

PART I - CODE OF GENERAL ORDINANCES

Chapter 16 OFFENSES AND MISCELLANEOUS PROVISIONS

**Chapter 16 OFFENSES AND MISCELLANEOUS PROVISIONS**

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**ARTICLE I. IN GENERAL**

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**Sec. 16-1. Furnishing contraband to inmates of the county jail.**

It shall be unlawful for any person to give or sell, or attempt to give or sell, to any inmate of the county jail, or to conspire, aid, abet, solicit, advise, encourage, attempt to procure, or procure another to give or sell to any inmate of the county jail any contraband that would be against the county jail rules and regulations.

(Ord. of 2-7-2005)

**Secs. 16-2—16-20. Reserved.**

**ARTICLE II. OPEN BURNING**

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**DIVISION 1. GENERALLY**

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#### **Sec. 16-21. Purpose.**

- (a) From time to time when conditions warrant, upon the recommendation of the fire marshal and the emergency services director, or in conjunction with the state forest service burning ban, the county fire marshal's office shall issue a burning ban of all open burning within 100 feet of a structure, and all fires shall be extinguished immediately.
- (b) Exception. Cooking is allowed using a fully enclosed grill or outdoor cooker, and someone must keep watch over it at all times. Fire rings and open grills are not considered fully enclosed grills.

(Ord. of 12-3-2007, art. 1, § 1)

#### **Sec. 16-22. Authority.**

A burning ban on outdoor burning within 100 feet of a structure may be issued by the county fire marshal's office in the event of hazardous forest fire conditions or air pollution episodes.

(Ord. of 12-3-2007, art. 1, § 2)

#### **Sec. 16-23. Conditions for burning ban.**

Local conditions that may warrant a burning ban include, but are not limited to:

- (1) Flammable and/or combustible liquid spills or leaks close to a burning site.
- (2) A hazardous materials incident where the proximity of the burn site could cause a possible ignition source or prove hazardous to operations controlling the incident.
- (3) The proximity of adjacent structures or other such hazards.

(Ord. of 12-3-2007, art. 1, § 3)

#### **Sec. 16-24. Cancellation of burning ban.**

- (a) The fire marshal shall cancel the burning ban in conjunction with the state forest service burning ban cancellation, or upon recommendation of the emergency management director.
- (b) The fire marshal shall cancel the burning ban issued under sections 16-22 and 16-23 once the event, episode, hazard or emergency no longer exists.

(Ord. of 12-3-2007, art. 1, § 4)

#### **Sec. 16-25. Illegal burning.**

- (a) Illegal fires, nuisance burning, and fires when burning bans are in effect or all other fires that fall under this article, the state building code, fire code and any applicable state regulations shall be extinguished immediately.
- (b) Nuisance burning. If at any time during a burn the smoke and/or odors create a neighborhood nuisance, cause physical irritation exacerbating a documented medical condition, visibility impairment, evidence of soot or ash on property or structures other than the property on which the burning is done,

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the smoke and odors do not rise, hang close to the ground, or cross a street or highway and cause a hazard, such nuisance fire shall be extinguished immediately.

(Ord. of 12-3-2007, art. 1, § 5)

**Secs. 16-26—16-53. Reserved.**

**DIVISION 2. EXTINGUISHMENT OF FIRES**

[Sec. 16-54. Authority of fire marshal.](#)

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**Sec. 16-54. Authority of fire marshal.**

The fire marshal or his authorized representative has the authority to order the extinguishment or to extinguish any fire that violates this article.

(Ord. of 12-3-2007, art. 2, § 1)

**Sec. 16-55. Authority of fire departments.**

The responding fire department fire chief or officer in charge has the authority to order the extinguishment or to extinguish any fire that violates this article.

(Ord. of 12-3-2007, art. 2, § 2)

**Sec. 16-56. Authority of sheriff.**

The county sheriff has the authority to order the extinguishment of any fire that violates this article.

(Ord. of 12-3-2007, art. 2, § 3)

**Secs. 16-57—16-85. Reserved.**

**DIVISION 3. OBSTRUCTION OF OPERATIONS**

[Sec. 16-86. Prohibited.](#)

[Secs. 16-87—16-115. Reserved.](#)

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**Sec. 16-86. Prohibited.**

No person shall obstruct the extinguishment of any fire that violates this article when burning bans are in effect or disobey any lawful command of the fire marshal or his authorized representative, the fire chief or officer in charge, or the sheriff.

(Ord. of 12-3-2007, art. 3)

**Secs. 16-87—16-115. Reserved.**

**DIVISION 4. ENFORCEMENT**

[Sec. 16-116. Violation.](#)

[Sec. 16-117. Power of fire marshal to enforce this article.](#)

[Secs. 16-118—16-147. Reserved.](#)

**Sec. 16-116. Violation.**

It shall be unlawful for any person to violate or fail to comply with any of the provisions of this article. Each violation shall constitute a separate offense.

(Ord. of 12-3-2007, art. 4, § 1)

**Sec. 16-117. Power of fire marshal to enforce this article.**

This article shall be enforced by the fire marshal or his authorized representative, or the sheriff.

(Ord. of 12-3-2007, art. 4, § 3)

**Secs. 16-118—16-147. Reserved.**

**ARTICLE III. NOISE**

[Sec. 16-148. Purpose.](#)

[Sec. 16-149. Offenses against public peace and order.](#)

[Sec. 16-150. Exceptions.](#)

**Sec. 16-148. Purpose.**

It is the purpose of this article to establish an effective means of regulating and controlling sound and noise within the county to the ends that:

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- (1) The health, safety, and welfare of the population are promoted and maintained through peace and good order; and
- (2) The rights of individuals are not unreasonably restricted.

(Ord. of 4-7-2008)

**Sec. 16-149. Offenses against public peace and order.**

(a) *General prohibition.* Subject to the provisions of this section, the creation of any unreasonably loud and disturbing noise in the county is prohibited. Noise of such character, intensity, and duration as to be detrimental to the health, safety, or welfare of any reasonable person is prohibited. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Disturbing* means noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area.

*Unnecessary* means any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of reasonable persons or which disturbs, injures, or endangers the comfort, repose, health, peace or safety of any reasonable person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

*Unreasonably loud* means noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order.

(b) *Factors determining noise as loud and disturbing.* In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; whether the noise is related to the normal operation of a business or other labor activity; and whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(c) *Certain acts declared loud and disturbing noise.* The following acts, among others, particularly, but not limited to, the hours between 11:00 p.m. and 7:00 a.m., are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

- (1) *Blowing horns.* The sounding of any horn, whistle, siren or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, or as required by law, so as to create any unreasonable, loud, or harsh sound or the sounding of such device for an unnecessary and unreasonable period of time;
- (2) *Radios, record players, etc.* The playing of any radio, television set, record player, stereo, or other sound reproduction system, musical instrument or sound-producing or sound-amplifying device in such a manner or with such volume, so as to annoy or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, or any other type residence;
- (3) *Pets.* The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person with normal sensibilities in the vicinity;
- (4) *Use of vehicles.* The use of any automobile, motorcycle, dirt bike, go-cart, all-terrain vehicle, recreational vehicle, or any other vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary grating, grinding, rattling, screeching of tires or other noise;

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- (5) *Exhaust discharge.* The discharge into the open of the exhaust of any steam engine, stationary internal combustible engine, or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom;
- (6) *Compressed air devices.* The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled and reduced;
- (7) *Noises near schools, etc.* The willful creation of any excessive noise on any street adjacent to any school, institution of learning, library, or court while the same is in session, or adjacent to any hospital, or any church during services, which disturbs or tends to disturb the peace or good order of the school, institution of learning, library, court, hospital or church;
- (8) *Noises to attract attention.* The use of any drum, loudspeaker, or other instrument for the purpose of attracting attention by creation of noise to any performance, show, sale, display or advertisement of merchandise;
- (9) *Explosives, firearms.* No person shall, without the written permission of the current owner or lawful occupant of such property, discharge a firearm within 300 feet of a dwelling or other building or structure, which is designed to be occupied by human beings. Such written permission must be dated, shall be valid for no longer than one year after its issuance and must be displayed upon the request of any law enforcement officer with authority to enforce this section. The use or discharge of live ammunition at any historical, ceremonial, or commemorative event is strictly prohibited;
- (10) *Blowers, engines.* The operation of any noise-creating blower, power fan, appliance, or other mechanical device, which, due to its operational deficiencies, malfunction, or other type of disrepair, causes loud and excessive noises in such a manner as to unreasonably annoy the public or disturb the quiet, comfort or repose of any person of normal sensibilities in any dwelling, motel, or any other type of residence.

(Ord. of 4-7-2008)

#### **Sec. 16-150. Exceptions.**

- (a) The following uses and activities, among others, are not governed by and shall be exempt from the noise regulations set forth in this article:
  - (1) Noises of safety signals and warning devices legally used for their intended purpose for a reasonable duration;
  - (2) Noise resulting from any authorized emergency vehicle, when responding to an emergency call or acting in times of emergency;
  - (3) Noise resulting from emergency work, to be construed as work made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger;
  - (4) Noise resulting from farming operations, including, but not limited to, noises generated by machinery, equipment, and farm animals;
  - (5) Noise associated with any event held in recognition of a community celebration of a national, state, or county event or public festival;
  - (6) Noise associated with any school activity, except that it shall be unlawful for any person to use loud, boisterous, raucous language or shouting in a violent or offensive manner while attending said activities;
  - (7) Noise associated with the chimes or bells of businesses, schools, or religious institutions in the daytime hours;

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- (8) Noise caused by the firing, shooting, or discharging of any firearm by a law enforcement officer in the discharge of duty pursuant to the North Carolina General Statutes;
- (9) Noise associated with the official training of any law enforcement officers, including, but not limited to, driver training, firearm training and any such other training that is deemed necessary and advisable;
- (10) Noise caused by the firing, shooting, or discharging of any firearm in the lawful defense of persons or property;
- (11) Noise associated with the discharge of firearms for the taking of birds or animals pursuant to G.S. chapter 113, subchapter IV (G.S. 113-127 et seq.), game laws;
- (12) Non-amplified crowd noises resulting from activities planned by student, governmental, or community groups;
- (13) Noise associated with or resulting from the normal operations of any construction, commercial, industrial, or agricultural activities or operations;
- (14) Noise associated with or resulting from the normal operations of any facility that is properly licensed by the state department of agriculture, veterinary division, as a boarding kennel, pet shop or dealer, in accordance with the North Carolina Animal Welfare Act (G.S. 19A-20 et seq.), as may be amended, or of any animal shelter that is operated by the county.

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

(Ord. of 4-7-2008)