

## CHAPTER 5

### GENERAL OFFENSES

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#### **Section 5-1 Noise Generally.**

No person may authorize or cause to be emitted from any property or source under his control any unreasonably loud noise or any noise that is unreasonably disturbing to persons who (i) if the noise emanates from a source located on private property, are located on other property, or (ii) if the noise emanates from a street or other public property, is located on private property or the street or other public property.

#### **Section 5-2 Particular Noise.**

A. The following are declared to be illustrations of noise prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- 1) The blowing of a horn on any motor vehicle (as defined in Section 6-1 of this code) except when the horn is used as a warning device.
- 2) The operation of any motor vehicle (as defined in Section 6-1 of this code) without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually and unreasonably loud noise.
- 3) The operation of a motor vehicle (as defined in Section 6-1 of this code) so as to create unusually and unreasonably loud noise through the screeching of tires or racing of engines.
- 4) The playing of any radio, television, tape recorder, phonograph or similar electronic devise or any musical instrument so as to disturb substantially the comfort, quiet or repose of persons in any place of residence or so as to interfere

substantially with the operations of any church, school, theatre, library, or other similar place of assembly.

B. The following are declared to be illustrations of noise restrictions under the foregoing section, and are hereby declared to be unlawful when conducted outside of listed time constraints, but this list shall not be exhaustive:

- 1) Construction Noises: The creation of any loud and excessive noise resulting from erection, excavation, demolition, alteration, or repair of any structure or building located on a site that is within 500 feet of an occupied residence other than between the hours of 7 a.m. and 8 p.m., Monday through Saturday, and between the hours of 9 a.m. and 8 p.m. on Sunday, unless such work is entirely within a completely enclosed area so as not to be audible beyond the property line of the lot upon which the work is conducted.
- 2) Powered Equipment Intended for Repetitive use in Residential Areas: Powered equipment, such as lawn mowers, riding tractors, backpack blower, lawn edger, or other mechanical or electrical device, or any hand tool which creates a loud, raucous or impulsive sound that are necessary for the maintenance of property may operate between the hours of 7 a.m. and 8 p.m., Monday through Saturday, and between the hours of 9 a.m. and 8 p.m. on Sunday. The ending time will be extended to 9 p.m. seven days a week during the summer months of June, July and August.

#### Section 5-3 Discharge of Firearms and Air Rifles.

- a) Subject to subsection (b), no person may discharge within the town any firearms, air rifles, air pistol, B-B gun, pellet gun, pump gun or similar weapon.
- b) Subsection (a) shall not apply to private citizens acting in justifiable self defense or pursuant to the lawful directions of a police officer nor to police officers acting in a lawful performance of their duties.

#### Section 5-4 Curfew of Minors.

No minor under the age of sixteen may loiter, wander, stroll, loaf or play upon the streets, roads, alleys, or other public places within the town, or in any vehicle placed or parked thereon, between the hours of 12:00 midnight and sunrise of the following day, unless accompanied by the parent, guardian, or other adult person having the care, custody, or control of the minor.

#### Section 5-5 Reserved

#### Section 5-6 Peddlers, Solicitors and Vendors.

a) Definitions. For the purpose of this ordinance the following terms shall have the meanings respectively ascribed:

(1) Peddler – Any person who transports goods from place to place and sells or offers for sale such goods, or who, without traveling from place to place, sells or offers for sale any goods from any vehicle or device, provided, that any person who separates the acts of sale and delivery for the purpose of evading the provisions of this ordinance shall be deemed a peddler.

(2) Solicitor – Any person who travels from place to place taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advanced.

(3) Transient Vendor – Any person who engages in a temporary business of selling and delivering goods and who, for this purpose, uses or occupies any building or premises; provided, that no person shall be relieved from complying with the provisions of this section merely by conducting a transient business in association with any permanently established merchant.

b) In order to protect the public health, safety and welfare, it shall be unlawful for a peddler, solicitor, or transient vendor, as defined by Section 5-6 subsection (a) of this ordinance, to engage in such business within the Town of McAdenville without first obtaining a permit therefore in compliance with the provisions of this ordinance.

This ordinance does not apply to any McAdenville community oriented, non-profit organization that may sell or offer to sell goods in the Town of McAdenville.

c) Each and every person doing business in the Town of McAdenville as a peddler, solicitor or transient vendor shall file with the town clerk, on a form to be provided for this purpose an application for a permit, which shall contain the following information:

- 1) Name and address of individual filing application;
- 2) Name and address of principal or employer if applicant is an agent or employee;
- 3) Credentials showing relationship of agent or employee;
- 4) Description of applicant including height, weight, sex, age, race and distinguishing characteristics, if any;
- 5) The goods to be sold or offered for sale, or the type of services to be rendered;

- 6) The period of time during which the business will be carried on in the town;
- 7) Description of automobile or other vehicle to be used in the business, including the make, model, body style, color and license number;
- 8) Whether or not the applicant, his principal or employer, or any other person having management or supervision or the applicant's business has been convicted of a crime, the nature of the offense, and the punishment assessed therefore; and
- 9) Such other information as to the identity of the applicant or the nature of his business as the town clerk may deem proper to protect the public health, safety and welfare.

d) Upon receipt of an application, the town clerk shall cause to be made such investigation of the applicant's moral character and business responsibility as is necessary to protect the public health, safety and welfare. If as a result of this investigation, the character and responsibility of the applicant appear to be unsatisfactory, the application shall be denied. If, as a result of this investigation, the character and responsibility of the applicant appear to be satisfactory, the town clerk shall issue a permit providing that the applicant complies with subsection (e) and (g) of this ordinance.

e) Before any permit is issued under this ordinance, the applicant must file with the town clerk a bond, executed in favor of the town by a corporate surety licensed under the laws of North Carolina to execute such bonds, in the amount of \$1,000.00, conditioned that the applicant will for a period of twelve (12) months refund all money paid to the applicant by a purchaser of goods or services if the goods or services are not delivered or provided in accordance with the terms of the contract of purchase, whether such contract be oral or written; and refund all money paid to the applicant by purchaser if the goods or services purchased are not of the kind and quality promised by the applicant in the contract of purchase, whether such contract be oral or written.

f) The town clerk shall, in addition to the permit issued under subsection (e) issue to each successful applicant a badge which shall be substantially in the following form:

Town of McAdenville, N. C.	No. _____
<b>SOLICITOR'S BADGE</b>	
_____ (name) has registered with the town clerk as required by ordinance.	
_____ (date)	
_____ Town Clerk	

During the time the applicant is engaged in the business of a peddler, solicitor, or transient vendor, this badge shall be worn on the front of his outer garment in such manner as to be conspicuous.

g) The town clerk shall charge and collect a fee of twenty-five (\$25.00) dollars in order to recover the administrative costs of processing each application for a permit.

Section 5-7 Posting of Signs on Municipal Property Prohibiting the Carrying of Concealed Weapons.

Chapter 398 of the 1995 Session Laws made changes to the law governing concealed weapons by establishing a system that will allow private citizens to obtain permits to carry concealed handguns. This change will significantly increase the number of individuals who may legally carry concealed handguns. It is necessary to restrict the carrying of concealed handguns on certain town property in order to protect the health and safety of municipal employees and the community at large. N.C.G.S. 14-415.23 authorizes municipalities to adopt ordinances to permit the posting of a prohibition against carrying a concealed handgun, in accordance with N.C.G.S. 14-415.11(c), on local government buildings, their appurtenant premises and parks; and it is the intent of this ordinance to direct the posting of municipal property such that, pursuant to N.C.G.S. 14-415.11(c), the carrying of concealed handguns on the posted premises will constitute a violation of N.C.G.S. Chapter 14, Article 54B. Therefore, be it ordained by the Town of Council of the Town of McAdenville, North Carolina, that:

- 1) Posting of Signs Required.  
The Town Clerk is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within the following municipal property, indicating that carrying a concealed handgun is prohibited therein:
  - a) Town Hall at 129 Main Street, McAdenville
  - b) Municipal Building at Wesleyan Drive, McAdenville

2) Location of Signs.

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

3) Severability; Conflicts of Laws.

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable. All ordinances or parts or ordinances in conflict with this ordinance are hereby repealed.

4) Effective Date.

This ordinance shall be effective on and after December 1, 1995 and adopted this 14<sup>th</sup> day of November, 1995.

Section 5-8 Smoking and Use of Tobacco Products in Municipal Buildings and Vehicles.

1) Definitions.

- a) "Smoking" shall mean the inhaling, exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.
- b) "Using Tobacco Products" shall mean using any form of tobacco that is not combustible, including chewing tobacco, dipping snuff, and inhaling snuff.

2) Smoking and Using Tobacco Products Prohibited in Municipal Buildings.

It shall be unlawful for any person to smoke or use tobacco products in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed or controlled by the Town of McAdenville.

3) Smoking and Use of Tobacco Prohibited in Municipal Vehicles.

It shall be unlawful for any person to smoke or use tobacco products in any vehicle now or hereafter owned or leased by the Town of McAdenville.

4) Penalty.

Violation of this ordinance shall subject the offender to a civil penalty in the amount of \$50.00 to be recovered by the Town. Violators shall be issued a written citation which must be paid to the Town of McAdenville within 48 hours. Violation of this ordinance shall not constitute a misdemeanor or infraction punishable under N.C.G.S. 14-4.

5) Conflict of Laws.

If any portion of this ordinance or the enforcement there of is found to be preempted by state or federal law, such preemption shall not operate to invalidate the rest of the ordinance and the same shall remain in full force and effect. All ordinances or parts of the ordinance in conflict with this ordinance are hereby repealed.

6) Effective Date.

This ordinance shall be effective October 1, 1993.

Section 5-9 Consumption of Alcoholic Beverages.

1) Drinking in Public Places.

No person shall consume, serve, or drink wine, beer, whiskey, or other alcoholic beverages of any kind in the public streets, boulevards, alleys, parks, sidewalks, or public buildings within the Town of McAdenville.

2. Penalty.

Violation of this ordinance shall be a misdemeanor punishable on conviction by cost of Court and a fine not exceeding fifty dollars (\$50.00) or by imprisonment not exceeding thirty (30) days.

3) Effective Date.

This ordinance shall be in full force and effect from and after its adoption.

Sections 5-10 through 5-19 Reserved.

Section 5-20 Penalties and Remedies.

A violation of any of the provisions of this chapter shall constitute a misdemeanor, punishable as provided in N.C.G.S. 14-4.

a) A violation of any of the provisions of this chapter shall also subject the offender to a civil penalty of twenty-five (\$25.00) dollars. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

b) The town may seek to enforce this chapter through any appropriate equitable action.

c) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

d) The town may seek to enforce this chapter by using anyone or a combination of the foregoing remedies.