**OFFENSES AND MISCELLANEOUS PROVISIONS**

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***ARTICLE I. IN GENERAL***

**26‑1 PENALTY.**

Unless otherwise noted, all violations of this chapter subject the offender to a civil penalty of $100, as required in  1‑6.

(2001 Code,  26‑1)

**26‑226‑30 RESERVED.**

***ARTICLE II. PROPERTY OFFENSES***

***Statutory reference:***

*General ordinance‑making power, see G.S.  160A‑174*

**26‑31 ATTACHING WIRES TO TREES.**

It shall be unlawful for any person to attach, fasten or cause to be attached or fastened any wire, cable, rope, band or any other similar device to any shade tree which is the property of the town.

(1970 Code,  5‑2.1; 2001 Code,  26‑31)

***Cross-reference:***

*Utilities, see Ch. 38*

*Vegetation, see Ch. 40*

**26‑32 JUNKYARDS.**

It shall be unlawful for any person to operate a junkyard or to dismantle secondhand automobiles, as defined by G.S.  136‑143, for the purpose of salvaging the parts of or to store unserviceable automobiles or parts, pursuant to G.S.  160A‑303, in areas on the outside of buildings or on open lots within the corporate limits of the town.

(1970 Code,  5‑10; 2001 Code,  26‑32)

**26‑33 DISCHARGE OF INDUSTRIAL WASTE.**

(A) Except as provided in this section, it shall be unlawful for any person to discharge or permit the discharge into any stream or its drainage area, which stream where the drainage area passes through the corporate limits of the town, any trade waste for industrial processes, such as dyes, bleaches, fats, oils, greases, acids, alkalis, chemicals, gasoline or other explosives, coal tar, creosote or any other trade waste which does or may discolor the water of the stream or give off any odor or which may be detrimental to health or the use of property in the drainage area of the stream.

(B) The Town Manager may permit any person to discharge trade waste from individual processes into any open stream or its drainage area; and the person shall install and operate suitable works or devices for treating the trade waste prior to discharge into any open stream or its drainage area, so as to render the trade waste colorless, odorless or not detrimental to health and the use of the property in the drainage area; and the person shall first post a bond as set from time to time and on file in the annual budget ordinance, conditioned upon saving the town harmless from all cost, liability, loss or expense by reason of any trade waste being harmful to health or the use of property.

(1970 Code,  5‑12; 2001 Code,  26‑33)

***Cross-reference:***

*Solid waste, see Ch. 30*

**26‑34 STANDING WATER.**

It shall be unlawful for any person to fail, neglect or refuse to keep all ditches and drains on his or her property clean and clear of stoppage or to place any obstruction in any ditch, drain or culvert, or to permit any sinkhole whereby unclean or stagnant water may stand or be conveyed into the streets or alleys or to keep or permit to be kept any buckets, cans, barrels or any other receptacle, whereby unclean or stagnant water may accumulate or stand.

(1970 Code,  5‑13; 2001 Code,  26‑34)

**26‑35 VANDALISM OF TOWN AND OTHER PUBLIC PROPERTY.**

It shall be unlawful for any person to commit any act of vandalism to or on town property, to break glass on town or other public property or to deface or damage town or public property.

(2001 Code,  26‑35)

**26‑36 ADVERTISING.**

It shall be unlawful for any person to paste, tack, fasten or lean against any building, wall, fence, tree, pole, post or any other property, whether the property shall be public or private, any advertising sign, cards or placards, without the consent or approval of the owner of the property or the Town Manager.

(1970 Code,  5‑7; 2001 Code,  26‑36)

**26‑37 FLAMMABLE SIGNS.**

It shall be unlawful for any person to erect, attach to or cause to be erected or attached to any part of the outside of any building within the fire district, any cloth, wooden or other flammable sign, without first obtaining a permit from the Fire Inspector.

(1970 Code,  5‑7.1; 2001 Code,  26‑37)

***Cross-reference:***

*Fire prevention and protection, see Ch. 20*

**26‑3826‑70 RESERVED.**

***ARTICLE III. BREACH OF THE PEACE***

**26‑71 OPEN ALCOHOLIC BEVERAGES PROHIBITED.**

(A) It shall be unlawful for any person to drink, or to have in his or her possession and open, any can, bottle or other type container of beer, lager beer, unfortified wine or other alcoholic beverages containing at least 0.5% of alcohol by volume upon any public road, street, highway or parking lot within the corporate limits of the town.

(B) The term ***PARKING LOT***, as used in this section, shall include the parking premises of any business establishment within the town.

(2001 Code,  26‑71) (Ord. passed 11‑9‑1982)

***Statutory reference:***

*Authority to regulate alcoholic beverages, see G.S.  18B‑300 et seq.*

*No prosecution for public intoxication, see G.S.  14‑447*

**26‑72 HANDBILLS AND CIRCULARS.**

It shall be unlawful for any person to distribute or procure any person to distribute or throw upon any of the streets or alleys of the town, or in or upon any motor vehicle, any advertising samples, handbills, dodgers, circulars booklets or other commercial advertising so that distribution results in the circulars, handbills and the like becoming litter on the ground.

(1970 Code,  5‑7.2; 2001 Code,  26‑72)

**26‑73 AMUSEMENTS, FAILURE TO PAY ADMISSION FEE.**

It shall be unlawful for any person, without the knowledge or consent of any person in charge of any amusement or any show where an admission fee is charged, to see the event without paying for the privilege.

(1970 Code,  5‑8; 2001 Code,  26‑73)

***Cross-reference:***

*Amusements and entertainment, see Ch. 4*

**26‑74 FAILURE TO PAY FARE.**

It shall be unlawful for any person, except those entitled to free transportation, to ride upon any bus, taxi or other means of public transportation for hire, without paying the fare prescribed or allowed by law.

(1970 Code,  5‑9; 2001 Code,  26‑74)

**26‑7526‑110 RESERVED.**

***ARTICLE IV. OFFENSES AGAINST PUBLIC MORALS***

**26‑111 OBSCENITY; INDECENT EXPOSURE, INDECENT REMARKS.**

It shall be unlawful for any person to make an insulting or indecent remark likely to result in an immediate breach of the peace to any person upon any street or public place within the corporate limits of the town, or to expose himself or herself indecently, or to commit any indecent act, as defined in G.S.  14‑190.9, in public in the town.

(1970 Code,  5‑4; 2001 Code,  26‑111)

**26‑112 OBSCENE LITERATURE AND DRAWINGS.**

It shall be unlawful for any person to sell or offer for sale, send or deliver any obscene, vulgar or profane books, notes, cards, pictures or writings, as defined by G.S.  14‑190.1 et seq. and G.S.  160A‑181.1 et seq., within the corporate limits of the town; or to write, draw or carve any letters or words; or use, write or draw any device, characters or other descriptive devices which are of a lewd and vulgar nature, upon any public building, private house, fence or wall within the corporate limits of the town.

(1970 Code,  5‑4.1; 2001 Code,  26‑112)

**26‑113 OBSCENE SHOWS.**

It shall be unlawful for any person to own, operate, display or put on for exhibition any obscene shows, as defined in G.S.  14‑190.1 et seq. Each person performing in any such show shall be equally guilty as the person who owns, operates, displays or puts on any obscene show.

(1970 Code,  5‑4.2; 2001 Code,  26‑113)

**26‑114 GAMBLING.**

It shall be unlawful for any person to engage in any game of chance or to engage in gambling with any device of any nature or description whatsoever within the corporate limits of the town.

(1970 Code,  5‑8.1; 2001 Code,  26‑114)

**26‑11526‑150 RESERVED.**

***ARTICLE V. MINORS***

***Statutory reference:***

*Authority to impose a curfew on minors, see G.S.  160A‑198*

**DIVISION 1. GENERALLY**

**26‑151 PURPOSES.**

The purposes of this article are to:

(A) Protect juveniles and minors from victimization and exposure to criminal activity;

(B) Protect the citizenry from criminal activity committed by juveniles and minors during curfew hours;

(C) Provide assistance to parents and guardians in controlling their children; and

(D) Reinforce and promote the health, safety and welfare of juveniles, minors and adults by creating an environment offering better protection and security for all concerned.

(2001 Code,  26‑151) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑152 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***DIRECT ROUTE.*** The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or stop along the way.

***EMERGENCY.*** An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the minor regardless of whether the minors action is taken in order to prevent death or serious bodily injury.

***ESTABLISHMENT.*** Any privately owned place of business operated for profit to which the public has access or is invited, including, but not limited to, any place of amusement or entertainment.

***GUARDIAN.*** One who legally has the care and management of the person of a child defined as a minor or juvenile by this section.

***JUVENILE.*** A person who has not reached his or her sixteenth birthday and is not married, emancipated or a member of the armed services of the United States.

***MINOR.*** A person who has reached his or her sixteenth birthday, but has not reached his or her eighteenth birthday and is not married, emancipated or a member of the armed services of the United States.

***OWNER/OPERATOR.*** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership and the officers of a corporation.

***PARENT.*** A person who is a natural parent, adoptive parent, foster parent or step-parent of another person or a person to whom legal custody has been given by court order

***PUBLIC PLACE.*** Any place that is generally open to and used by the public or a substantial group of the public, whether publicly or privately owned, including, but not limited to, streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks, similar areas that are open to the public and other common areas open to or accessible to the public.

***REMAIN.*** To linger or stay in one place or to fail to leave the premises when requested to do so by a police officer, or to fail to leave the premises of an establishment when requested do so by the owner/operator or employee of the premises.

***RESTRICTED HOURS.*** The time of night referred to in this article and is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Saving Time, generally observed at that hour by the public in the town.

(2001 Code,  26‑152) (Ord. 99‑03‑01, passed 3‑9‑1999)

***Cross-reference:***

*Definitions generally, see  1‑2*

**26‑153 ENFORCEMENT.**

When a juvenile or minor is found to be in violation of this article, the officer will take the juvenile or minor to the residence of his or her parent or guardian, or the parent or guardian will be contacted by the Police Department to come to the Police Department to pick up the juvenile or minor. The officer shall complete a written curfew incident report and the report will be kept on file. The Police Department shall review all filed curfew incident reports and proceed as follows.

(A) The first curfew violation by a juvenile or minor will result in written notice being sent to the parent or guardian of the juvenile or minor outlining the provisions of this article and providing a contact number if the parent needs additional information or assistance.

(B) The second curfew violation by a juvenile or minor will result in a written notice being sent to the parent or guardian of the juvenile or minor recommending that they contact the police department to discuss the violation and detailing the penalties for subsequent violations.

(C) The third or a subsequent curfew violation by a juvenile or minor will subject the juvenile or minor to a criminal citation or a juvenile or minor petition pursuant to the provisions of  26‑154. The parent or guardian will also be subject to criminal citation upon investigation if the parent or guardian is found to have violated  26‑181(C).

(D) Notwithstanding the foregoing, the County Department of Social Services may be contacted in relation to any curfew violation by a juvenile or minor and any person may be subject to a criminal citation for violation of the provisions of  26‑181(C), (D) or (E), in relation to any curfew violation by a juvenile or minor.

(2001 Code,  26‑153) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑154 PENALTIES.**

(A) Any person who violates any provision of this article shall be guilty of a misdemeanor and shall be subject to a fine not to exceed $100 and imprisonment in the discretion of the court, in accordance with  1‑6.

(B) In addition to any other applicable penalty, a juvenile or minor who violates any provision of this article is subject to being adjudicated delinquent. The court may, in its discretion, impose any dispositional alternative that is provided in the State Juvenile Code for any juvenile or minor who is delinquent.

(2001 Code,  26‑154) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑15526‑180 RESERVED.**

**DIVISION 2. CURFEW**

**26‑181 ESTABLISHED, ENFORCEMENT.**

A curfew applicable to minors and juveniles is established and shall be enforced as follows.

(A) *Time limits.*

(1) It is unlawful for any minor to be or remain upon any establishment or public place in the town between 12:00 midnight and 5:00 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday, and between 1:00 a.m. and 5:00 a.m. on Saturday or Sunday.

(2) It is unlawful for any juvenile to be or remain upon any establishment or public place in the town between 11:00 p.m. on Sunday, Monday, Tuesday, Wednesday, Thursday, Friday or Saturday and 6:00 a.m. the following day

(B) *Out‑of‑school suspensions time limit.* It is unlawful for any juvenile or minor who has been suspended from school or has failed to attend school for any reason during regular school hours, who is not in the company of a parent or guardian, to be or remain upon any public place in the town between the hours of 7:30 a.m. and 3:30 p.m. on any school day.

(C) *Responsibility of adults.* It is unlawful for any parent, guardian or other person charged with the care and custody of any juvenile or minor to allow or permit the minor to be in or upon, or remain in or upon a public place in the town within the applicable curfew hours set by subsections (A) and (B) of this section, except as otherwise provided in  26‑182. A parent or guardian of a juvenile or minor commits an offense if he or she knowingly permits or, by insufficient control, allows the juvenile or minor to remain in any public place or on the premises of any establishment within the town during the restricted hours. The term ***KNOWINGLY*** includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile or minor in that parents legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the juvenile or minor. Further, it shall be unlawful for a parent or guardian to refuse to take custody during the hours of curfew of a juvenile or minor for whom the parent or guardian is responsible.

(D) *Responsibility of business establishments.* It is unlawful for any person operating a place of business or amusement to allow or permit any juvenile or minor to be in or upon, or to remain in or upon, any place of business or amusement operated by them within the applicable curfew hours set by subsections (A) and (B) of this section, except as otherwise provided in  26‑182. The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a juvenile or minor to remain upon the premises of the establishment during the restricted hours. The term ***KNOWINGLY*** includes knowledge that an owner, operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for knowingly shall be applied through an objective test whether a reasonable; person in the operators or employees position should have known that the patron was a juvenile or minor in violation of this section.

(E) *Aiding and abetting by adult, guardian or parent.* It is unlawful for an adult, guardian or parent to allow, permit, encourage, aid or abet a juvenile or minor in the violation of subsections (A) or (B) of this section, except as otherwise provided in  26‑182.

(2001 Code,  26‑181) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑182 EXCEPTIONS.**

A juvenile or minor who is in a public place or establishment in violation of the restrictions established by  26‑181 shall not be in violation of this division if the juvenile or minor is:

(A) Accompanied by his or her parent or guardian;

(B) Accompanied by an adult 18 years of age or older authorized by the parent or guardian of the juvenile or minor to take the parents or guardians place in accompanying the minor for a designated period of time and purpose within a specified area;

(C) Engaged in a lawful employment activity or using a direct route to or from a place of employment;

(D) Reacting or responding to an emergency;

(E) Attending or traveling to or from, by direct route, an official school, religious or recreational activity that is supervised by adults and sponsored by a public or private school, the town or other governmental entity, a civic organization or another similar entity that accepts responsibility for the juvenile or minor;

(F) Exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech and the right of assembly; provided that, prior written notice signed by the juvenile or minor which specifies when, where and in what manner the juvenile or minor will be in a public place exercising First Amendment rights shall be filed with the office of the Chief of Police;

(G) In a motor vehicle with the consent of his or her parent or guardian engaged in interstate travel through the town or originating and terminating in the town;

(H) Married or emancipated; or

(I) A member of the armed services of the United States.

(2001 Code,  26‑182) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑183 DEFENSE.**

It is a defense to prosecution under  26‑181(D) that the owner, operator or employee of an establishment promptly notified the Police Department that a juvenile or minor was present on the premises of the establishment during the restricted hours established in  26‑181 and refused to leave.

(2001 Code,  26‑183) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑184 REFUSAL OF GUARDIAN OR PARENT TO TAKE CUSTODY OF A JUVENILE OR MINOR.**

(A) If any guardian or parent refuses to take custody of his or her juvenile or minor child found in violation of this article, the officer with custody of the juvenile or minor shall contact the County Department of Social Services and release the juvenile or minor to that agency, pending further investigation by the Police Department and Department of Social Services.

(B) The adult will be subject to a criminal citation for violation of the provisions of  26‑181(C).

(2001 Code,  26‑184) (Ord. 99‑03‑01, passed 3‑9‑1999)

**26‑18526‑210 RESERVED.**

***ARTICLE VI. FIREARMS***

***Statutory reference:***

*Authority to prohibit firearms, see G.S.  160A‑189*

*Authority to prohibit pellet guns, see G.S.  160A‑190*

**26‑211 REGULATED.**

(A) It shall be unlawful for any person to discharge an air rifle, air pistol, air gun, slingshot or any like instrument used to eject a pellet or projectile or to discharge a pistol, rifle, shotgun or other gun within the corporate limits, except a police officer in the performance of his or her duty or by a person in defense of person or property.

(B) It shall be unlawful for any parent of a child or any person who stands in the relationship of parent to a child to knowingly permit the child to discharge an air rifle, air pistol, air gun, slingshot or any like instrument used to eject a pellet or projectile.

(1970 Code,  5‑1.3; 2001 Code,  26‑211)

**26‑212 SIGNS AUTHORIZED, REQUIRED.**

(A) The town is authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to the buildings, indicating that carrying a concealed handgun is prohibited in the places.

(B) Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The town shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

(2001 Code,  26‑212) (Ord. 1995‑08, passed 12‑12‑1995)

***Statutory reference:***

*Carrying concealed weapons, see G.S.  14‑269 et seq.*

*Concealed handgun permits, see G.S.  14‑415.10 et seq.*

**26‑213 ENFORCEMENT.**

The Chief of Police is charged with the enforcement of this article.

(2001 Code,  26‑213)