

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. STREETS AND SIDEWALKS
- 91. ABANDONED, NUISANCE, AND JUNKED VEHICLES
- 92. ANIMALS
- 93. HEALTH AND SANITATION; NUISANCES

CHAPTER 90: STREETS AND SIDEWALKS

Section

General Provisions

GENERAL PROVISIONS

90.01 Board approval of new streets

▫ 90.01 BOARD APPROVAL OF NEW STREETS.

Excavations

Before any new street offered for dedication to the town is accepted as such, and officially recognized as a town-maintained street, the Board must give its approval, finding that the street complies with engineering standards set by the Board, and that the best interests of the town would be served by accepting the street as a town street.

90.15 Permit required

90.16 Application; fees

90.17 Restoration

90.18 Barriers and warning signals

(1989 Code, ' 40.01)

Damage Prevention; Construction

90.30 Tractors, harrows, and the like prohibited; liability

90.31 House moving

90.32 Damage to town property

90.33 Sidewalk construction; permit required

90.34 Driveway construction; permit required

EXCAVATIONS

Street and Sidewalk Improvements

▫ 90.15 PERMIT REQUIRED.

90.45 Requests for improvements; property owner=s initiative

90.46 Preliminary assessment roll

90.47 Public notice

No person shall make any excavation or opening or dig any ditch, trench, tunnel, or hole in, along, across, or under any street, sidewalk, or other public place for the purpose of laying or placing therein any pipe, wires, or poles or for any other purposes unless a written permit therefor has been issued by some officer of the town vested with proper authority; provided, that a permit shall not be required where the work is performed under a contract with the town, but in the event the work requires a sidewalk or street to be wholly or partially obstructed, the party performing the work shall notify the town at least 2 hours before obstructing the sidewalk or street, unless prevented by sudden emergency.

(1989 Code, ' 40.15) Penalty, see ' 10.99

Cross-reference:

Street Names, see TSO I

Statutory reference:

Establishment and control over town streets, see G.S. ' 160A-296

Rolesville - General Regulations

▸ 90.16 APPLICATION; FEES.

All persons desiring a permit to make an opening in any street or sidewalk, as set forth in ' 90.15, shall make written application therefor, which application shall show the location of the proposed opening, the purpose thereof, and the approximate number of square yards of surface to be cut. A fee may be required by the Board for this permit.

(1989 Code, ' 40.16) Penalty, see ' 10.99

▸ 90.17 RESTORATION.

When any part of any street, sidewalk, alley, or other public place of the town shall be torn or dug up for any purpose, the person making the excavation or opening shall have the duty of refilling the excavation or opening, and the refilling shall be done in accordance with the standards and specifications of the town.

(1989 Code, ' 40.17) Penalty, see ' 10.99

▸ 90.18 BARRIERS AND WARNING SIGNALS.

It shall be unlawful for any person, firm, or corporation who obtains a permit under the sections of this chapter to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk, or public place of the town without placing and maintaining proper guard rails 3 feet from the ground and signal lights or other warnings at, in, or around the same, sufficient to warn the public of the excavation or work, and to protect all persons using reasonable care from injuries on account of the excavation or work.

(1989 Code, ' 40.18) Penalty, see ' 10.99

▸ 90.19 OBSTRUCTIONS.

- (A) Prohibited – It shall be unlawful for any person to obstruct or cause the obstruction of any street or sidewalk or public right-of-way. No obstruction of any kind (temporary or permanent in nature) is permitted to be erected or planted in the municipal right-of-way or in such a manner as to protrude into the public right-of-way.

- (B) Exemptions – Exemptions to this regulation are mailboxes and signage that are both safety and directional in nature; and town beautification projects.

(§90.19 amended on 7/10/06 through TA06-06)

DAMAGE PREVENTION; CONSTRUCTION

▸ 90.30 TRACTORS, HARROWS, AND THE LIKE PROHIBITED; LIABILITY.

(A) It shall be unlawful for any person, firm, or corporation to drag, run, or cause to be dragged or run any harrow or other implement, engine, machine, or tool on any asphalt or other type of permanently paved street of the town which shall be likely in any way to injure or cut the surface thereof.

(B) Any person violating division (A) shall be liable to the town for the cost of repairing any and all damage caused.

(1989 Code, ' 40.19) Penalty, see ' 10.99

Cross-reference:

Damage to town property, see ' 90.32

Injuring town property, see ' 130.03

▸ 90.31 HOUSE MOVING.

No person shall move any house or building on or across the public streets or sidewalks without the written consent of the Board and the deposit of a good and sufficient bond to cover damage done to any street or sidewalk or to any property of any person.

(1989 Code, ' 40.21) Penalty, see ' 10.99

▸ 90.32 DAMAGE TO TOWN PROPERTY.

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

(1989 Code, ' 40.22) Penalty, see ' 10.99

' 90.33 SIDEWALK CONSTRUCTION; PERMIT REQUIRED.

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. (1989 Code, ' 40.20) Penalty, see ' 10.99

' 90.34 DRIVEWAY CONSTRUCTION; PERMIT REQUIRED.

No person shall begin to construct, reconstruct, repair, alter, or grade any driveway on the public streets, unless a written permit therefor has been issued by the town. (1989 Code, ' 40.23) Penalty, see ' 10.99

STREET AND SIDEWALK IMPROVEMENTS

' 90.45 REQUESTS FOR IMPROVEMENTS; PROPERTY OWNER=S INITIATIVE.

(A) All requests for street and sidewalk improvements shall be made by petition to the Town Board of Commissioners on petition forms prepared and furnished by the Town Clerk. This petition shall state the location of the proposed improvement, the names of the property owners affected by the petition, the street and sidewalk improvement requested, and the percentage of the project cost, if any, the petitioners desire to be assessed.

(B) A map shall be prepared by the Town Engineer showing the names of property owners, location and frontage of each parcel of land or lot abutting on both sides of the proposed street or streets to be improved.

(C) After the petition is signed by all property owners who wish to have improvements made, it is then returned to the Town Engineer. The petition is then sent to the Town Clerk to determine whether the petition conforms to the requirements of G.S. ' 160A-217. According to this statute, the sufficiency of the petition is determined by the number of property owners who sign the petition and the amount of lineal feet of frontage of the lands represented by the signatories; in most cases 50% of the owners and 50% of the lineal feet of frontage is required by the General Statutes; however, G.S. ' 160A-217 makes exception to this standard. If a valid petition is submitted, the Town Clerk will notify the Town Board that it may adopt a preliminary resolution (resolution of intent).

(D) The following considerations will be factors in the decision of the Town Board to adopt a preliminary resolution:

- (1) Availability of funds;
- (2) Classification of the street or streets proposed to be improved;
- (3) Estimated unit cost of the proposed improvement;
- (4) Impact on land use, soil erosion, water quality, and storm water management;
- (5) Percentage of development of lots on the street or streets proposed to be improved;
- (6) Percentage of owners and footage represented by the petition;
- (7) Priority of the need for improvement of this street relative to the need for improvement of other streets; and

Rolesville - General Regulations

(8) Time of filing petition with the Department of Central Engineering.

(E) If a preliminary resolution is adopted by the Town Board of Commissioners, then the public shall be notified and informed as provided hereafter. (1989 Code, ' 40.35) (Ord., passed 3-24-1987)

' 90.46 PRELIMINARY ASSESSMENT ROLL.

When the total cost of a project has been determined, the Town Engineer shall prepare a preliminary assessment roll. The preliminary roll shall contain a brief description of each lot, parcel, or tract of land assessed, the basis for the assessment, the amount assessed against each, the terms of payment, and the names of the owner of each parcel of land as far as this can be ascertained from the county tax records. A map of the project on which is shown each parcel assessed with the basis of its assessment, the amount assessed against it, and the name of the owner, as far as this can be ascertained from the county tax records, shall be a sufficient assessment roll. All completed preliminary assessment rolls shall be filed in the Town Clerk's office, where it shall be available for public inspection. Notice of the preliminary assessment roll shall be published by the Town Clerk as required by state law. (1989 Code, ' 40.36) (Ord., passed 3-24-1987)

' 90.47 PUBLIC NOTICE.

(A) Upon the adoption of a preliminary resolution, efforts reasonably calculated to notify interested parties of the proposed public improvements and scheduled meetings shall be made by the town. This notice shall be made at least 3 weeks prior to the meeting and may include, without limitation, first class mailings, and the posting of notice on the street.

(B) Further deliberations including review of the proposed variances to be recommended to the Town Board of Commissioners will be held with groups or individuals as warranted.

(C) Following these deliberations, a hearing for the preliminary resolution (assessment resolution) and a hearing on the preliminary assessment roll (confirmation hearing) will be held in accordance with G.S. Ch. 160A, Art. 10. (1989 Code, ' 40.37) (Ord., passed 3-24-1987)

' 90.48 STANDARDS AND SPECIFICATIONS.

When developed, all public and private right-of-ways within the Town of Rolesville jurisdiction shall meet the standards set forth in the North Carolina Department of Transportation Roadway Design Manual – Standards Drawings and Specifications for Roads and Structures.

(Ord. passed 12-4/2006 under TA06-10)

CHAPTER 91: ABANDONED, NUISANCE, AND JUNKED VEHICLES

Section 91.01 Administration and enforcement
 91.02 Definitions
 91.03 Abandoned or nuisance vehicle unlawful; towing; costs
 91.04 Junked vehicles unlawful; removal
 91.05 Removal of vehicles; prior notice required
 91.06 Exceptions to prior notice requirement
 91.07 Removal of vehicles; post-towing notice
 91.08 Probable cause hearing
 91.09 Redemption of vehicle
 91.10 Sale and disposition of vehicle
 91.11 Removal of vehicle from private property; conditions
 91.12 Liability disclaimer
 91.13 Exceptions
 91.14 Unlawful removal of impounded vehicle
 91.15 Sale of privately owned vehicles; restrictions

Statutory reference:

Removal, disposal of junked and nuisance motor vehicles, see G.S. ' ' 160A-303, 160A-193, and 160A-303.2

' 91.01 ADMINISTRATION AND ENFORCEMENT.

The Town Police Department and the Zoning 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 Zoning 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 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 Volunteer Fire Department in enforcing other laws or in otherwise carrying out their duties. (1989 Code, ' 80.01)

' 91.02 DEFINITIONS.

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

ABANDONED MOTOR VEHICLE. A motor vehicle that:

- (1) Has been left upon a street or highway in violation of a law, provision of this code, or other ordinance of the town prohibiting parking;
- (2) Is left on property owned or operated by the town for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than 2 hours; or
- (4) Is left on any public street or highway for longer than 7 days.

JUNKED MOTOR VEHICLE. An abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than 5 years old and worth less than \$100; or
- (4) Does not display a current license plate.

MOTOR VEHICLE. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle. (G.S. ' 160A-303(b))

Rolesville - General Regulations

NUISANCE VEHICLE. A junked motor vehicle on public or private property that is determined and declared to be a health hazard, a public nuisance, or unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over 8 inches in height;
- (3) A point of collection of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;
- (4) A point of collection of pools or ponds of water;
- (5) So situated or located that there is a danger of it falling or turning over;
- (6) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, and the like;
- (7) A point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass;
- (9) Used by children in play activities;
- (10) Any other vehicle specifically declared a health and safety hazard or a public nuisance by the Board of Commissioners; or
- (11) In violation of ' 91.15 of this code governing the sale of privately owned vehicles. (G.S. 160A-174(a))

TOW. In any of its forms, shall mean removing a vehicle by any means including towing or storing the vehicle. (1989 Code, ' 80.02)

' 91.03 ABANDONED OR NUISANCE VEHICLE

UNLAWFUL; TOWING; COSTS.

(A) *Abandoned or nuisance vehicles unlawful.* It shall be unlawful for the owner of a motor vehicle to abandon any motor vehicle on public or private property within the town=s municipal boundaries for such a time and under such circumstances as to cause the vehicle to appear to have been abandoned. It shall be unlawful for the owner of a motor vehicle or for the owner, lessee, or occupant of the real property upon which the motor vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

(B) *Towing authorized.* Upon investigation, proper authorizing officials of the town may determine that a vehicle is abandoned or a nuisance vehicle as those terms are defined herein, and order the vehicle removed

(C) *Owner responsible for removal costs.* If an abandoned or nuisance motor vehicle is removed by or at the direction of the town, the owner shall pay all reasonable costs incident to the removal and storage of the vehicle and incident to locating the owner thereof. (1989 Code, ' 80.03) Penalty, see ' 10.99

' 91.04 JUNKED VEHICLES UNLAWFUL; REMOVAL.

(A) *Junked motor vehicles unlawful.* 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) *One junked motor vehicle allowed.* It shall be unlawful to have more than 1 junked motor vehicle as defined herein on the premises of public or private property. Any single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(C) *Compliance required.* It shall be unlawful for any owner, 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 as herein defined is located, to fail to comply with the locational requirements or the concealment requirements of this section.

(D) *Order to remove; relevant factors.* Subject to the provisions of division (E) below, upon investigation, the Town Zoning 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. This 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 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.

(E) *Permitted concealment or enclosure of junked motor vehicle.*

(1) One junked motor vehicle in its entirety, as defined herein, can be located in the rear yard of a property as defined by the town's zoning regulations, if the junked motor vehicle is entirely concealed from public view along a public street, and from abutting premises, by an acceptable covering. The Town Zoning Officer has the authority to determine whether any junked motor vehicle as defined herein is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.

- (2) Any other junked motor vehicle(s) must

be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property.

A garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(1989 Code, ' 80.04) Penalty, see ' 10.99

' 91.05 REMOVAL OF VEHICLES; PRIOR NOTICE REQUIRED.

(A) *Notice.* Except as set forth in ' 91.06 below, an abandoned, nuisance, or junked motor 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 junked motor vehicle, if the name(s) and mailing address(es) of the registered owner(s), or person(s) entitled to possession, 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 that shows the name(s) and address(es) to which notice was mailed and the date mailed. If the name(s) and address(es) 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 the vehicle will be removed by the town on a specified date, which shall be no sooner than 7 days after the notice is affixed, unless the vehicle is first moved by the owner or legal possessor.

(B) *Exemption.* The removal, sale or disposal of any abandoned motor vehicle used on a regular basis for lawful business or personal use is hereby prohibited.

(C) *Appeal.* 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, the appeal shall be made to the Town Manager

in writing, and further proceedings to remove the vehicle shall be stayed until the appeal is considered and decided upon.

(1989 Code, ' 80.05)

Statutory reference:

Disposal of abandoned motor vehicles, see
G.S. ' 160A-303.2(b)

' 91.06 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.

(A) 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. These findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(B) Circumstances justifying the removal of vehicles without prior notice include:

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

- (a) Obstructing traffic;
- (b) Parked in violation of an ordinance prohibiting or restricting parking;
- (c) Parked in no stopping or standing zones;
- (d) Parked in loading areas;
- (e) Parked in bus zones; or
- (f) Parked in violation of temporary parking restrictions imposed by any code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on

city-owned property other than streets and highways, and on private property, those vehicles may be removed without 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.

(1989 Code, ' 80.06)

' 91.07 REMOVAL OF VEHICLES; POST-TOWING NOTICE.

(A) Any abandoned, nuisance, or junked motor vehicle which has been ordered removed 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 town official shall immediately notify the last known registered owner of the vehicle, this notice to include the following information:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged;
- (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 as set forth herein shall also be mailed to the registered owner=s last known address.

(C) If the vehicle is registered in this state, notice shall be given within 24 hours of the removal of the vehicle. If the vehicle is not registered in the state, notice

shall be given to the registered owner within 72 hours of the removal of the vehicle.

(D) Whenever an abandoned, nuisance, or junked motor vehicle is removed and the vehicle has no valid registration or registration plates, 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 or her of the information set forth herein.

(1989 Code, ' 80.07)

• 91.08 PROBABLE CAUSE HEARING.

After the removal of an abandoned, nuisance, 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 a hearing request. The magistrate will set the hearing within 72 hours of the receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. ' 20-222, as amended.

(1989 Code, ' 80.08)

• 91.09 REDEMPTION OF VEHICLE.

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 those 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.

(1989 Code, ' 80.09) Penalty, see ' 10.99

• 91.10 SALE AND DISPOSITION OF VEHICLE.

(A) *Consent of owner.* With the consent of the owner, any abandoned, nuisance, or junked motor vehicle may be disposed of by the town without holding

it for any prescribed period of time.

(B) *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 town and in accordance with G.S. Ch. 44A, Art. 1.

(1989 Code, ' 80.10)

• 91.11 REMOVAL OF VEHICLE FROM PRIVATE PROPERTY; CONDITIONS.

In no case will a vehicle be removed by the town from private property under this chapter without a written request from the owner, occupant, or lessee unless the vehicle is a nuisance or junked motor vehicle as defined herein and has been ordered removed by the Town Zoning Officer. The town may require any person requesting 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. However, nothing in this chapter shall be interpreted to interfere with the removal from private property of a motor vehicle that is in violation of any part of the town's zoning regulations.

(1989 Code, ' 80.11)

• 91.12 LIABILITY DISCLAIMER.

Neither the town nor any 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 that vehicle as provided in this chapter.

(1989 Code, ' 80.12)

• 91.13 EXCEPTIONS.

Nothing in this chapter shall apply to any vehicle which is located in a bona fide automobile graveyard or junkyard as defined in G.S. ' 136-143, in accordance with the Junkyard Control Act, G.S. ' ' 136-141 *et seq.*;

or which is in an enclosed building; or which is used on a regular basis for business or personal use; or which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.

(1989 Code, ' 80.13)

**' 91.14 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 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 those fees, have been paid.

(1989 Code, ' 80.14) Penalty, see ' 10.99

**' 91.15 SALE OF PRIVATELY OWNED
VEHICLES; RESTRICTIONS.**

(A) The sale of privately owned vehicles on residential properties or on undeveloped and agricultural properties is allowed under the conditions specified below. Privately owned vehicles that are not used for daily transportation by business owners and employees cannot be displayed for sale on commercial and other non-residential/agricultural properties unless the properties hold appropriate business licenses or mechanic lien authorizations for sales of this type.

(B) (1) Only 1 vehicle can be displayed for sale on 1 lot at the same time.

(2) Vehicles for sale must be parked behind rights-of-way.

(3) If the vehicle is displayed in front of a residence, the vehicle must be properly licensed and must have a current inspection sticker.

(4) If the vehicle displayed for sale is not owned by the owner of the property on which it is parked, the seller must first provide the Town Clerk with written approval from the property owner clearly stating that the seller has authorization to display the vehicle on the property.

(1989 Code, ' 80.15) Penalty, see ' 10.99

CHAPTER 92: ANIMALS

Section

- 92.01 County Animal Control Ordinance adopted by reference
- 92.02 Enforcement
- 92.03 Bird sanctuary

- 92.99 Penalty

constitute a nuisance or menace to health or property.

Section 92.01

Sections 92.01 remains unchanged as the Wake County Animal Control Ordinance to be enforced by Wake County Animal Control officers.

Section 92.02 - Declaration of Purpose

The presence of animals at-large, stray animals, nuisance animals, vicious animals, and diseased animals within the corporate limits of the Town of Rolesville is hereby declared to be a public nuisance. These animals are a threat to the health of the community and to the safety of persons and property alike.

Section 92.03 - Bird Sanctuary

- (A) The territory within the corporate limits of the town and all land owned or leased by the Town outside of the corporate limits is hereby declared a bird sanctuary
- (B) It shall be unlawful for any person to kill, trap, hunt, shoot, or otherwise kill any wild native bird within the corporate limits except those specifically declared a nuisance by the Town Board of Commissioners when such birds or fowl are found to be congregating in such number in a particular locality that they

Section 92.04 - Definitions

For purposes of this chapter, certain words and terms are defined as herein include:

- (A) Adequate Shelter: an enclosure of at least three (3) sides or a circular enclosure, a roof, and a ground surface. The enclosure shall be ventilated and have sufficient room for the animals(s) to move about freely and lie comfortably.
- (B) Animal: Any non-human, vertebrate species, domestic or non-domestic, excluding fish.
- (C) Animal at Large: any animal off the premises of its owner and not under sufficient physical restraint, such as a leash, cage, bridle, or similarly effective device to allow the animal to be controlled.
- (D) Animal under Restraint: any animal confined within a vehicle, confined within the real property limits of its owner, or secured by a leash or lead.
- (E) Domestic Animal: Any animal that is accustomed to live in or about the habitation of humans, including but not limited to cats, dogs, cows, fowl, horses and domesticated wild animals.
- (F) Exotic Animal: any wild animal not customarily confined or cultivated by humans for domestic or commercial purposes.
- (G) Exotic Animal, Dangerous: any exotic animal, which demonstrates actions that would constitute a danger to any person, domestic livestock, other domestic animals, or property.

Characteristics used to determine the dangerous nature of an exotic animal include:

- 1) Disposition
 - 2) Physical or inherent characteristics
 - 3) Size
 - 4) Behavior
 - 5) Propensity to act without provocation
- (H) Livestock: rabbits, cattle, swine, sheep, goats, and members of the *equidae* family of mammals such as horses, mules, and donkeys.
- (I) Nuisance Animal: any animal or group of animals which:
- 1) Is repeatedly found at-large.
 - 2) Damages the property of anyone other than its owner.
 - 3) Is vicious.
 - 4) Causes the fouling of the air by odors.
 - 5) Causes unsanitary condition of enclosures or surroundings.
 - 6) By virtue of the number of type is offensive or dangerous to the public health, safety of welfare.
 - 7) Excessively makes disturbing noises.
 - 8) Is diseased and dangerous to the public health
- (J) Owner: any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring, possessing, or taking care of any animal for more than five (5) days.
- (K) Owner's Real Property: any real property owned or leased by the owner of the animal(s). This property does not include any public right-of-way or a common area of condominium, apartment complex, or townhouse development.
- (L) Pet: animals kept inside the primary or accessory dwelling unit entirely for pleasure rather than utility.
- (M) Supervision: supervision means under the observation or under the direction of the owner or his/her designee.
- (N) Tether: Tether means tying out or fastening an animal outdoors on a rope, chain, or other line for restraining the animal. The term does not

mean the restraint of the animal on an attended leash.

- (O) Vicious Animal: Any animal which constitutes a physical threat to human beings or other animals by virtue of attacks of such number and severity as to cause property damage or physical injury.
- (P) Bona-fide Farm: Land that is greater than ten (10) acres primarily used for the production, and activities relating or incidental to the production of crops, fruits, vegetables, ornamental, and flowering plants, dairy products, livestock, poultry, and all other forms of agricultural products having a domestic or foreign market.

Section 92.05 - Animals at Large

(A) No animal shall be left at large. Animals shall be under restraint at all times.

(B) It shall be unlawful for any owner to permit an animal to be at large.

Section 92.06- Nuisance or Vicious Animals Prohibited

(A) It shall be unlawful for any person to keep, maintain, possess, harbor or have under his control within the Town any Nuisance Animal or any Vicious Animal.

(B) Upon receipt of a written detailed and signed complaint being made to the Town, Police Chief or Wake County Animal Control by a resident or residents that any person is maintaining a nuisance animal or a vicious animal, as defined in Section 92.04 above, the Chief of Police or Wake County Animal Control shall cause the owner of the animal or animals in question to be notified that a complaint has been received and shall cause the situation complained of to be investigated and a report and findings thereon to be reduced to writing.

(C) If the written findings of the Chief of Police or Wake County Animal Control indicate that the complaint is justified, then the Chief of Police or Wake County Animal Control shall cause

the owner or keeper of the animal or animals to be notified in writing by registered mail, return receipt requested, ordered to abate such nuisance within seven (7) days after notification, and issued a citation for the violation,. In the event the owner of the animal or animals is unknown and cannot be ascertained, the notice and order, along with a general description of the animal or animals shall be published with a local newspaper.

- (D) If any person receiving notice in the manner hereinabove described shall fail or refuse to abate the nuisance upon order of the Chief of Police or Wake County Animal Control within the specified time, the Police chief or Wake County Animal Control may cause the animal or animals in question to be apprehended and impounded.
- (E) Within the (7) day period mentioned in subsection (c) above, the owner of the nuisance animal may appeal the finding of the Chief of Police or Wake County Animal Control to the Town Manager by giving written notice of appeal to Chief of Police, the appeal to stay the abatement of the nuisance until a final determination by the Board of Commissioners.
- (F) If the owner shall so request, the animal or animals may be redeemed upon condition that the owner execute a written agreement to comply with the abatement order within thirty (30) days of impoundment of the animal or animals.

Section 92.07 – Keeping and Housing of Animals

- (A) Livestock and domestic fowl of all descriptions are prohibited in any area of the town except areas zoned for residential purposes by the Unified Development Ordinance.
- (B) It shall be unlawful, regardless of zoning, for any person to house or stable any dangerous exotic animal, horse, mule, pony, cow, sheep, goat, chicken or other domestic fowl or

livestock within 150 feet of any adjacent dwelling, school, church, business, commercial or professional development.

- (E) All livestock and domestic fowl shall be kept and maintained in an enclosed area and on a parcel of land that is greater than 2 acres.
- (F) Stables shall be constructed and maintain in conformity with the requirements of the Wake County Board of Health and the North Carolina State Building Code.
 - 1) Shelter must aid in the prevention of animal cruelty with a sufficient supply of shade, food and water for the animal(s).
 - 2) Once stable plans and area have been approved as to sanitation requirements by the Wake County Health Department, application shall then be made to the building inspector for a permit for such construction.

Section 92.08 - Permit to Keep Near Residences

- (A) No person shall stable, maintain, corral, or otherwise keep within 150 feet of any dwelling (other than the owner's), house, apartment or other residence occupied by any person, animals other than pets without first obtaining a permit from the Town of Rolesville Board of Commissioners.
- (B) Prohibited animals within the 150 feet residential buffer include but are not limited to: rabbits, cattle, horses, mules, swine, sheep, goats, and fowl.

Section 92.09 - Permit Applications

- (A) Application for permit must state the type and number of animal(s) to be kept, where they will be kept, and the name of one adult occupant of each dwelling unit within 150 feet of such residence and the distance of each dwelling from said place.
- (B) A fee is required for each application. Each application must be created with the submittal guidelines and include the application fee of twenty-five dollars (\$25) or as otherwise established in the Town of Rolesville fee

schedule adopted annually as part of the budget, and made payable to the Town of Rolesville.

- (C) Upon proper application and fee payment and upon finding the “keeping” of such animals will not endanger the health of any person occupying residence within the buffer, or any other resident or inhabitant of the town, the permit may be issued.

Section 92.10- - Permit Revocations

- (A) Revocation will occur upon the finding by the town that the “keeping” of any animal described in the permit application at described places endangers the health or safety of any person occupying a dwelling house or residence within the buffer or any other citizen or inhabitant.
- (B) Revocation will occur upon finding the conditions of the keeping and caring of animals endanger the health and/or safety of the animal(s).
- (C) Revocation will be effective ten (10) days after the mailing by registered or certified mail or a notice thereof to the last known address of a permit holder. Upon receipt of certified mail notice to property owner and/or permit holder, any issue must be remedied within fourteen (14) days or face revocation of said permit.

Section 92.11 - Exemptions

The Town Board of Commissioners may vary the requirements of this ordinance for livestock if it finds that:

- (A) The property was annexed after the date of adoption of this ordinance into the corporate limits of the town; and
- (B) The property will not be subdivided.
- (C) If the property meets all definitions of a bona-fide farm.

Section 92.12 - Penalties for Violation

Any person, firm or corporation violating any of the provisions of any section or division of this ordinance for which no other penalty is provided,

or failing or neglecting or refusing to comply with same, shall, upon conviction, be guilty of a Class 3 misdemeanor and subject to a fine not to exceed \$200 or imprisonment not to exceed 30 days, and each day that any of the provisions of this ordinance are violated shall constitute a separate offense.

- (A) Any person who violates any provision of this ordinance may be fined a civil penalty of two hundred dollars (\$200). If the violation is continued, each day’s violation shall constitute a separate offense. Payment of said penalties shall be made within ten (10) days. Civil penalties may be assessed by citation, hand delivered to the owner or by certified mail and recovered by the Town of Rolesville in a civil action in the nature of a debt.
- (B) Violations of this ordinance may subject the violator to criminal as well as civil action. In addition to the civil penalties or fees imposed under this ordinance, violation of this ordinance shall be a misdemeanor for which a criminal summons may be issued.
- (C) Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, civil penalties or fees imposed under this ordinance.
- (D) In addition, enforcement of this ordinance may be by appropriate equitable remedy, injunction or order of abatement issued by a court of competent jurisdiction.

92.13 – Tethering of animals is restricted

No person shall at any time, tether any animals or cause such animal to be fastened, chained, or tied while such animal is on property owned or leased by the owner except that a animal may be tethered to allow for the cleaning of the animal’s enclosure or while the animal is under the supervision of the owner. In addition to being a misdemeanor, a violation of this section is subject to a civil penalty pursuant to section 92.12 above.

92.14 – Date effective

The effective date of this ordinance is September 1, 2009.

(Town Code amended on 04/07/08 under case TA07-09, 5/19/09 under case TA09-12)

CHAPTER 93: HEALTH AND SANITATION; NUISANCES

Section

Nuisances

- 93.01 Nuisance conditions
- 93.02 Investigation
- 93.03 Notice of violation; hearing
- 93.04 Notice to abate
- 93.05 Abatement by town
- 93.06 Costs of abatement; lien
- 93.07 Remedies not exclusive

Littering

- 93.20 Littering prohibited
- 93.21 Littering from vehicles prohibited
- 93.22 Maintenance of public areas
- 93.23 Receptacles

Statutory reference:

Abatement of public health nuisances, see G.S.
' 160A-193

NUISANCES

' 93.01 NUISANCE CONDITIONS.

(A) *Exemptions.* Agricultural property that is registered with the Farm Service Agency is exempt from provisions of this subchapter concerning grass and noxious weeds.

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

(1) The uncontrolled growth of noxious weeds or grass to a height in excess of eight (8) inches causing or threatening to cause a hazard detrimental to the public health or safety;

(2) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health;

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

(4) The open storage of any abandoned ice box, refrigerator, stove, glass, building material, building rubbish, or similar items; or

(5) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.
(1989 Code, ' 83.01) Penalty, see ' 10.99

' 93.02 INVESTIGATION.

The Town Manager or his designee, upon notice from any person of the possible existence of any of the conditions described in ' 93.01, shall cause to be made by the appropriate County Health Department official, or

town official, investigation as may be necessary to determine whether conditions exist which may constitute a public nuisance as declared in ' 93.01. (1989 Code, ' 83.02)

' 93.03 NOTICE TO ABATE; RIGHT TO APPEAL.

(A) Upon a determination that a public nuisance as described in this article exists, the Town Manager or his designee shall notify in writing the owner, occupant or person in possession of the premises in question of the condition constituting such public nuisance and shall order the prompt abatement thereof within ten (10) days from the receipt of such written notice, or if proof of the delivery of the written notice cannot be obtained, within fifteen (15) days of the mailing of such notice to the owner's last known address as listed with the Wake County Tax Collector, and in addition notice may be published in a newspaper of general circulation.

(B) Within the ten-day period mentioned in subsection (A) above, the owner of the property where the nuisance exists may appeal the findings of the Town Manager or his designee made pursuant to subsection (A) above to the Town Board by giving written notice of appeal. The filing of the appeal shall stay the abatement of the nuisance by the town until a final determination by the board, unless the Town Manager or his designee certifies to the board that, because of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property or that, because the violation is transitory in nature, a stay would seriously interfere with the effective enforcement of this chapter. In that case, abatement proceedings shall not be stayed except by order of the Town Board or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Town Manager or his designee. In the event no appeal is taken, the town may proceed to abate the nuisance.

(C) The Town Board, in the event an appeal is taken as provided in subsection (B) above and after hearing all interested persons and reviewing the findings of the Town Manager or his designee, may reverse the findings made pursuant to subsection (B) above; but if the board shall uphold the findings of the Town Manager or his designee made pursuant to such subsection, the board

shall adopt an ordinance specifically declaring the condition existing on the property to be a danger and hazard to the health, safety, morals and general welfare of the inhabitants of the town and a public nuisance and directing the appropriate town employees to cause the condition or conditions to be abated.

' 93.04 ANNUAL NOTICE TO CHRONIC VIOLATORS OF PUBLIC NUISANCE ORDINANCE.

The notice given to violators required in Section 93.03 is modified as set forth herein for chronic violators. A chronic violator is a person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three (3) times under any provision of the public nuisance ordinance. The town may notify a chronic violator of the town's public nuisance ordinance that, if the violator's property is found to be in violation of the article, the town shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail.

' 93.05 ABATEMENT BY TOWN.

If any person, after having been ordered to abate a public nuisance described in this article, fails, neglects or refuses to abate or remove the condition constituting the nuisance within ten (10) days from receipt of mailing of the order, or if proof of the delivery of the written notice cannot be obtained, within fifteen (15) days of the mailing of such notice, the Town Manager or his designee shall cause the condition to be removed or otherwise remedied by having employees of the town or a private contractor hired by the town go upon such premises and remove or otherwise abate such nuisance under the supervision of Town Manager or his designee. In such instances, weeds or grass shall always be cut to a height satisfactory to the Town Manager or his designee. Any person who has been ordered to abate a public nuisance may, within the time allowed by this subchapter, request the town in writing to remove that

condition, the cost of which shall be paid by the person making the request.

• **93.06 COSTS OF ABATEMENT; LIEN.**

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

(B) In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in ' 93.04, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. ' 160A-193. (1989 Code, ' 83.06)

• **93.07 REMEDIES NOT EXCLUSIVE.**

The procedure set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this subchapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this subchapter as provided in G.S. ' 14-4.

OPEN BURNING

• **93.08 PURPOSE**

The purpose of this ordinance is to regulate open burning in order to protect the public from the hazards of fire and air pollution.

93.09 Definitions

(A) **Recreational Fire Pits** – a device made of stone, brick and/or metal for the purpose of containing a small fire and preventing it from spreading. Such a

Recreational Fire Pit may be used for residential recreational purposes only.

- (B) **Open Burning**- the burning of any matter in a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or a permitted air pollution device.
- (C) **Ecological Burning** – the controlled use of fire to maintain a healthy forest; reduce the intrusion of unwanted vegetation into a field or open space area; or to maintain proper drainage and flow in creeks, streams, rivers, lakes, ponds, other bodies of water or stormwater devices where all appropriate governmental permits have been issued.

93.10 No Open Burning

No Open Burning shall be permitted within the corporate limits of the Town of Rolesville except as provided in Section 93.11 below.

93.11 Exemptions

The following uses are permitted within the corporate limits of the Town of Rolesville:

- (A) Municipal and Fire Department controlled training exercises;
- (B) Recreational fire pits;
- (C) Grills, smokers, and cookers used in preparing food to be consumed by humans; and
- (D) Ecological Burning is permitted upon the issuance of a permit by the Town Manager or his designee when he finds that:
 1. All appropriate governmental permits have been issued for the Ecological Burn;
 2. A written plan has been prepared by a licensed forester or other professional with knowledge and experience in ecological burning and a copy has been submitted to the Town; and
 3. The Rolesville Fire Department has approved the written burn plan and agreed to be available to monitor the burn on the day and time proposed.

(1989 Code, ' 83.07); (93.08 through 9.11 on 7/6/10 under TA10-03); Penalty, see ' 10.99; 6/4/2019 Section 93.01 through 93.05 amended through TA 19-04

LITTERING

93.20 LITTERING PROHIBITED.

It shall be unlawful for any person to throw, abandon, and/or deposit on any street or sidewalk, or on any private property, except with written permission of the owner or occupant of the private property, any trash, refuse, animal waste, garbage, building material, cans, bottles, broken glass, paper, or any type of litter. (1989 Code, ' 82.01; 07/17/07 to 93.20 through TA07-07) Penalty, see ' 10.99

93.21 LITTERING FROM VEHICLES PROHIBITED.

It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter on any street or other public place within the town, or on private property. (1989 Code, ' 82.02) Penalty, see ' 10.99

93.22 MAINTENANCE OF PUBLIC AREAS.

Every owner, lessee, tenant, occupant, or other person in charge of any commercial establishment or premises which maintains any paved or unpaved areas for the use of the public, either for parking or as access areas and incident to the carrying on of the principal business of any commercial establishment or premises and which parking or access areas abut or lie

within 10 feet of any public street or other public way, shall keep and maintain the areas clean and free from trash, litter, rubbish, and any materials liable to be blown, deposited, or cast on the street or other public way.

(1989 Code, ' 82.03) Penalty, see ' 10.99

93.23 RECEPTACLES.

Suitable receptacles may be provided in parking or access areas within the meaning of ' 93.22 of this code. The receptacles shall be plainly marked and constructed to prevent scattering of any trash, litter, rubbish, or other materials deposited therein.

(1989 Code, ' 82.04)

93.24 PENALTIES

Violation of this section shall not constitute a misdemeanor or infraction as provided by North Carolina General Statute 14-4. Instead, violation of this section shall subject the offender to a civil penalty in the amount of \$250 per violation to be recovered in a civil action in the nature of debt if the offender does not pay the penalty within the period of time prescribed after such offender has been cited

Town Code 93.24 amended on 04/19/11 through case TA11-02;

