

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

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Section

- 130.01 Disturbing public gatherings
- 130.02 Drinking in public
- 130.03 Consumption of malt liquor and unfortified wine
- 130.04 Loitering; posting of signs
- 130.05 Possession of weapons; discharging firearms
- 130.06 Unnecessary noise
- 130.07 Posting bills; advertising
- 130.08 Leaving ice boxes unattended
- 130.09 Playing games in streets
- 130.10 Damaging property
- 130.11 Building and construction debris

- 130.99 Penalty

§ 130.01 DISTURBING PUBLIC GATHERINGS.

It shall be unlawful for any person willfully or wantonly to disturb any public meeting or gathering. ('77 Code, § 8-1002) Penalty, see § 130.99

§ 130.02 DRINKING IN PUBLIC.

No pedestrian shall consume malt beverages or unfortified wine, as defined by G.S. § 18B-101, on or within the rights-of-way of the public streets, Boulevards, alleys and sidewalks, all town owned or operated public buildings or facilities, or in municipal parks, within the town.

('77 Code, § 8-1006) (Ord. passed 2-23-81; Am. Ord. passed 5-24-99; Am. Ord. 210, passed 8-23-99) Penalty, see § 130.99

§ 130.03 CONSUMPTION OF MALT LIQUOR AND UNFORTIFIED WINE.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MALT BEVERAGE. Beer, lager, malt liquor, ale, porter and any other brewed or fermented beverage containing at least 0.5% and not more than 6% alcohol by volume. (G.S. § 18B-101 (9))

OPEN CONTAINER. A container whose seal has been broken or a container other than the manufacturer's unopened original container. (G.S. § 18B-300(c))

PUBLIC STREET. Any highway, road, street, avenue, boulevard, alley, bridge or other way within and/or under the control of the town and open to public use, including the sidewalks of any street.

UNFORTIFIED WINE. Wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet or dextrose sugar. (G.S. § 18B-101 (15))

(B) *Consumption on public streets or municipal property.* It shall be unlawful for any person who is not an occupant of a motor vehicle to consume malt beverages and/or unfortified wine on public streets. Furthermore, it shall be unlawful for any person to consume malt beverages and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town including, but not limited to public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreation areas, tennis courts and other athletic fields.

(C) *Possession of open containers on public streets or municipal property.* It shall be unlawful for any person who is not an occupant of a motor vehicle to possess any open container of malt beverage and/or unfortified wine on the public streets. Furthermore, it shall be unlawful for any person to possess any open container of malt beverage and/or unfortified wine on any property, whether located inside or outside the corporate limits, owned, occupied or controlled by the town including, but not limited to public buildings and the grounds appurtenant thereto, municipal parking lots, public parks, playgrounds, recreational areas, tennis courts and other athletic fields.

(D) *Possession during special events prohibited.* It shall be unlawful for any person to possess malt beverages and/or unfortified wine on public streets, alleys or parking lots which are temporarily closed to regular traffic for special events. This provision may be waved by the Town of Pilot Mountain Board of Commissioners on a case-by-case basis. Also, the Board may impose special designations and other restrictions on public events for the consumption of alcohol.
(Ord. 201, passed 12-18-95. Amd. O2006-02 04.25.06) Penalty, see § 130.99

§ 130.04 LOITERING; POSTING OF SIGNS.

(A) It shall be unlawful for persons to congregate, stand, loaf or loiter in any street or upon any sidewalk, bridge crossing or other public place so as to obstruct the same, or to hinder, prevent or annoy persons passing or attempting or desiring to pass therein or thereon or to congregate, stand, loaf or loiter in or in front of any hall, lobby, hotel, eating or lodging house, office building, store, shop, office or factory in another like building or place of public assemblage so as to obstruct the same or hinder, prevent or annoy persons passing along or into or out of same, attempting or desiring to do so, or to make remarks, gestures, noises, signs or the like to disturb, annoy or insult any person being upon or passing along any street, sidewalk, bridge, crossing or other public place or along, into or out of the hall, hotel, eating or lodging house, office building, store shop or factory or like building or place of public assemblage or in any public carrier. ('77 Code, § 8-1008)

(B) It shall be unlawful to loiter, singularly or in larger numbers, upon the premises or parking lot of any store, restaurant, theater, shop, warehouse or other business establishment after the store restaurant, theater, shop, warehouse or other business establish-ment has closed its doors to the public and is no longer serving the public when the store, restaurant, theater, shop, warehouse or other business establishment has posted one or more signs in plain and open view on its buildings or driveway entrances forbidding the loitering or use of its premises by vehicular traffic or by persons on foot after cessation of its business activity for the day. ('77 Code, § 8-1009)
(Ord. 8, passed 9-20-72) Penalty, see § 130.99

§ 130.05 POSSESSION OF WEAPONS; DISCHARGING FIREARMS.

(A) Firearms regulated.

(1) It is hereby declared unlawful for any person to carry about his person any deadly weapon, under any of the following circumstances or conditions:

- (a) While under the influence of intoxicating drink or narcotic drugs;
- (b) At any public assembly;
- (c) In any manner calculated to inspire terror; or
- (d) While taking part in a parade or march the purpose of which is to inspire terror.

(2) This section shall not apply to members of the armed forces of the United States, officers of the government of the United States, this state or any subdivision thereof charged with the execution of the laws of the United States, this state or the town, when acting in the discharge of their official duties.

('77 Code, § 8-6003)

(B) Dangerous weapons; missiles. No person shall shoot or project any stone, rock, shot or other hard substance by means of a slingshot, bean shooter, shot shooter, air rifle, popgun, bow or other similar contrivance; provided, that archery shooting may be engaged in on the grounds as may be set aside and approved therefor by the Board.

('77 Code, § 8-6010)

(C) Discharging pistols. No person shall fire any pistol, gun or other firearms, fireworks or other pyrotechnics for sport or amusement.

('77 Code, § 8-6011)

(D) (1) Except as provided in subdivision (2) of this division (B) below, all persons are prohibited from possessing weapons regulated or prohibited in G.S. § 14-269 in town-owned buildings, their appurtenant premises and parks.

(2) This prohibition shall not apply to the following persons:

(a) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(b) Civil officers of the United States while in discharge of their official duties;

(c) Officers and soldiers of the militia and the national guard when called into actual service;

(d) Sworn law enforcement officers; and

(e) Town police officers.

(3) A conspicuous notice shall be posted at each entrance to any property set forth in division (A) above stating, "Possession of weapons or carrying a concealed handgun is prohibited."

(Ord. 199, passed 8-28-95) Penalty, see § 130.99

§ 130.06 UNNECESSARY NOISE.

In addition to the common meanings of words, the following definitions shall be used in interpreting §130.06 through 12-5011 of this Code.

"A" weighting scale. The sound pressure level, in decibels, as measured with the sound level meter using the "A" weighted network (scale). The standard unit notation is dB(A).

Ambient base noise level. The average sound pressure level in dB(A) during a reasonable period of time, as determined by employing a sound level meter as described in §12-5002 and excluding impulsive sounds.

ANSI. American National Standards Institute or its successor bodies.

Construction. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth moving, blasting and landscaping.

Daytime hours. 7:00 a.m. to 11:00 p.m., local time.

dB(A). Sound level in decibels, determined by the "A" weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute, Publication ANSI, S 1.4-1971, for a Type 2 instrument.

Decibel (dB). A unit of measure, on a logarithmic scale, of the ratio of the magnitude of a particular sound pressure to a standard reference pressure, which for purposes of §§12-5001 through 12-5011 shall be 0.0002 microbars.

Emergency work. Work made necessary to restore property to a safe condition, work required to protect, provide or prevent persons or property from danger or potential danger; or work by private or public utilities when restoring utility service.

Nighttime hours. 11:00 p.m. to 7:00 a.m., local time.

Person. Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this State, any other state or political subdivision or agency thereof or any legal successor, representative, agent or agency of the foregoing.

Sound level. In decibels, a weighted sound pressure level determined by the use of a sound level meter whose characteristics and frequency weightings are specified in ANSI standards.

Sound level meter. Any instrument certified to meet or exceed ANSI standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of sound level.

Sound-magnifying device. Any device or machine for the magnification of a human voice, music or any other sound. "Sound-magnifying device" shall not include emergency warning devices on police, fire, ambulance or other emergency vehicles, nor shall it include horns or steam whistles which are used for purposes authorized by §12-5007.

Sound pressure level. In decibels, twenty (20) times the logarithm to the base 10 of the ratio of the magnitude

of a particular sound pressure to the standard reference pressure. The standard reference pressure is 0.0002 microbars.

Sound source. Any person, animal, device, operation, process, activity, or phenomenon which emits or causes sound.

Unnecessary noise. Any excessive or unusually loud sound or any sound which disturbs the peace and quiet of any neighborhood or which does annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any person or causes damage to property or business.

('77 Code, § 8-6002) (Am. Ord. passed 5-24-99, Am. Ord. passed 01-28-08)
Penalty, see § 130.99 State law reference: Authority to regulate noise, G.S. 160A-184.

MEASUREMENT TECHNIQUES.

(a) Noise measurements shall be made at the property line of the property where the noise to be measured is being generated. If measurement on private property is not possible or practical, noise measurements may be made at the boundary of the public right-of-way which adjoins the complaining property. Such noise measurements shall be made at a height of at least four (4) feet above the ground and at a point approximately ten (10) feet away from walls, barriers, obstructions (trees, bushes, etc.) on a sound level meter operated on the "A" weighting network (scale).

In the case of noises within multi-family or multi-tenanted structures, noise measurements shall be made in the complaining unit at a height of at least four (4) feet above the floor and at a point approximately equi-distant from all walls on a sound level meter operated on the "A" weighting network (scale).

(b) No individual other than the operators shall be within ten (10) feet of the sound level meter during the sample period.

(c) Sound measurements shall be conducted at that time of day or night when the suspect noise source is emitting sound.

(d) The sound level measurement shall be determined as follows:

- (1) Calibrate the sound level meter within one (1) hour before use.
- (2) Set the sound level meter on the "A" weighted network at slow response.
- (3) Set the omni directional microphone in an approximately seventy-degree position in a location which complies with subsections (a) and (b) above. The operator of the sound level meter shall face the noise source and record the meter's instantaneous response (reading) observed at consecutive ten-second intervals until one hundred (100) readings are obtained.

(4) Recalibrate the sound level meter after use.

(e) It shall be unlawful for any person to interfere, through the use of sound or otherwise, with the taking of sound level measurements.

SOUND EMISSION STANDARDS AND LIMITATIONS.

(a) Unless otherwise specifically indicated, it shall be unlawful for anyone to cause or allow the emission of sound from any source or sources which when measured pursuant to §130.06 exceed the maximum decibel limits specified in Table 1. Ten (10) readings above the allowed decibel limits attributed to the sound source or

sources shall constitute prima facie evidence of a violation of this ordinance. The sound meter operator may cease taking readings as soon as the readings already taken show a violation of this ordinance. It shall not be necessary to complete all one hundred (100) readings if a fewer number have already indicated a violation of the ordinance.

Table 1. Maximum Noise Limitations dB(A)

Zoning districts	Daytime (7:00 a.m. to 11:00 p.m.)	Nighttime (11:00 p.m. to 7:00 a.m.)
Residential	55	45
Central Business District, Commercial Districts, Buffer Commercial, Shopping Center and Neighborhood Business	60	55
Thoroughfare, Industrial	70	65

(b) When a noise source can be identified and its sound is measured in more than one district, the average of the noise limitations of the two (2) districts shall apply.

(c) Notwithstanding the location of hospitals, rest homes, family care homes, group care facilities, public or private or parochial school or day care facilities, it shall be unlawful for any person to cause or allow the emission of sound onto the structures of such uses which exceeds the maximum noise limitations for residential zoning districts.

(d) For activities which are necessary for railroad operations it shall be unlawful for any person to cause or allow the emission of sound from the boundaries of railroad rights-of-way which exceeds eighty (80) dB(A) for daytime and seventy-five (75) dB(A) for nighttime, without regard for the zoning district of the abutting property.

EXCEPTION TO LIMITATION STANDARDS.

The maximum noise limitation standards defined in §130.06 shall not apply to the following sources:

- (a) Emergency warning devices or safety signals;
- (b) Lawn care equipment and agricultural field equipment used during the daytime hours;
- (c) Equipment being used for construction, provided that all equipment is operated with all standard equipment manufacturers’ mufflers and noise-reducing equipment in use and in proper operating condition.
- (d) Parades, fairs, circuses, other similar public entertainment events, sanctioned sporting events, sporting activities taking place in areas set aside for such activities, or any activities normally associated with any of the above;
- (e) Bells, chimes and similar devices which operate during daytime hours for a duration of no longer than five (5) minutes in any given period;

- (f) Emergency work;
- (g) Sixty-cycle electric transformers; or
- (h) Emission of sound from any source or sources on public rights-of-way.

UNLAWFUL NOISE.

In addition to any other violation of this Code, it shall be unlawful to emit any unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise. Specifically, it shall be unlawful to emit noise of such character, intensity or duration as to be detrimental to the life or health of any individual.

PROHIBITED NOISES.

In addition to any other violations of this Code, the following acts are specifically declared to be unreasonably loud, annoying, frightening, loud and disturbing or unnecessary noise, the emission of which shall be unlawful. Such enumeration shall not be deemed to be exclusive:

- (a) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.
- (b) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other emergency vehicles.
- (c) The playing of any radio, phonograph, amplifier, television, tape deck, tape recorder, or musical instrument in such a manner or with such volume during the nighttime hours as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel, motel or other type of residence.
- (d) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.
- (e) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as warning of danger.
- (f) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises thereof.
- (g) The erection (including excavating), demolition, alteration or repair of any building or other structure in a residential or business district other than between the hours of 7:00 a.m. and 8:30 p.m., except by permit from the zoning officer when, in his opinion, such work will not create objectionable noise; upon complaint in writing of the occupant of property near the location of the work, the zoning officer shall immediately revoke the permit and the work shall be immediately discontinued. The zoning officer may permit emergency work in the preservation of public health or safety at any time.
- (h) The creation of any excessive noise on any street adjacent to any school, institution of learning or court, while the same are in session, or within one hundred fifty (150) feet of any hospital, which unreasonably interferes with the work of such institution or which disturbs or unduly annoys patients in the hospital.

- (i) The creation of loud and excessive noise in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates and containers.
- (j) The shouting and crying of peddlers, barkers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.
- (k) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale or display of merchandise.
- (l) The conducting, operating or maintaining of any garage or filling station, or the repair, rebuilding or testing of any motor vehicle in any residential district, so as to cause loud or offensive noises to be emitted thereof during the nighttime hours.
- (n) The creation of excessive noise by the operation of an airplane over the Town by stunting, diving or otherwise operating an airplane for the purpose of advertising or otherwise.
- (o) No person shall keep or maintain, or permit the keeping of, on any premise, owned, leased; occupied or controlled by such person, any animal or fowl otherwise permitted to be kept which, by habitual or frequent sound, cry, howling, barking, squawking, meowing or other noise, shall disturb the quiet, comfort or repose of any person.
- (p) The operation on public property or on public vehicular areas of any sound amplifier which is part of, or connected to, any radio, stereo receiver, compact disc player, cassette tape player, or other similar device when operated in such a manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, or vehicle in which it is located is prohibited and is a violation of this section.

SOUND MAGNIFICATION.

Except for parades, sanctioned public events, and related activities, it shall be unlawful for any person to use or operate on or over any street within the Town any radio, phonograph or other similar mechanical device to produce sound or any mechanical loudspeaker or other sound-magnifying device at a level of volume greater than fifty-five (55) dB(A). Any such operation shall be unlawful unless such loudspeaker or other mechanical sound-magnifying device shall be equipped with a meter by which the power output can be registered and determined, so that the volume shall be limited in accordance with the restrictions hereinbefore specified; and it shall be unlawful to operate any such equipment or device without a license from the Town as provided by this Code. No such equipment or device shall be used or operated on the streets of the Town during the period between sunset and 9:00 a.m. Further, no such equipment or device shall be operated to produce magnified sounds along that portion of any street within the block where there is located any school, institution of learning, or court, while the same are in session, or where any hospital, funeral home, undertaking establishment is located, or where a funeral is being conducted at any place. Further, no such equipment or device shall be operated on the streets of this Town on Sunday.

PRESUMPTION IN PROSECUTION FOR NOISE VIOLATION.

The complaints of two (2) or more persons, at least one (1) of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is a loud and annoying, frightening, loud and disturbing, unreasonably loud or unnecessary noise.

BURDEN OF PERSUASION REGARDING EXCEPTIONS TO NOISE RESTRICTIONS.

If an exception stated in §130.06 would limit an obligation, limit a liability or eliminate either an obligation or a liability, the person who would benefit from the application of the exception shall have the burden of persuasion that the exception applies and that the terms of the exception have been met.

PENALTIES FOR VIOLATION OF NOISE RESTRICTIONS.

(a) Civil penalties:

(1) Any person violating any of the provisions of §130.06 shall be subject to a civil penalty of not more than one hundred dollars (\$100.00). No penalty shall be assessed until the person alleged to be in violation has been notified of the violation. Each day of a continuing violation shall constitute a separate violation under this subsection.

(b) Criminal penalties:

(1) Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor punishable by imprisonment not to exceed thirty (30) days or by fine not to exceed five hundred dollars (\$500.00). Each day of a continuing violation shall constitute a separate violation under this subsection.

('77 Code, § 8-6002) (Am. Ord. passed 5-24-99, Am. Ord. 01-28-08)
Penalty, see also § 130.99

State law reference: Violations of municipal ordinances, enforcement alternatives, NCGS 160A-175.

§ 130.07 POSTING BILLS; ADVERTISING.

No person shall stick, paint, brand, stamp, write or put upon any house, fence, wall, pavement, post or upon any property owned by any person, firm or corporation, or owned by the town, any printed, written, painted or other advertisement, bill, notice, sign or poster, with out first having obtained the written permission of the owner of the property and having received a zoning permit.

('77 Code, § 8-6004) (Am. Ord. passed 5-24-99) Penalty, see § 130.99

§ 130.08 LEAVING ICE BOXES UNATTENDED.

It shall be unlawful for any person, firm or corporation to leave ice boxes, refrigerators, deep freeze units and boxes of similar nature, which have thereon a latch door, in the open and unattended, without first removing the door, latch or back of the unit.

('77 Code, § 8-6006) Penalty, see § 130.99

§ 130.09 PLAYING GAMES IN STREET.

No person shall play baseball, town ball, football or other games of similar nature on any public street.

('77 Code, § 8-6007) Penalty, see § 130.99

§ 130.10 DAMAGING PROPERTY.

(A) *Injuring or defacing signs, poles or buildings.* No person shall willfully or negligently injure, deface,

draw, paint, carve or mutilate in any way whatsoever any sign, post, lamppost, pole, wire, apparatus, building, residence, wall or fence.

('77 Code, § 8-6008)

(B) *Injuring or interfering with property used in water, sewer, police or fire alarm systems.* No person shall willfully or negligently injure or interfere with any valve, valve box, meter, meter box, storm or sanitary sewer manhole cover, storm sewer catch basin cover, fire hydrant, police or fire alarm box, traffic signal or any other property used in the town's water, sewer, police or fire alarm system.

('77 Code, § 8-6009) Penalty, see § 130.99

§ 130.11 BUILDING AND CONSTRUCTION DEBRIS.

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

('77 Code, § 8-6013) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty has been prescribed shall be subject to the fine in § 10.99.

(B) (1) Any person violating § 130.05(D) shall be guilty of a misdemeanor and upon conviction shall be fined \$500 or imprisoned for six months or both.

(2) Weapons possessed in violation of this provision are declared to be contraband. The Chief of Police or his or her designee shall hold the weapons for disposal pursuant to court order. The weapon shall be destroyed.

(Ord. 199, passed 8-28-95)

