

## **TITLE IX: GENERAL REGULATIONS**

### Chapter

- 90. ANIMALS**
- 91. FIRE PREVENTION**
- 92. NUISANCES; NOISE CONTROL**
- 93. ABANDONED AND JUNKED  
MOTOR VEHICLES**
- 94. STREETS AND SIDEWALKS**
- 95. CEMETERIES**



## CHAPTER 90: ANIMALS

### Section

#### *General Provisions*

- 90.01 Animals running-at-large prohibited; exceptions
- 90.02 Keeping hogs or pigs restricted
- 90.03 Slaughter of certain animals prohibited

#### *Dogs*

- 90.10 Definitions
- 90.11 Collar and identification to be worn by dog
- 90.12 Restraint of dog; nuisance dogs prohibited
- 90.13 Female dogs in heat to be confined

### **GENERAL PROVISIONS**

#### **§ 90.01 ANIMALS RUNNING-AT-LARGE PROHIBITED; EXCEPTIONS.**

No horse, goat, cattle, or other animals shall be permitted to run-at-large within the town limits. All animals caught running-at-large shall be impounded by the police and unless claimed within four days shall be disposed of as the town shall deem best.

('82 Code, Art. I-III, § 1) Penalty, see § 10.99

#### **§ 90.02 KEEPING HOGS OR PIGS RESTRICTED.**

(A) No person shall be permitted to keep or maintain any hog pen, or keep any hogs, within 150 feet of any dwelling within the corporate limits. ('82 Code, Art. I-III, § 3)

(B) No person shall maintain a pig pen or other enclosure for pigs within 150 feet of any dwelling house or room used for sleeping quarters. ('82 Code, Art. I-III, § 4)

Penalty, see § 10.99

**§ 90.03 SLAUGHTER OF CERTAIN ANIMALS PROHIBITED.**

(A) It shall be unlawful for any person, firm, or corporation to kill, butcher, or slaughter any domesticated animal within the corporate limits of the town.

(B) Such action is declared to be a nuisance and dangerous to the public health and safety.

(C) As used in the section, *ANIMAL* shall mean any other and all domesticated animals, male and female, singular and plural, such as cows, horses, swine, goats, and sheep.

(D) This section does not apply to wildlife regulated by the North Carolina Wildlife Resources Commission.

(E) Any person, firm, or corporation violating this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in § 10.99.

(Ord. 02-2, passed 10-28-02) Penalty, see § 10.99

***DOGS*****§ 90.10 DEFINITIONS.**

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

***AT-LARGE.*** Any dog shall be deemed to be ***AT-LARGE*** when he is off the property of his owner and not under control of a competent person and restrained by a chain or leash.

***DOG.*** Any female or male dog.

***OWNER.*** Any person, groups of persons or corporation owning, keeping, or harboring a dog or dogs.

***PUBLIC NUISANCE.*** Any dog which habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicyclists or vehicles, or turns over garbage pails, or damages gardens, flowers or vegetables, shall be deemed to create a ***PUBLIC NUISANCE***.

(Ord. passed 7-15-78)

**§ 90.11 COLLAR AND IDENTIFICATION TO BE WORN BY DOG.**

(A) Every owner is required to see that his dog is wearing a collar with the owner's name and address stamped on or otherwise firmly attached to it. Such collar shall be worn at all times, unless the dog accompanied by the owner or his agent is engaged in hunting or other sport or activity where a collar might endanger the dog's safety.

(B) It shall be unlawful for any person who owns a dog, to allow such dog to be off the premises of such owner unless such dog is wearing the collar as provided by division (A) of this section. (Ord. passed 7-15-78) Penalty, see § 10.99

**§ 90.12 RESTRAINT OF DOG; NUISANCE DOGS PROHIBITED.**

(A) Every owner of a dog shall keep such dog exclusively upon the owner's premises, provided, however, that such dog may be off such premises if it be under the control of a competent person and restrained by a chain or leash.

(B) It shall be unlawful for any owner to keep a dog in such a manner as to create a nuisance on the owner's premises, or to allow such nuisance to remain on his premises. Anything that causes an offensive odor or causes injury or damage to the health or life of any other person, or anything that interferes with the peaceful enjoyment of owner's property is declared a nuisance and unlawful.

(C) It shall be unlawful for any owner to own, keep, or have within the town a dog that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicyclists or vehicles, or turns over garbage pails, or damages gardens, flowers, or vegetables, or conducts itself otherwise so as to be a public nuisance. (Ord. passed 7-15-78) Penalty, see § 10.99

**§ 90.13 FEMALE DOGS IN HEAT TO BE CONFINED.**

No owner or custodian of any bitch shall allow such bitch to run-at-large while in heat within the town limits. It shall be the duty of the Chief of Police to kill any bitch the owner of which cannot be found within four days after any such dog has been impounded. ('82 Code, Art. I-III, § 2) Penalty, see § 10.99



## CHAPTER 91: FIRE PREVENTION

### Section

- 91.01 Storage of inflammable materials in corporate limits restricted
- 91.02 Construction of gasoline tanks
  
- 91.99 Penalty

### **§ 91.01 STORAGE OF INFLAMMABLE MATERIALS IN CORPORATE LIMITS RESTRICTED.**

It shall be unlawful for any person, firm, or corporation to store gas, fuel oil, or any inflammable materials, matters, or substances in bulk in the corporate limits in the Town of Broadway. (Ord. passed 2-6-54) Penalty, see § 91.99

### **§ 91.02 CONSTRUCTION OF GASOLINE TANKS.**

It shall be unlawful for any person to construct or erect any storage tank for gasoline, oil, or other combustible or inflammable materials, containing or capable of containing more than 100 gallons, unless to top of such tank or container is buried at least two feet below the surface of the ground at that point, and unless a permit for such construction or erection shall be first obtained upon application from the Town Clerk. The Clerk shall not issue such permit unless directed by the Board. ('82 Code, Art. J-II, § 5) Penalty, see § 91.99

### **§ 91.99 PENALTY.**

(A) Any person who shall violate any of the provisions of this chapter for which no other penalty is provided shall be subject to the penalty of § 10.99 of this code of ordinances.

(B) A violation of § 91.01 of this chapter shall subject the offender, upon conviction, to a fine of not more than \$50 for each offense, and it is further enacted that for each day that any person, firm, or corporation shall allow such storage of inflammable materials in bulk shall constitute a separate and distinct offense. (Ord. passed 2-6-54)





## CHAPTER 92: NUISANCES; NOISE CONTROL

### Section

#### *Public Nuisances*

- 92.01 Supervision of County Health Officer
- 92.02 Right of entry; obstructing enforcement unlawful
- 92.03 Property to be kept in sanitary condition
- 92.04 Weeds; schedule for cutting
- 92.05 Noxious and unhealthy accumulations prohibited
- 92.06 New construction; control of debris
- 92.07 Businesses which cause air nuisances restricted
- 92.08 Eating establishments to comply with Board of Health

#### *Noise Control*

- 92.20 Unnecessary noise prohibited
- 92.21 Nuisance noises enumerated
- 92.22 Regulation of music machines and loud speakers
- 92.23 Mufflers required on motor vehicles

### ***PUBLIC NUISANCES***

#### **§ 92.01 SUPERVISION OF COUNTY HEALTH OFFICER.**

The enforcement of this chapter shall be under the supervision of the County Health Officer.  
( '82 Code, Art. G-I, § 1)

#### **§ 92.02 RIGHT OF ENTRY; OBSTRUCTING ENFORCEMENT UNLAWFUL.**

(A) *Right to enter.* The Health Officer or any of his assistants shall have the right to enter at any reasonable time any premises for the purpose of making the inspections or investigations as required by this chapter. ( '82 Code, Art. G-I, § 3)

(B) *Unlawful to hinder Health Officer or assistants.* It shall be unlawful for any person to hinder, obstruct, or delay the Health Officer or any of his assistants in the lawful discharge of their duties. ('82 Code, Art. G-I, § 2) Penalty, see § 10.99

### **§ 92.03 PROPERTY TO BE KEPT IN SANITARY CONDITION.**

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

(B) If any person shall violate the provisions of division (A) of this section it shall be the duty of the Chief of Police or the Sanitary Inspector or his associates to give notice to the owner or person in possession of such premises that within 15 days, or sooner from the date of such notice, all weeds, trash, and other offensive animal or vegetable matter, be removed from said lot. Should any owner or occupant fail to comply with notice, the Chief of Police or Sanitary Inspector shall proceed to have removed, and such owner or occupant shall be responsible to the town for the cost thereof.  
( '82 Code, Art. G-I, § 4) Penalty, see § 10.99

### **§ 92.04 WEEDS; SCHEDULE FOR CUTTING.**

Every owner or person in possession of a vacant lot within the corporate limits shall shrub down, within four inches of the ground, all weeds, grass, or other noxious growth from said lot at least twice each year; the first not later than June 15, and the second, not later than August 15 of each and every year. If said weeds or other noxious growth are not cut in compliance with this section, the Chief of Police or Sanitary Inspector shall proceed to have said weeds or other noxious growth cut, and the owner or person in possession of such lot, shall be responsible to the town for the cost thereof.  
( '82 Code, Art. G-I, § 4) Penalty, see § 10.99

### **§ 92.05 NOXIOUS AND UNHEALTHY ACCUMULATIONS PROHIBITED.**

(A) *Human waste.* No person shall urinate or deposit any human waste of any kind in any street, lot, or premises except in approved sanitary facilities. ('82 Code, Art. G-I, § 5)

(B) *Stagnant water.* No person or occupant of any property shall allow stagnant water to accumulate or remain in cellars or anywhere on their property. ('82 Code, Art. G-I, § 6)  
Penalty, see § 10.99

**§ 92.06 NEW CONSTRUCTION; CONTROL OF DEBRIS.**

All refuse, lumber, and debris remaining both as a result of the repair of any new buildings, or of the erection and completion of any new buildings, shall be removed by the property owner within ten days from the completion of the aforesaid work.

('82 Code, Art. G-I, § 8) Penalty, see § 10.99

**§ 92.07 BUSINESSES WHICH CAUSE AIR NUISANCES RESTRICTED.**

(A) Any manufacturing concern or any other enterprise whether business or otherwise from which is emitted smoke, suet, dust, fumes, gases, or other noxious chemicals or solids which are injurious to the health of the citizens of the town, and on which damage personal or real property situated within the town the same is hereby declared to be a nuisance.

(B) It shall be unlawful for any person, firm, corporation, concern, or enterprise to operate within the town, any sort of manufacturing plant, enterprise, or activity from which are emitted smoke, suet, dust, ashes, fumes or other noxious chemicals or solids which are injurious to the health of the citizens of the community and which damages either personal or real property located within the town.

(Ord. passed - - ) Penalty, see § 10.99

**§ 92.08 EATING ESTABLISHMENTS TO COMPLY WITH BOARD OF HEALTH.**

All persons, firms, or corporations selling food of any kind or serving prepared meals shall comply with all requirements pertaining thereto of the North Carolina State Board of Health.

('82 Code, Art. G-I, § 7) Penalty, see § 10.99

***Cross-reference:***

*Business regulations, see Title XI*

***NOISE CONTROL***

**§ 92.20 UNNECESSARY NOISE PROHIBITED.**

It shall be unlawful for any person, firm, or corporation to create or assist in creating, permit, continue, or permit the continuance of any unreasonably loud, disturbing, and unnecessary noise in the town. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited.

('82 Code, Art. I-II, § 1) Penalty, see § 10.99

**§ 92.21 NUISANCE NOISES ENUMERATED.**

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

(A) The sounding of any horn or signal device on any device on any automobile, motorcycle, bus, or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control: or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(B) The use of any gong or siren upon any vehicle, other than police, fire, or other emergency vehicle.

(C) The use or operation of any piano, manual or automatic, phonograph, radio, loud speaker, or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity thereof, or in such a manner as renders the same a public nuisance, provided, however, that upon application to the Mayor, permits may be granted to responsible organizations to produce programs in music, speeches, or general entertainment.

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

(E) The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling, or other noise.

(F) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.

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

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

(I) The erection (including excavation), demolition, alteration, or repair of any building in a residential or business district other than between the hours of 7 a.m. and 6 p.m. on weekdays, except in the case of urgent necessity in the interest of public safety and then only with a permit from the Town Clerk, which permit may be renewed for a period of three days or less while the emergency continues.

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

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

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

(M) The sounding of any bell or gong, attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof.

(N) The shouting and crying of peddlers, barkers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.

(O) The use of any drum, loud speaker, or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise.

(P) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles for advertising purposes or other purposes except where specific license is received from the Board of Commissioners.

(Q) The conducting, operating, or maintaining of any garage or filling station in any residential district so as to cause loud or offensive noises to be emitted therefrom between the hours of 11 p.m. and 7 a.m.

(R) The firing or discharging of squibs, crackers, gunpowder or other combustible substance in the streets or elsewhere for the purpose of making noise or disturbance, except by permit from the Board of Commissioners.

('82 Code, Art. I-II, § 2) Penalty, see § 10.99

## **§ 92.22 REGULATION OF MUSIC MACHINES AND LOUD SPEAKERS.**

(A) That no person, firm, or corporation shall operate or knowingly allow to be operated by another, in any room in any building owned, rented, or controlled by him or it, and mounted on any automobile owned by him or it, or on any lot or premises owned, rented, or controlled by him or it, in any store, cafe, restaurant, filling station, or any place of amusement or where the general public is invited or received or allowed to gather and remain, in the Town of Broadway, any musical device, radio, piccolo, phonograph, or other machinery or device of any kind whatsoever, for the reproduction

or broadcasting of music or the human voice or a combination thereof, in such way or manner and at such pitch or producing such volume of sound or noise as to annoy and disturb any person or persons not in such room where the same is located or being operated; or so as to constitute a nuisance to the public generally, or to any one person, provided that nothing herein shall be construed to prevent or make unlawful the operation of musical devices in private homes.

(B) It shall be unlawful for any person, firm, or corporation to use any loud speaker or sounding board on any public street or vacant lot, or other place within the corporate limits of the town without first obtaining a permit from the Town Clerk to do so.

(Ord. passed - - ) Penalty, see § 10.99

### **§ 92.23 MUFFLERS REQUIRED ON MOTOR VEHICLES.**

It shall be unlawful for any person, firm, or corporation to use or operate, within the corporate limits of the town, any automobile, truck, or other motor vehicle, with open muffler cutout, or exhaust or gong horn, or other warning devices or to cause any mechanical contrivance of whatsoever nature to operate making unnecessary or disturbing noises.

(Ord. passed - - ) Penalty, see § 10.99

***Cross-reference:***

*Traffic Code, see Title VII*

## CHAPTER 93: ABANDONED AND JUNKED VEHICLES

### Section

- 93.01 Purpose and intent
- 93.02 Administration
- 93.04 Abandoned or nuisance vehicle unlawful; removal authorized
- 93.05 Junked motor vehicles regulated; removal authorized
- 93.06 Pre-towing notice requirements
- 93.07 Exceptions to prior notice requirement
- 93.08 Removal of vehicles; post-towing notice requirements
- 93.09 Right to hearing before sale or final disposition of vehicle
- 93.10 Redemption of vehicle during proceedings
- 93.11 Sale and disposition of unclaimed vehicles
- 93.12 Conditions on removal of vehicles from private property
- 93.13 Protection against criminal or civil liability
- 93.14 Exceptions to provisions
- 93.15 Unlawful removal of impounded vehicle

### § 93.01 PURPOSE AND INTENT.

(A) The Board of Commissioners of the Town of Broadway finds it necessary and desirable to promote or enhance:

- (1) The quality of urban attractiveness and aesthetic appearance of the town.
- (2) The protection of property values throughout the town.
- (3) The preservation of the liveability and attractiveness of neighborhoods.
- (4) The promotion of tourism, conventions, and other opportunities for economic development for the town.
- (5) The attractiveness of the town's thoroughfares and commercial roads which represent the primary, public visibility to visitors and to passersby of the town.

(6) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles.

(B) The Board of Commissioners of the town is authorized by G.S. § 160A-193, G.S. § 160A-303 and G.S. § 160A-303.2 to regulate, restrain, or prohibit abandoned, nuisance, and junked motor vehicles on public and private property within the town's ordinance-making jurisdiction; and therefore, the Board of Commissioners does ordain the following chapter.

(Ord. 1990-15, passed 7-9-90)

### § 93.02 ADMINISTRATION.

The Police Department and Town Building Inspector and/or Code Enforcement Officer 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 on property owned by the town. The Town Building Inspector and/or Code Enforcement Officer shall be responsible for administering the removal and disposition of *abandoned, nuisance or junked motor vehicles* located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(Ord. 1990-15, passed 7-9-90)

### § 93.03 DEFINITIONS.

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

**ABANDONED VEHICLE.** As authorized and defined in G.S. § 160A-303, an abandoned motor vehicle is one that:

(1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or,

(2) Is left on a public street or highway for longer than seven days; or,

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

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



**AUTHORIZING OFFICIAL.** The supervisory employee of the Police Department or the City Building Inspector and/or Code Enforcement Officer, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

**JUNKED MOTOR VEHICLE.** As authorized and defined in G.S. § 160A-303.2, the term means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or,
- (2) Cannot be self propelled or moved in the manner in which it originally was intended to move; or,
- (3) Is more than five years old and appears to be worth less than \$100.

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

**NUISANCE VEHICLE.** A 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, other insects, rats or other pests; or,
  - (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or,
  - (3) A point of collection of pools or ponds of water; or,
  - (4) A point of concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or,
  - (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like; or,
  - (6) So situated or located that there is a danger of it falling or turning over; or,
  - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or,
  - (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or,
  - (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners.
- (Ord. 1990-15, passed 7-9-90)

**§ 93.04 ABANDONED OR NUISANCE 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 herein.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(C) (1) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or the 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.

(2) Upon investigation, the City Building Inspector and/or Code Enforcement Officer may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

(Ord. 1990-15, passed 7-9-90) Penalty, see § 10.99

**§ 93.05 JUNKED MOTOR VEHICLES REGULATED; REMOVAL AUTHORIZED.**

(A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) Subject to the provisions of division (A) of this chapter, upon investigation, the City Building Inspector and/or Code Enforcement Officer may order the removal of a junked motor vehicle as defined in this chapter after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following among, other relevant factors may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and,
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(Ord. 1990-15, passed 7-9-90) Penalty, see § 10.99

**§ 93.06 PRE-TOWING NOTICE REQUIREMENTS.**

(A) Except as set forth in § 93.07, an abandoned, nuisance, or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the town on a specified date (no sooner than seven days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle, or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.  
(Ord. 1990-15, passed 7-9-90)

**§ 93.07 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.**

The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorizing official 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. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice includes:

(A) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Commissioners hereby determines that immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic.
- (2) Parked in violation of an ordinance prohibiting or restricting parking.
- (3) Parked in a no stopping or standing zone.

- (4) Parked in loading zones.
- (5) Parked in bus zones.
- (6) Parked in violation of temporary parking restrictions imposed under code sections.

(B) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of 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. 1990-15, passed 7-9-90)

#### **§ 93.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.**

(A) Any abandoned, nuisance or junked motor vehicle which has been ordered may, as directed by the town, 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 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) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (A)(1) through (A)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

(C) If the vehicle is registered in North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within 72 hours from the removal of the vehicle.

(D) Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing city 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 set forth in subsections (A)(1) through (A)(5) above. (Ord. 1990-15, passed 7-9-90)

**§ 93.09 RIGHT TO HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.**

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor 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. 1990-15, passed 7-9-90)

**§ 93.10 REDEMPTION OF VEHICLE DURING PROCEEDINGS.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter. (Ord. 1990-15, passed 7-9-90) Penalty, see § 10.99

**§ 93.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLES.**

Any abandoned, nuisance, or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the city and in accordance with G.S. Art. 44A-1. (Ord. 1990-15, passed 7-9-90)

**§ 93.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.**

As a general policy, the town will not remove a vehicle from private property if the owner, occupant, or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the town from private property without a written

request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Building Inspector and/or Code Enforcement Officer. The town may require any person requesting the removal of an abandoned, nuisance, or junked motor vehicle from private property to indemnify the town against any loss, expense, or liability incurred because of the removal, storage, or sale thereof.

(Ord. 1990-15, passed 7-9-90)

### **§ 93.13 PROTECTION AGAINST CRIMINAL OR CIVIL LIABILITY.**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked motor vehicle, for disposing of such vehicle as provided in this chapter.

(Ord. 1990-15, passed 7-9-90)

### **§ 93.14 EXCEPTIONS TO PROVISIONS.**

Nothing in this chapter shall apply to any vehicle:

(A) Which is located in a bona fide “automobile graveyard” or “junked” as defined in G.S. § 136-143, in accordance with the “Junkyard Control Act,” G.S. § 136-141 et seq.;

(B) Which is in an enclosed building;

(C) Which is 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,

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(Ord. 1990-15, passed 7-9-90)

### **§ 93.15 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 any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ord. 1990-15, passed 7-9-90) Penalty, see § 10.99

## CHAPTER 94: STREETS AND SIDEWALKS

### Section

#### *General Provisions*

- 94.01 Throwing or burning trash in street prohibited
- 94.02 Tree trimmings
- 94.03 Snow and ice removal
- 94.04 Bicycle on sidewalks prohibited
- 94.05 Playing ball on sidewalks prohibited

#### *Excavations and Construction*

- 94.15 Permit required to dig in streets
- 94.16 Sidewalk construction; material to be approved
- 94.17 Street repair
- 94.18 Excavations to be covered and protected
- 94.19 Damage to streets unlawful
- 94.20 House moving
- 94.21 Damage to bridges and culverts
- 94.22 Damage to lights and signs

#### *Obstructions*

- 94.35 Assembly on sidewalk
- 94.36 Display of goods prohibited
- 94.37 Placing obstructions in streets and sidewalks
- 94.38 Construction near sidewalk
- 94.39 Sheds and awnings

**GENERAL PROVISIONS****§ 94.01 THROWING OR BURNING TRASH IN STREET PROHIBITED.**

No paper, straw, lemon peel, banana peel, watermelon rind or any trash of any kind shall be thrown or swept upon any sidewalk or street of the town, nor shall any trash, refuse, or rubbish be burned thereon.

('82 Code, Art. D-III, § 1) Penalty, see § 10.99

**§ 94.02 TREE TRIMMINGS.**

It shall be unlawful for any person to place or allow to be placed any tree trimmings or shrubbery on any street or sidewalk.

('82 Code, Art. D-III, § 2) Penalty, see § 10.99

**§ 94.03 SNOW AND ICE REMOVAL.**

Every occupant of a store building in front of which the sidewalk is paved with stone, brick, asphalt, or cement shall remove snow, ice, or other obstruction from such sidewalk at the earliest possible time and as soon as the weather permits.

('82 CODE, Art. D-III, § 3) Penalty, see § 10.99

**§ 94.04 BICYCLE ON SIDEWALKS PROHIBITED.**

It shall be unlawful for any person to ride a bicycle on any sidewalk in the town. Applicable to business district only.

('82 Code, Art. D-III, § 4) Penalty, see § 10.99

***Cross-reference:***

*Traffic Code, see Title VII*

**§ 94.05 PLAYING BALL ON SIDEWALKS PROHIBITED.**

No person shall play ball or bat or catch ball on any of the streets of the town.

('82 Code, Art. D-III, § 5) Penalty, see § 10.99



***EXCAVATIONS AND CONSTRUCTION***

**§ 94.15 PERMIT REQUIRED TO DIG IN STREETS.**

It shall be unlawful for any person, firm, or corporation to dig any hole, ditch, or excavation of any kind whatsoever, on any street in the town without first securing a permit thereof or in writing from the Town Clerk.

('82 Code, Art. D-I, § 1) Penalty, see § 10.99

**§ 94.16 SIDEWALK CONSTRUCTION; MATERIAL TO BE APPROVED.**

No sidewalk of any description shall be built by any individual, firm, or corporation, of any brick, wood, or other material without a written permit from the Town of Broadway.

('82 Code, Art. D-I, § 2) Penalty, see § 10.99

**§ 94.17 STREET REPAIR.**

It shall be the duty of every person, firm, or corporation, who shall open or dig a ditch, trench, or hole in any street, public alley, or sidewalk of the town, to put the said street, public alley, or sidewalk in as good condition in all respects as it was before.

('82 Code, Art. D-I, § 3) Penalty, see § 10.99

**§ 94.18 EXCAVATIONS TO BE COVERED AND PROTECTED.**

It shall be unlawful for any person, firm, or corporation making any excavation for any purpose whatsoever in any of the streets or sidewalks to fail to securely cover such excavations with plank or place ropes around the same three feet from the ground or shall fail to place a sufficient number of red lights around such excavation before dark and to keep such light burning all night every night such excavation shall be open.

('82 Code, Art. D-I, § 4) Penalty, see § 10.99

**§ 94.19 DAMAGE TO STREETS UNLAWFUL.**

It shall be unlawful for any person, firm, or corporation to drag, or run, or cause to be dragged or run any harrow or other implement, engine, machine, or tool upon any asphalt, batholithic, warrenite, or other permanently paved street of the town which shall be liable, in any way to injure or cut the surface thereof. It shall also be unlawful to injure any dirt street in the same manner.

('82 Code, Art. D-I, § 5) Penalty, see § 10.99

**§ 94.20 HOUSE MOVING.**

No person shall move any house or building upon or across the public streets or sidewalks without the written consent of the Board of Aldermen and the deposit of a good and sufficient bond in the sum as shall be established from time to time by the Board of Commissioners to cover damage done to such street or sidewalk or to any property of any person.

('82 Code, Art. D-I, § 6) Penalty, see § 10.99

**§ 94.21 DAMAGE TO BRIDGES AND CULVERTS.**

No person shall injure or misplace any part of any bridge, culvert, ditch, and drain or other property belonging to or used by the town, or shall place any obstruction in any culvert, ditch or drain to prevent the free flow of water on or over the streets of the town.

('82 Code, Art. D-I, § 7) Penalty, see § 10.99

**§ 94.22 DAMAGE TO LIGHTS AND SIGNS.**

No person shall injure, tamper with, remove or paint upon or deface any sign, sign post, street light, traffic signal, or bulletin board or other municipal property upon the streets and sidewalks except employees of the town in performance of their duties.

('82 Code, Art. D-I, § 8) Penalty, see § 10.99

***OBSTRUCTIONS*****§ 94.35 ASSEMBLY ON SIDEWALK.**

All persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street and all persons so collecting and standing shall disperse and move upon the demand of any police officer.

('82 Code, Art. D-II, § 1) Penalty, see § 10.99

**§ 94.36 DISPLAY OF GOODS PROHIBITED.**

No person shall place for display or sale any goods, wares, or merchandise of any kind upon any of the sidewalks of said town, which shall extend out on the sidewalks.

('82 Code, Art. D-II, § 2) Penalty, see § 10.99

**§ 94.37 PLACING OBSTRUCTIONS IN STREETS AND SIDEWALKS.**

No brick, stone, or wood or other substances obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alleyways, streets, or other routes of the town, nor shall any person place on or in any of the streets, sidewalks, or alleyways of the town any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind, provided that any person erecting a building may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

('82 Code, Art. D-II, § 3) Penalty, see § 10.99

**§ 94.38 CONSTRUCTION NEAR SIDEWALK.**

Before building or remodeling at any place where the same is in close proximity to the sidewalk a passageway shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.

('82 Code, Art. D-II, § 4)

**§ 94.39 SHEDS AND AWNINGS.**

No person shall erect or repair over any sidewalk or street any wooden shed or awning or any wooden shed for the support of an awning or erect upon any street or sidewalk any post for the support of any awning. If any person shall violate this section then each day that the above forbidden structure shall remain after notice shall constitute a separate violation, provided that this shall not be construed to prevent the erection over the sidewalk of cloth or metal awnings supported upon metallic frames firmly suspended from the building, and at least seven feet above the level of the sidewalk.

('82 Code, Art. D-II, § 5) Penalty, see § 10.99



## CHAPTER 95: CEMETERIES

### Section

- 95.01 Superintendent; appointment; duties
- 95.02 Cemetery use
- 95.03 Deed for lot
- 95.04 Plantings
- 95.05 Family monuments
- 95.06 Tree and shrubbery maintenance; landscaping
- 95.07 Structures to be approved
- 95.08 Transfer of lots
- 95.09 Unlawful conduct in cemetery
- 95.10 Vehicles; speed limit
- 95.11 Depositing filth or rubbish unlawful
- 95.12 Extension of cemetery to be controlled by chapter
- 95.13 Lot charges

### **§ 95.01 SUPERINTENDENT; APPOINTMENT; DUTIES.**

It shall be the duty of the Board of Commissioners of the town to appoint some suitable person as Superintendent of Broadway Cemetery, who shall serve as such at the will of the Board. The Superintendent shall have such powers and duties as shall be conferred upon him by this section, and/or any ordinance, resolution, or order of the Board at any time hereafter adopted or made. The Superintendent shall have charge of the upkeep, protection, and preservation of the cemetery; he shall supervise the digging of all graves, the interment and disinterment of bodies, the erection of monuments and markers; supervise the planting of any and all shrubbery, trees and flowers, and make provision for the entrance and exit of persons and vehicles to and from said cemetery, provided, however, the Superintendent shall not contract any debt or expend any money without first having obtained the consent and approval of the Board of Commissioners.

('82 Code, Art. E-II, § 2)

**§ 95.02 CEMETERY USE.**

Broadway Cemetery shall be used exclusively for the burial of persons, and no person shall be interred or disinterred therein without lawful authority and permission first had and obtained. All graves shall be at least four feet in depth, and all graves shall be dug under the supervision of the Superintendent.

('82 Code, Art. E-II, § 3)

**§ 95.03 DEED FOR LOT.**

All persons desiring to purchase a lot in the Broadway Cemetery shall apply to the Town Clerk who, upon payment of the fixed price for each lot, shall cause a deed or other instrument of receipt therefor to be given to the purchaser.

('82 Code, Art. E-II, § 1)

**§ 95.04 PLANTINGS.**

No person shall plant or set any tree, shrub, flower, grass, or other plant of any kind in said cemetery except with the approval of and under the supervision of the Superintendent.

('82 Code, Art. E-II, § 4) Penalty, see § 10.99

**§ 95.05 FAMILY MONUMENTS.**

Only one central or family monument shall be allowed on a family lot. Markers shall be laid flush with the ground and shall not exceed two feet in length and one foot in width, and shall be placed at the end of the grave farthest from the monument. No coping, curb, fencing, hedging, grave mounds, borders, or curb of any kind shall be allowed on any burial lot. All location and placement of monuments and markers shall be made by or under the direction of the town.

('82 Code, Art. E-II, § 5) (Am. Ord. passed 4-28-03) Penalty, see § 10.99

**§ 95.06 TREE AND SHRUBBERY MAINTENANCE; LANDSCAPING.**

(A) The pruning or cutting of all trees and shrubbery is hereby prohibited unless done under the immediate supervision of the said Superintendent. ('82 Code, Art. E-II, § 6)

(B) All grading, landscaping, and improvements of every kind shall be made or done by the Town of Broadway. ('82 Code, Art. E-II, § 7)

Penalty, see § 10.99

**§ 95.07 STRUCTURES TO BE APPROVED.**

No mausoleum, tomb, building, or other structure of any kind shall be erected on any lot within said cemetery, or within any extension of said cemetery, provided, however, that mausoleums and tombs may be constructed on lots which may be designated on the plat and plan of said cemetery from time to time by the Board of Commissioners as lots to be used exclusively for mausoleums and tombs. Should any mausoleum, monument or tomb at any time become unsafe, unsightly, or in need of repair or re-setting, the Superintendent shall so notify the owner of said lot, or any person having an interest in said lot, and shall request such person to make the needed repairs under his supervision, and if such person shall fail to make such repairs within 30 days thereafter, the Board of Commissioners may order such repairs to be made, or remove the same from said lot as said Board may elect.

('82 Code, Art. E-II, § 8) Penalty, see § 10.99

**§ 95.08 TRANSFER OF LOTS.**

No person who shall purchase any lot in said cemetery from the town shall thereafter convey or alien the same to any other person except upon the written permission of the Board of Commissioners, nor in any event for a greater consideration than that paid for the same lot by the grantor.

('82 Code, Art. E-II, § 9) Penalty, see § 10.99

**§ 95.09 UNLAWFUL CONDUCT IN CEMETERY.**

No person shall disturb the quiet, repose, and good order of the cemetery, nor shall any person deface, remove, disturb, injure, or destroy any tree, plant, or shrub therein except in the manner herein provided; trespassing within said cemetery is hereby prohibited, and no person shall commit any immoral act therein under penalty of the law herein prescribed.

('82 Code, Art. E-II, § 10) Penalty, see § 10.99

**§ 95.10 VEHICLES; SPEED LIMIT.**

Vehicles shall be driven only upon the roadways within said cemetery and at a rate of speed not in excess of 15 miles per hour. No vehicles shall enter said cemetery except for the purpose of attending funerals, visiting graves, or other lawful mission.

('82 Code, Art. E-II, § 11) Penalty, see § 10.99

**§ 95.11 DEPOSITING FILTH OR RUBBISH UNLAWFUL.**

No person shall deposit any rubbish, filth, waste, or other unclean or unsightly substance in said cemetery, and all materials carried within said cemetery and not used in the erection of monuments,

markers, or other lawful structures authorized herein, shall be promptly removed therefrom by the owner of the lot upon which such monument, marker, or structure shall be located.

('82 Code, Art. E-II, § 12) Penalty, see § 10.99

#### **§ 95.12 EXTENSION OF CEMETERY TO BE CONTROLLED BY CHAPTER.**

All lots within the Broadway Cemetery, and within any extension of said cemetery at any time hereafter made, whether owned by the Town of Broadway or by any other person or persons, shall be subject to and regulated and controlled by the provisions of this chapter; and in all deeds of conveyance by the Town of Broadway to any person or persons for any lot, the following provisions shall be included therein as a covenant running with the land: "This conveyance is made subject to an ordinance adopting rules and regulations for the control of Broadway Cemetery and providing penalties in relation thereto, duly recorded in the minutes of the proceedings of the Board of Commissioners of the Town of Broadway, and the grantee herein, his heirs and assigns, agree that upon the breach of any of its provisions, the title to said property shall revert to the Town of Broadway."

('82 Code, Art. E-II, § 13)

#### **§ 95.13 LOT CHARGES.**

The Board of Commissioners shall establish charges for municipal cemetery lots from time to time. A schedule of current charges is available for public inspection in the office of the Town Clerk.

('82 Code, Art. E-II, § 14)