all required permits and/or approvals prior to the start of the special event activity, and for setting up, conducting and cleaning up after the activity.

- (b) The person in charge shall have the permit issued pursuant to this article, as well as any other required permits or approvals necessary for the activity, available at all times for inspection by Town staff during the special events activity.

- (c) The person in charge shall be responsible for cleaning up any litter caused by the special event activity; removing any temporary signs or structures erected by the sponsor of other individuals or organizations participating in the activity; and in returning the area where the activity takes place to the condition that existed prior to the activity.

(Adopted: 11-13-06)

§ **96.28** **Special Events Involving the Sale and Consumption of Alcoholic Beverages.**

- (a) For any special event where alcoholic beverages will be sold and consumed, the person in charge of the event shall ensure that an area within the special event area is designated for the sale and consumption of alcoholic beverages. The perimeters of the area shall be clearly marked, and entrance to the area shall be constructed so as to allow ready control of patrons, including the viewing of identification to issue wristbands to those persons 21 years of age or older.
- (b) Any area designated for the sale and consumption of alcoholic beverages as a part of a special event shall be located at least 50 feet from any church, mosque, synagogue or other place of worship, or as required by the NC Alcoholic Beverage Control Commission regulations.
- (c) No alcoholic beverages may be sold or consumed as a part of a special event outside of the designated area for such sale or consumption.
- (d) Prior to the beginning of the special event, the person in charge shall ensure that all necessary state or other permits relating to the sale and consumption of alcoholic beverages have been secured. Copies of such permits shall be provided to the Director of Parks and Recreation.
- (e) Nothing in this article shall prevent the Chief of Police, Fire Chief, or their designee(s) from prohibiting the sale and /or consumption of alcoholic beverages at any special event if he or she determines that such sale or consumption is not in the best interest of the health, safety, and welfare of the Town.

(Adopted: 11-13-06; Amended 6-29-15)

§ **96.29** **Prohibitions.**

The following prohibitions shall apply to all special events:

- (a) It shall be unlawful for any person to stage, present, or conduct any special event without first having obtained a permit under this Article.
- (b) It shall be unlawful for any person to participate in a special event for which the person knows a permit has not been granted.
- (c) It shall be unlawful for any participant in a special event to knowingly fail to comply with any conditions of the special events permit.
- (d) It shall be unlawful to assign or sell any special event permit granted under this Article.
- (e) All participants in any special event shall be subject to all other applicable local, state and federal laws.

(Adopted: 11-13-06)

- (a) No person shall unreasonably hamper, obstruct, impede, or interfere with any person, vehicle, animal, or thing participating or used in any special event.
- (b) The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street constituting a part of the route of a special event. The Chief of Police shall post signs to that effect, and shall be unlawful for any person to park or leave unattended any vehicle in violation of such signs.

(Adopted: 11-13-06)

- (a) The Director of Parks and Recreation or the Chief of Police shall have the authority to revoke a special permit upon a violation of any conditions of the permit or when a public emergency arises where the police resources required for that emergency are so great that deployment of police services for the special event would have an immediate and adverse effect upon the health or safety of persons or property.
- (b) After a permit is revoked under paragraph (a) this Section, the Chief of Police shall notify the applicant of the reasons for the revocation in writing by mailing a copy of the revocation to the applicant by registered or certified mail, return receipt requested, which mailing shall be posted no later than the first business day after the revocation.

(Adopted: 11-13-06; Amended 6-29-15)

A violation of any section or subsection of this article shall be subject to a civil penalty of \$500.00 to be recovered in the nature of a debt or by a misdemeanor punishable by up to a \$500.00 fine as provided in Section 14-4 of the N.C. General Statutes.

(Adopted: 11-13-06)

GENERAL REGULATIONS

TREES AND SHRUBS

GENERAL PROVISIONS

§ 98.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DIAMETER BREAST HEIGHT (D.B.H.). The diameter of the trunk of a tree 4.5 feet above average grade.

PARK TREES. Trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the town or to which the public has free access to a park.

REGULATED TREE. Any self-supporting woody perennial plant which has a D.B.H. of two inches or more and usually has one main stem or trunk. It may appear to have several stems or trunks as in some species of trees, but must have one defined main stem (trunk) of a D.B.H. of two inches.

REMOVE (including removing and removal). The cutting down of any regulated tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a tree.

STREET TREES. Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the town. (Ord., passed 5-13-91; Am. Ord., passed 10-9-95)

§ **98.02 AUTHORITY OF TOWN TO PLANT, MAINTAIN OR REMOVE.**

(A) The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(B) The Tree Board may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which may be reason of its nature be injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(Ord., passed 5-13-91)

§ **98.03 OFFICIAL STREET TREE SPECIES.**

(A) The Tree Board is responsible for establishing a special list of street tree species. The following is a list of the official street trees species as established by the Tree Board:

(1) Small trees: Dogwood, Carolina Cherry Laurel, Crepe Myrtle, Redbud, Bartlet Pear, Kousa Dogwood, Flowering Crabapple and Flowering Peach.

(2) Medium trees: Japanese Maple, Holly American and Yaupon.

(3) Large trees: Pin Oak, Red Oak, Red maple, Sugar Maple, River Birch, White Pine, Poplar, Willow Oak, White Oak and Longleaf Pine.

(B) The list may be reviewed periodically to add or delete certain species.
(Ord., passed 5-13-91)

§ 98.04 SPACING.

The spacing of street trees will be in accordance with the three species-size classes list in § 98.03 and may not be planted closer together than the following: for small trees, 25 feet; for medium trees, 40 feet; and for large trees, 50 feet; except with respect to special plantings designed to approved by a landscape architect or the town's Beautification Director.
(Ord., passed 5-13-91) Penalty, see § 10.99

§ 98.05 PLANTING NEAR STREET CORNER OR FIRE HYDRANT.

No street tree shall be planted closer than 25 feet from any street corner, measured from the point of nearest intersecting curbs or curblines. No street trees shall be planted closer than 10 feet from any hydrant.

(Ord., passed 5-13-91) Penalty, see § 10.99

§ **98.06 UTILITY LINES OR WIRES.**

No street tree other than those species listed as small trees in § 98.03 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.
(Ord., passed 5-13-91) Penalty, see § 10.99

§ **98.07 TREE TOPPING.**

It shall be unlawful as a normal practice for any person, firm or town department to top any street tree, park tree or other tree on public property. ***TOPPING*** is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the Tree Board.

(Ord., passed 5-13-91) Penalty, see § 10.99

§ 98.08 PRUNING.

Every owner of any tree overhanging any street or right-of-way within the town shall prune the branches so that such branches shall not obstruct the light from any streetlamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees or broken or decayed limbs which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with the visibility of any traffic-control device or sign.

(Ord., passed 5-13-91) Penalty, see § 10.99

§ **98.09 DEAD OR DISEASED TREES.**

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the town. The Tree Board will notify, in writing, the owners of such trees. Removal shall be done by the owners at their own expense within 60 days after the date of service to notice. If owners fail to comply with such provisions, the town shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice.

(Ord., passed 5-13-91)

State law reference:

Authority to abate public health nuisances, see G.S. § 160A-193

§ 98.10 STUMPS.

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground.
(Ord., passed 5-13-91) Penalty, see § 10.99

§ **98.11 RETENTION AND PROTECTION OF LARGE TREES.**

(A) Every development shall retain all existing trees twelve inches in diameter or more and no tree twelve inches in diameter or greater shall be removed from the public right-of-way unless the retention of such trees would, in the opinion of the staff, unreasonably burden the development, landowner or maintenance of utilities.

(B) No excavation or other subsurface disturbance may be undertaken within four feet of any tree twelve inches in diameter or more, and no impervious surface (including, but not limited to, paving or buildings) may be located within four feet of any tree twelve inches in diameter (measured at a height of 4.5 feet above ground level) or more unless compliance with this subsection would unreasonably burden the development.

(C) The retention or protection of trees twelve inches in diameter or more as provided in subsections (A) and (B) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer or landowner.

(D) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (A) and (B), and, as a result, the parking requirements set forth in § 155.120 cannot be satisfied, the number of required spaces may be reduced by the number of spaces “lost” because of the provisions of subsections (A) and (B), up to a maximum of 15% of the required spaces.

(Ord., passed 10-9-95)

§ **98.12 CLEARING OF PROPERTY.**

Property cleared for development or timber purposes shall normally retain a thirty foot buffer of existing vegetation in an undisturbed state until such time as the property is proposed for development and a site development plan has been approved. Once property is proposed for development a site plan review shall be prepared and submitted and the area and extent of the buffer may be modified based on zoning, landscaping, setback or other considerations.
(Ord., passed 10-9-95)

TREE BOARD

§ 98.25 CREATION; ORGANIZATION.

(A) There is hereby created and established a Tree Board which shall consist of the members of the Town Appearance Commission.

(B) The term of office of persons appointed as members of the Tree Board shall be the same as the terms of the members of the Appearance Commission.

(C) Members of the Tree Board shall serve without compensation.

(D) The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the member shall constitute a quorum for the transaction of business.

(Ord., passed 5-13-91)

§ **98.26 POWERS AND DUTIES.**

It shall be the responsibility of the Tree Board to study, investigate, counsel, develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the Town Commissioners and upon its acceptance and approval shall constitute the official comprehensive town tree plan for the town. The Tree Board, when requested by the Town Commissioners, shall consider, investigate, make findings, report and recommend upon any special matter or questions coming within the scope of its work.

(Ord., passed 5-13-91)

§ **98.27 AUTHORITY OF BOARD OF COMMISSIONERS TO REVIEW
 TREE BOARD DECISIONS.**

The Town Board of Commissioners shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal from any ruling or order of the Tree Board to the Town Board of Commissioners who may hear the matter and make final decision.
(Ord., passed 5-13-91)

§ **98.28 INTERFERENCE WITH TREE BOARD OR ITS AGENTS
 PROHIBITED.**

It shall be unlawful for any person to prevent, delay or interfere with the Tree Board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any such street trees, park trees or trees on private grounds as authorized by this chapter.

(Ord., passed 5-13-91) Penalty, see § 10.99

GENERAL PROVISIONS

SALES OF MERCHANDISE ON RESIDENTIAL PREMISES

§ **99.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERSONAL PROPERTY. Property which is owned, utilized and maintained by an individual or members of his residence and acquired in a normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment; nor does it include items made specifically for sale. (Example: No yard sale will be allowed for selling of crafts only.)

YARD SALES. Any sale open to the public conducted on residential premises only for the purpose of disposing of personal property and shall include all sales entitled garage, lawn, yard, attic, porch, room, back yard, patio or rummage sales.
(Ord., passed 7-14-86)

§ **99.02 APPLICATION.**

The provisions of this chapter shall not apply to or affect persons selling goods pursuant to an order of a court of competent jurisdiction or persons acting in accordance with their powers and duties as public officials.
(Ord., passed 7-14-86)

§ 99.03 PERMIT REQUIREMENTS.

No person shall conduct any yard sale or garage sale without first obtaining a permit therefore from the town. All such sales shall be subject to the following rules and regulations:

(A) Permit Required. No sale shall be conducted until a permit has been obtained from the Town Clerk. Prior to issuance of any permit, the individual desiring to conduct the sale shall file a written application with the Town Clerk at least five days before the sale, setting forth the following information:

- (1) Full name and address of applicant;
- (2) The location of residence where the sale will be held;
- (3) The dates of the sale, whether one or two days;
- (4) The dates of any other sales within the current calendar year; and

(5) An affirmative statement that the property to be sold is owned by the applicant as his own personal property and was neither acquired nor consigned for the purpose of resale.

(B) Fee. There shall be an administrative process fee of \$5 for the issuance of the permit. No more than two permits shall be issued to one residence or family household during the calendar year. If members of more than one residence join in for a sale, each separate residence must obtain a permit.

(C) Hours of operation; time of sale. The time of the sale will be limited to daylight hours of two consecutive days. If the sale is not held because of inclement weather the Town Clerk may issue another permit to be used on a specified date within 30 days of the original date. In this case no additional permit fee will be charged.

(D) Display of permit. The permit shall be posted on the premises where the sale is authorized, where it can be seen from the street by the public.

(E) Advertising and signs. No sign shall be exhibited for more than two days before the sale. No signs shall be on utility poles or other private property. All signs must be removed each day at the close of the sale, regardless of where located. No more than two signs may be used on the site of sale. All signs must comply with town ordinances. (See §§ 155.135 through 155.145.)

(F) Revocation or refusal of permit. Any permit issued may be revoked or any application may be refused by the Town Clerk, if the application submitted contains any false, fraudulent or misleading statements. If any individual is convicted of an offense under this chapter, the Town Clerk may not issue that individual another sale permit for a period of two years from the date of conviction. (Ord., passed 7-14-86) Penalty, see § 99.99

§ 99.04 PUBLIC NUISANCE.

No permit holder shall allow loud or boisterous conduct or allow vehicles to impede the passage of normal traffic. All individuals shall obey the reasonable orders of the Police Department in order to maintain the Public Health Safety and Welfare.
(Ord., passed 7-14-86) Penalty, see § 99.99

§ **99.05** **RIGHT OF INSPECTION; VIOLATION.**

A police officer shall have the right of entry to any premises showing evidences of a sale for the purpose of enforcement or inspection. The officer may stop the sale and take steps as are necessary against any individual who violates the provisions of this chapter.
(Ord., passed 7-14-86)

§ **99.06 EXEMPTIONS.**

(A) Any sale conducted by a duly licensed merchant or other business establishment from or at a place of business, wherein such sale will be permitted by the zoning regulations of the town.

(B) Any bona fide charitable or educational organization where the proceeds from the sale are used directly for the organization's charitable purposes.

(Ord., passed 7-14-86)

§ **99.99** **PENALTY.**

(A) The violation of any provisions of this chapter shall constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50 or imprisonment not to exceed 30 days, as provided by law.

(B) Each day a sale is conducted in violation of this chapter shall constitute a separate distinct offense.
(Ord., passed 7-14-86)