

AN ORDINANCE REVISING ARTICLE I AND ARTICLE III OF CHAPTER 11, AND ARTICLE 1 OF CHAPTER 12 TO ELIMINATE OR MODIFY CODE PROVISIONS IN CONFLICT WITH CONSTITUTIONAL OR STATUTORY PROVISIONS(2009-06-22/O-10)

BE IT ORDAINED by the Council of the Town of Chapel Hill as follows:

Section 1. Article I, Sections 11-1 through 11-4 of Chapter 11 of the Town Code, is hereby revised to read as follows:

“ARTICLE I. IN GENERAL

Sec. ~~11-1~~. ~~Disorderly, boisterous conduct; cursing.~~

~~It shall be unlawful for any person to conduct himself in a disorderly or boisterous manner by cursing or otherwise in any street or other public place, or at any public gathering or meeting, within the town.~~

~~(Comp. 1961, p. 65)~~

~~**State law references:** Offenses against the public peace, G.S. § 14-269 et seq.; profanity, G.S. §§ 14-195–14-197.~~

Sec. ~~11-2~~. ~~Loitering on streets, sidewalks; blocking same.~~

~~Persons shall not assemble and loiter upon the streets, sidewalks or crossings, in sufficient numbers or in such manner as to be an obstruction of said streets, sidewalks or crossings, or an annoyance to persons engaged in legitimate business or in traversing the said streets, sidewalks or crossings.~~

~~(Comp. 1961, p. 66)~~

~~**Cross references:** Picketing, § 11-53 et seq.; streets and sidewalks, Ch. 17.~~

Sec. ~~11-3~~. ~~Habitual loafing, idleness.~~

~~It shall be unlawful for any person to habitually loaf and idle on any street of the town or in any business house thereon.~~

~~(Comp. 1961, p. 67)~~

Sec. ~~11-4~~. ~~Curfew for persons under sixteen.~~

~~It shall be unlawful for any minor under sixteen (16) to loaf and idle on any street in the town or in any business house thereon after nine o'clock at night, unless attended by some adult member of said minor's family.~~

(Comp. 1961, p. 67)

Secs. 11-1---11-4. Reserved.

Section 2. Article III, Sections 11-39.1 and 11-40 of Chapter 11 of the Town Code, is hereby revised to read as follows:

“ARTICLE III. NOISE

Sec. 11-39.1. Nuisance noises.

(a) It shall be unlawful to create, cause or allow the continuance of any unreasonably loud noise, particularly during nighttime, which interferes seriously with neighboring residents' reasonable use of their properties. Steady state noises that do not exceed the allowable sound levels as defined in section 11-39(a)(1) and (2) are not nuisance noises. Nuisance noises may include, but are not limited to, the following:

- (1) Yelling, shouting, whistling or singing.
- (2) Noisy parties.
- (3) Loading operations. Loading, unloading, opening or otherwise handling boxes, crates, containers, garbage cans, or other similar objects.
- (4) Repair of motor vehicles. The repair, rebuilding or testing of any motor vehicle.
- (5) Sound amplification equipment, television, or musical instrument.
- (6) Horns and signaling devices (except as a warning of a safety hazard, danger or emergency).
- (7) Vehicles not operating with original manufacturer-provided muffler, or equivalent, in good working order ~~and vehicles using compression release engine or transmission braking systems in non-emergency circumstances.~~
- (8) Exterior and mobile loud speakers.
- (9) Power equipment including but not limited to power tools, generators, and garden equipment.
- (10) Explosives. The use or firing of explosives, firearms, fireworks or similar devices which create impulsive sound.
- (11) Security alarms. The sounding of a security alarm, for more than twenty (20) minutes after the owner or responsible party has been notified by law enforcement personnel.

(b) It shall be unlawful to operate a vehicle sound system on public or private property, or a boom box on public property, in such a manner that the sound emanating from such equipment is detectable at a distance of thirty (30) feet from the source.

Sec. 11-40. Exceptions.

The following are exempt from the provisions of this article:

(a) Sound emanating from regularly scheduled outdoor athletic events on the campus of the University of North Carolina, or on the grounds of local schools, or parks.

(b) Construction operations from 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by an agency of government; providing all equipment is operated in accord with the manufacturer's specifications, and with all standard equipment, and with manufacturer's mufflers and noise-reducing equipment in use, and in proper operating condition.

(c) Noises of safety signals, warning devices, emergency pressure relief valves, all church bells and the bells of the Bell Tower and the bell on South Building on the University of North Carolina campus.

(d) Noises resulting from any authorized emergency vehicle when responding to any emergency call or acting in time of emergency.

(e) Sound at street fairs conducted by or for the Town of Chapel Hill.

(f) An official all-campus University of North Carolina event, held on the University Campus, no more than one (1) weekend in duration, occurring no more often than twice per year.

(g) All noises coming from the normal operations of properly equipped aircraft (not including scale model aircraft).

(h) All noises coming from normal operation of motor vehicles properly equipped with the manufacturer's standard mufflers and noise-reducing equipment, ~~including noises coming from compression release engine or transmission braking systems when used in emergency circumstances.~~

(i) Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.

(j) Reserved.

(k) Musical accompaniment or firearm discharge related to military ceremonies.

(l) Emergency work necessary to maintain public safety, or to restore property to a safe condition following an accident or natural disaster, or to restore public utilities and infrastructure following an accident or natural disaster, or to protect persons or property from an imminent danger.

(m) Noises resulting from the provision of government services necessary to maintain the public infrastructure.

(n) Noises resulting from work performed by non-government agencies, provided that such work is necessary to maintain the public infrastructure, and that a permit for the work has been issued by the town.

(o) Noises resulting from the provision of sanitation and recycling services between the hours of 5:30 a.m. and 11:00 p.m. in accordance with a permit issued by the manager.

(p) Any other noise resulting from activities for which a permit allowing exemption from this article has been granted by the town. Regulation of noises emanating from operations under such permit shall be according to the conditions and limits stated on the permit.”

Section 3. Article 1, Section 12-3 of the Chapter 12 of the Town Code, is hereby revised to read as follows:

“ARTICLE I. IN GENERAL

Sec. 12-3. Rules and regulations for town parks.

(a) No person shall willfully mark, deface, disfigure, injure, tamper with, or without the authorization of the town, displace or remove any structure, equipment, facility, or any other real or personal property, that is the property of or under the control of the parks and recreation department.

(b) No person shall willfully damage, cut, carve, transplant or remove any tree, shrub, bush or plant within any park except in maintenance or other activity under the direction of the town.

(c) No person shall willfully disturb, harass, capture, harm, molest, or injure any wild animal or its habitat within any park except in maintenance or other activity under the direction of the town.

(d) No person shall drive, park or ride any motorized vehicle in any park except in areas so marked, signed or designated for motorized vehicular traffic and except in maintenance or other activity under the direction of the town and by persons requiring the use of motorized wheelchairs.

(d.1) No person shall park or leave standing a vehicle of any kind within the Cedar Falls Park for a period of time in excess of three (3) hours, between 8:30 a.m. and 3:30 p.m., Monday through Friday, during normal operating school sessions.

(e) No person shall drive, park, or ride nonmotorized vehicles in any park, greenway, entranceway, or open space signed for the exclusion of nonmotorized vehicles except in maintenance or other activities under the direction of the town and by persons requiring the use of nonmotorized wheelchairs.

(f) No pedestrian, or person utilizing a nonmotorized vehicle, on trails and roads located within parks, greenways, entranceways, or open space shall act in a manner that endangers other users. The following shall be prohibited by all park users:

- (1) Passing pedestrian or nonmotorized vehicle users on the right.
- (2) Traveling left of the centerline of the trail.
- (3) Failing to control nonmotorized vehicles.
- (4) Using public trails under the influence of illegal drugs or alcohol.
- (5) Failing to signal with voice, bell, or horn prior to passing pedestrian or nonmotorized vehicle users.
- (6) Exceeding posted speed limits.
- (7) Acting in a manner which causes more than fifty (50) per cent of a trail, path or road to be blocked.
- (8) Failing to yield the right-of-way when crossing trails, bike paths, or roads.
- (9) Using public paths or greenway trails to gain unlawful or uninvited access to private property.

(g) All persons operating a bicycle on a public trail within the town shall wear a protective helmet on his or her head, with the chin strap fastened under the chin. Said helmet shall be fitted to the size of the operator and shall meet or exceed the ANSI (American National Standards Institute) Z90.4 or subsequent bicycle helmet standards, or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling or subsequent standards.

(h) No person shall dump, deposit, leave or place trash, rubbish, garbage, ashes, wastes, broken glass or other rubbish within any park, greenway, entranceway, or open space except in garbage, trash, recycling or other property receptacles provided for the purpose. No person shall dispose of household garbage or rubbish within any park.

- (i) No person shall camp or stay overnight in any park, except with written permission from the parks and recreation director.
- (j) Except for authorized personnel or agents of the parks and recreation department or law enforcement personnel, no person shall enter any park or remain in any park during the hours the park is closed to the public as set out in section 12-1 above.
- (k) (1) Except as otherwise specifically prohibited by this chapter, dogs, cats, and other pets, excluding horses, livestock and animals not commonly domesticated, are allowed within the parks. All animals are subject to the town animal control ordinance.

(2) Dogs, except service animals, are not permitted, whether on or off leash, within fences and/or other boundaries that identify any developed, improved playing fields in any parks.

(3) Dogs brought within parks, open space, and greenways must be restrained at all times by a leash that is no longer than six (6) feet in length.
- (l) No person shall solicit, peddle or beg within any park, or sell any merchandise or wares. This subsection shall not apply to: (i) any concession franchise granted by the parks and recreation department for a park; or (ii) any solicitation or sale of goods by nonprofit or civic groups, provided that written permission is obtained in advance from the parks and recreation director or the director's designee.
- (m) No person shall carry, possess or use any firearm or other dangerous weapon within any park. This section shall not apply to law enforcement or other government personnel acting within the scope of their employment.
- (n) Except as authorized and permitted by resolution of the town council adopted pursuant to section 3-5 of this Code, no person shall use, consume or possess any alcoholic beverages, beer or wine within any park. No person shall use, consume or possess any narcotic drug or hallucinogen or any other controlled substance within any park without a valid physician's prescription for the substance.
- (o) All persons in any park shall obey all posted regulations, signs and directions.
- (p) No person shall swim or boat in parks except in waters and in areas designated for such purpose or purposes by the parks and recreation department.
- (q) No person shall engage, either verbally or physically, in any loud, disruptive or offensive conduct, or engage in any activity or sport in a manner which threatens the safety or welfare of other patrons of the park, or which unreasonably impairs the public's opportunity to use and enjoy the park.
- (r) All persons using or present in the vicinity of swimming pools or other water areas shall obey oral instructions from pool staff members, posted regulations and notices relating to conduct of patrons, safety requirements, and health and hygiene requirements.

(s) Participants in organized league sports shall obey the special rules and regulations relating to such activities in the park as prescribed by the parks and recreation department.

(t) No person other than parks and recreation department personnel acting within the scope of their employment shall, without the permission of the town, place, maintain or erect any sign, poster, notice or advertising device within any park.

(u) No person, except those persons requiring the use of ~~a seeing-eye dog~~ an assistance animal, as defined in North Carolina State Statute 14-163.1, or receiving written permission from the director of the parks and recreation department, shall bring any animal onto public sidewalks and streets which have been closed by the town council for the purpose of holding street fairs, races, or other community events. All animals are subject to the town animal control ordinance.

(v) Any person shall immediately leave park premises after being requested or directed to leave by the parks and recreation director or the director's designee. The parks and recreation director or director's designee shall make such a request only upon a reasonable belief that the person has violated the provisions of this section. Any person leaving or removed from the park shall not re-enter the park unless he or she obeys all regulations governing use of the park.”

Section 4. This ordinance shall become effective upon enactment.

This the 22nd of June, 2009.