

FORSYTH COUNTY
BOARD OF COMMISSIONERS

**BRIEFING
DRAFT**

MEETING DATE: AUGUST 31, 2017

AGENDA ITEM NUMBER: 20

**SUBJECT: ORDINANCE AMENDING CHAPTER 15 OF THE FORSYTH COUNTY CODE
ENTITLED "OFFENSES - MISCELLANEOUS"**

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:-

ATTACHMENTS: yes no

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

That Chapter 15 of the Forsyth County Code is hereby amended to read as follows:

Chapter 15 - OFFENSES—MISCELLANEOUS

ARTICLE I. - IN GENERAL

Sec. 15-1. - Loud and disturbing noise.¹

- (a) Subject to the provisions of this section, the ~~creation of any unreasonably loud and disturbing production or emission of~~ noise, ~~in the county is prohibited. Noise of such character, intensity and duration as to be~~ amplified speech, music, or other sounds that disturb or frighten individuals and is detrimental to the health, safety or welfare of any individual ~~and the peace and dignity of the county~~ is prohibited.
- (b) The following acts, among others, are declared to be loud, ~~and~~ disturbing, ~~or frightening~~ noises in violation of this section, but such enumeration shall not be deemed to be exclusive:
- (1) The use of any loud, boisterous or raucous language or shouting so as to ~~annoy~~ frighten or disturb the quiet, comfort or repose of any reasonable person of ordinary sensibilities in the vicinity.
 - (2) 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 if another vehicle is approaching apparently out of control, or if in motion only as a danger signal; the ~~creation production~~ by means of any such signal device of any unreasonably loud, ~~or harsh~~ disturbing, or frightening sound; and the sounding of such device for an unreasonable period of time.
 - (3) The playing of any radio, phonograph, musical instrument, or sound production or amplifying equipment in such manner or with such volume, particularly during hours between 11:00 p.m. and 7:00 a.m., as to ~~annoy~~ frighten or disturb the quiet, comfort or repose of any reasonable person of ordinary sensibilities in any dwelling, hotel or other type of residence in the vicinity.
 - (4) The keeping of any animal which, by causing frequent or long continued noise, shall ~~frighten or~~ disturb the ~~quiet~~ comfort and repose of any reasonable person of ordinary sensibilities in the vicinity.
 - (5) The use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in such manner as to create loud grating, grinding, rattling or other ~~disturbing~~ noise.
- (c) Noise limit. No person shall cause, allow or permit the operating or playing of any radio, tape player or similar device that reproduces or amplifies sound in such a manner as to ~~create produce~~ disturbing or frightening noise at one-hundred (100) feet from the device or vehicle containing that device when the device or vehicle is being operated in or on a public right-of-way or public space.

(Ord. of 11-20-72, § 1; Ord. No. 15-91, §§ 1—3, 11-11-91; Ord. No. 2-96, §§ 1—3, 8-12-96; Ord. No. 3-99, § 1, 4-26-99)

State Law reference— Authority to regulate, restrict or prohibit noise, G.S. § 153A-133.

¹ 15-1, Loud and disturbing noise: An “annoyance” standard drew the fire of the U.S. Supreme Court in *Coates v. City of Cincinnati*, 402 U.S. 611 (1971); it is one thing for a sound to be some loud as to “disturb a reasonable person,” but any given level of sound might “annoy” someone without rising to the level of disturbance. Out of an abundance of caution, consider repealing the term “annoy” from this section.

Sec. 15-1.1. - Penalty for violation.

If any person shall violate this ordinance or chapter or any provision thereof, he shall be guilty of a class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

(Ord. No. 3-95, §§ 1, 2, 7-10-95)

Sec. 15-2. - State of emergency.

- (a) The chairman of the board of county commissioners and the board of county commissioners, or either, shall have the authority to determine and proclaim the existence of a state of emergency, in all or part of the unincorporated area of Forsyth County and to impose necessary prohibitions and restrictions:
- (1) Of movements of people in public places, including imposing a curfew; directing and compelling the voluntary or mandatory evacuation of all or part of the population from any stricken or threatened area within the governing body's jurisdiction; prescribing routes, modes of transportation, and destinations in connection with evacuation; and controlling ingress and egress of an emergency area, and the movement of persons within the area;
 - (2) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;
 - (3) Upon the possession, transportation, sale, purchase, and consumption of intoxicating liquors alcoholic beverages;
 - (4) Upon the possession, transportation, sale, purchase, storage, and use of gasoline, and dangerous weapons and substances, and gasoline and except that this subdivision does not authorize prohibitions or restrictions on lawfully possessed firearms or ammunition. As used in this subdivision, the term "dangerous weapons and substances" has the same meaning as it does under G.S. 14-288.1. As used in this subdivision, the term "firearm" has the same meaning as it does under G.S. 14-409.39(2); and
 - (5) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

A state of emergency shall exist whenever, during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, public safety authorities are unable to maintain public order or afford adequate protection for lives or property, or wherever the occurrence of any such conditions is imminent.

- (b) A proclamation under this section shall take effect immediately upon issuance unless otherwise stated in the proclamation. The chairman or board of commissioners shall immediately report the substance of applicable prohibitions and restrictions to the mass communications media serving Forsyth County, and as soon as practicable shall distribute the full text of any proclamation under this section to the mass communications media serving Forsyth County for general distribution to the public.
- (c) Prohibitions and restrictions imposed by a proclamation shall expire within five (5) days next following their last imposition unless extended or terminated by further proclamation prior to the expiration of said five (5) days. Prohibitions and restrictions may be extended as to time or area, amended, or rescinded by proclamation of the chairman or by the board of commissioners. The chairman or the board of commissioners shall proclaim the termination of any prohibitions and restrictions extended imposed under the authority of this section upon a determination that they are no longer necessary.
- (d) Any person who violates any provision of a proclamation issued under this section shall be guilty of a Class 3 2 misdemeanor and shall be fined not more than five hundred dollars (\$500.00) in accordance with G.S. 14-288.20A.

(Ord. No. 5-78, § 1, 7-17-78; Ord. No. 2-92, § 6, 4-13-92; Ord. No. 3-95, §§ 1, 2, 7-10-95)

State Law reference – G.S. 166A-19.22 and G.S. 166A-19.31.

Sec. 15-3. - Hazardous materials response; financial responsibility.

- (a) *Purpose and authority.* The Winston-Salem/Forsyth County Office of Emergency Management coordinates the response of governmental agencies and the general public to natural, man-made and nuclear disasters. In addition, the office outlines and implements standard emergency response procedures to minimize suffering and property damage caused by said disasters. As a result of such, the office finds it necessary to recover the cost of resources utilized in such effort.
- (b) [*Definitions.* For the purpose of this section:]
- (1) "Having control over" shall mean, but not be limited to, any person using, transferring, storing, or transporting a hazardous material on to the land or into the air or the waters of the county.
 - (2) "Hazardous material" means any substance which, when discharged in any quantity, may present an imminent and substantial danger to the public health or welfare or to the environment.
 - (3) "Hazardous material response" means the sending of equipment, resources, and materials by the county or at the request of the county to abate hazardous materials which endanger the health or safety of persons or the environment.
 - (4) "Person" includes individuals, firms, partnerships, associations, institutions, corporations, local governments, and governmental agencies.
- (c) *Responsibility; fees and charges.*
- (1) The property owner and/or the person exercising or having control over the hazardous materials that created the emergency shall be financially responsible for any expense incurred by the county or a volunteer fire department during the abatement, containment, and control of hazardous materials. The Winston-Salem/Forsyth County Office of Emergency Management, through the county finance department, shall be responsible for billing and collecting from said owner and/or persons all such costs associated with a hazardous materials response by said office.
 - (2) Failure to pay the charges as assessed shall give the county the right to levy a lien upon the land or the premises where the hazardous material response arose and the levy shall be collected in the same manner as unpaid taxes pursuant to authority of N.C.G.S. 153A-140.

(Ord. No. 12-91, §§ 1—3, 9-23-91)

Editor's note— Ord. No. 12-91, §§ 1—3, adopted Sept. 23, 1991, did not specify manner of codification; hence, inclusion of such provisions as § 15-3 has been at the discretion of the editor.

~~Sec. 15-4. — Discharge of firearm, generally.~~

~~It shall be unlawful for any person to discharge a firearm without reasonable regard for the safety of persons or property.~~

~~(Ord. No. 4-96, 9-23-96)~~

~~**Editor's note**— Ord. No. 4-96, adopted Sept. 23, 1996, did not specify manner of codification; hence, such provisions, which pertained to discharge of a firearm, have been designated as §§ 15-4, 15-5.~~

~~**Cross reference**— Penalty provisions, § 15-1.1.~~

State Law reference – G.S. 14-409.40.

Sec. 15-5. - Restrictions regarding discharge of firearms; exceptions.

- (a) *Restrictions.* No person shall, without the written permission of the current owner or lawful occupant of such property, discharge a firearm within three hundred (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 (1) year after its issuance and must be displayed upon the request of any law enforcement officer with authority to enforce this section.
- (b) *Exceptions.* This section shall not be construed as prohibiting discharge of a firearm when used:
- (1) In defense of person or property;
 - (2) To take birds or animals pursuant to Chapter 113, Subchapter IV, Game Laws, of the North Carolina General Statutes;
 - (3) Pursuant to lawful directions of law enforcement officers;
 - ~~(4) By persons lawfully engaged in pest control or the taking of dangerous animals;~~
 - ~~(5) At shooting ranges as authorized and approved pursuant to zoning permit of the unified development ordinances of the Forsyth County Code;~~
 - ~~(6) By members of the armed forces acting in the line of duty; or~~
 - ~~(7) At historic ceremonial or commemoration functions held for such purpose provided in no event shall live ammunition be used or discharged.~~

(Ord. No. 4-96, 9-23-96; Ord. No. 5-96, 9-23-96)

~~Note— See the editor's note following § 15-4.~~

Cross reference— Penalty provisions, § 15-1.1.

State Law reference – G.S. 153A-129.

Secs. 15-6—15-15. - Reserved.

ARTICLE II. - RESERVED^[1]

~~Editor's note— Ord. No. 6-86, § 1, adopted Jan. 13, 1986, repealed Art. II, §§ 15-16—15-19, prohibiting dissemination of obscene material to minors. Prior to repeal, such provisions were derived from an ordinance adopted Jan. 5, 1970, § 1A—C; and a resolution of Jan. 5, 1970. For state law concerning such subject matter, the user is referred to G.S. §§ 14-190.13—14-190.15, et al.~~

Secs. 15-16—15-19. - Reserved.

ARTICLE III. - COUNTY-OWNED PROPERTY^[2]

Editor's note— It should be noted that a resolution adopted by the county on Sept. 11, 1995 provided as follows:

"... as the expression of past policy and practice, and subject to applicable laws, ordinances and Board resolutions, the County Manager is authorized to determine the use and location of County owned, leased or occupied premises, space or real property by and for departments, agencies and offices of the County government and of the General Court of Justice, including use by invitees, members of the public and others of said premises; and to determine the conditions of possession, use and control of the premises or property on behalf of the County. This authority expressly includes, but is not limited to: assignment of

space in County buildings; assignment of parking spaces, and prohibiting the carrying of weapons and/or concealed handguns on County owned, leased or occupied premises."

Sec. 15-20. - Solid waste.

It shall be unlawful for any person to place, discard, dispose, leave or dump any trash, debris, garbage, litter, discarded cans or receptacles, or any waste matter whatsoever upon county-owned property unless it is placed in an authorized and lawfully designated location or container.

(Ord. No. 4-77, § 2, 5-16-77)

State Law reference – G.S. 153A-136.

~~Sec. 15-21. – Pets.~~

~~Pets must be kept on leashes at all times while on county-owned property or under the restraint of a competent person.~~

~~(Ord. No. 4-77, § 2, 5-16-77)~~

Editor's Note – Ord. No. 6-13, entitled, "Running at large prohibited," more thoroughly addresses animals running at large.

Sec. 15-22. - Entry on property.

- (a) It shall be unlawful for any person to trespass upon a golf course owned or operated by the county, ~~that has been posted~~. For the purposes of this section, a person shall be deemed to be trespassing on the golf course if he goes upon the fairways, greens, tees, or sand traps when he is not engaged in golfing activities as a player, caddy, maintenance worker, officer, representative or agent of the county, or is not otherwise engaged in legitimate pursuits relating to or associated with participation in the playing of golf or operation or maintenance of the golf facilities. Nothing herein shall be construed to make unlawful the entry upon a golf course owned or operated by the county when such entry is with the knowledge and approval of authorized employees, representatives, invitees or agents of the county, as for example, galleries attending tournaments or persons accompanying players who are playing golf. It is the purpose of this section to make unlawful the entry upon the golf course by persons who have no legitimate reason for being on the course insofar as the playing of the game of golf is concerned or insofar as the operation and maintenance of the golf course is concerned.
- (b) It shall be unlawful to enter county-owned property or any of its facilities without permission or without payment of applicable fees or charges, if any.

(Ord. No. 4-77, § 2, 5-16-77)

~~Sec. 15-23. – Hunting prohibited.~~

~~Hunting, trapping, molesting or killing of any birds, waterfowl, or game of any kind on county-owned property is prohibited, except where undertaken by county representatives pursuant to conservation management or health purposes.~~

~~(Ord. No. 4-77, § 2, 5-16-77)~~

State Law reference – 14-159.6.

Sec. 15-24. - Damage to plant growth.

Cutting, digging, picking, pulling, removing or damaging in whole or part trees, flowers, or other plants, whether cultivated or wild, or breaking branches from any tree or shrub located on county-owned property is prohibited, except where undertaken by county representatives for growth management and maintenance purposes.

(Ord. No. 4-77, § 2, 5-16-77)

State Law reference – G.S. 14-129.

Sec. 15-25. - Violations.

If any person shall violate a provision of sections 15-20 through 15-24 or any valid regulation pertaining to county-owned property and shall refuse upon request to remedy said violation, said person may be requested to leave the premises and upon the person's failure to do so, he shall be deemed a trespasser and subject to all remedies as provided by law in addition to the remedies for violating this Code or any valid regulation.

(Ord. No. 4-77, § 2, 5-16-77)

Sec. 15-26. - Possession or consumption of alcoholic beverages at county park sites.

- (a) The consumption of malt beverages and unfortified wine and the possession or consumption of any fortified wine, spirituous liquor or mixed beverages, as defined in Chapter 18B of the North Carolina General Statutes, is prohibited at the following County parks or recreation sites, except in areas designated by the county manager or his representative in charge of the premises where consumption, or possession or consumption of those beverages or some of those substances and beverages may be allowed by the county manager during stated hours and subject to such restrictions and conditions as the county manager or his representative may prescribe by regulations adopted: Horizons, Joanie Moser, Union Cross, Old U.S. 421, C.G. Hill, Old Richmond, Wright Courthouse, Walkertown Community Park, Tanglewood Park, Kernersville Lake Park and other county parks or recreation sites owned or occupied by the county. The provisions of this section shall also apply to any alcoholic beverage having less than one-half of one percent (0.005) alcohol by volume, except a violation is punishable as provided in Chapter 1 of the Code.
- (b) Notice of the general prohibition and any regulations allowing possession or consumption which are adopted by the county manager or his authorized representative shall be filed with the clerk to the board and shall be posted in conspicuous locations at the affected park sites. In addition, areas designated where possession or consumption is allowed shall be clearly defined in any regulations.
- (c) The violation of this ordinance and resolution shall constitute a misdemeanor, punishable as provided in G.S. 18-B-102(b).

(Ord. No. 6-83(A), §§ 1, 2, 4, 6-13-83)

- (d) This ordinance and resolution is adopted as authorized by G.S. 18B-300(c), 18B-301(f)(4) and other applicable laws.

(Ord. No. 6-83(A), § 3, 6-13-83; Ord. No. 9-85, § 1, 12-9-85; Ord. No. 4-88, § 1, 3-14-88; Ord. No. 1-90, § 1, 3-26-90; Ord. No. 3-90, § 1, 4-23-90; Ord. No. 6-90, § 1, 5-14-90)

~~Editor's note — Inasmuch as Ord. No. 6-83(A), §§ 1, 2, 4, did not specify manner of codification, such provisions have been included herein as § 15-26 at the discretion of the editor.~~

State Law reference— Authority to regulate the possession and consumption of alcoholic beverages, G.S. §§ 18B-300(~~G c~~), 18B-301(f)(4).

Sec. 15-27. - Weapons on county property.

State Law reference – Statewide uniformity concerning legal carry of concealed handgun; exceptions, G.S. 14-415.23.

- (a) *Prohibited* . No person shall possess or carry, in or on any Forsyth County buildings and their appurtenant premises, or in or on any Forsyth County park or recreational facility, owned, leased as lessee, operated, managed and/or controlled by Forsyth County, openly or concealed about his person, any pistol or gun, bowie knife, dirk, dagger, slung shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, or other deadly weapon of like kind, unless otherwise authorized by law.
- (b) *Concealed handguns*.
- (1) Subject to the provisions of G.S. § 14-415.11(c), no person who has a concealed handgun permit shall carry a concealed handgun in or on any Forsyth County buildings, or their appurtenant premises, now or hereafter owned, leased as lessee, operated, managed, and/or controlled by Forsyth County, where prohibited by posting.
- (2) Unless otherwise prohibited by law, the concealed handgun permittee may, nevertheless, secure his/her handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle while parking in any parking area on property owned, leased as lessee, operated, managed and/or controlled by Forsyth County regardless of whether such parking area is appurtenant to any building or facility in which firearms are prohibited by this section.
- (c) *Park property*. Unless otherwise specifically provided by law, a concealed handgun permittee may possess and carry a concealed handgun in or on the following county park facilities:
- (1) Union Cross Park;
- (2) Kernersville Lake Park;
- (3) Walkertown Community Park;
- (4) Horizons Park;
- (5) C.G. Hill Memorial Park;
- (6) U.S. 421 River Park;
- (7) Joanie Moser Memorial Park;
- (8) Fred Sturmer Memorial Park;
- (9) Tanglewood Park.
- * *Triad Park*. The entrance and recreational facilities of Triad Park are located within Guilford County. Consistent with Guilford County's ordinance, and to provide consistency at Triad Park, unless otherwise provided by law, subject to the provisions of G.S. § 14-415.11(c), no person who has a concealed handgun permit shall carry a concealed handgun in or on any Triad Park recreational facilities and buildings, or their appurtenant premises, where prohibited by posting. The concealed handgun permittee may, nevertheless, secure the handgun in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle.
- (d) *Exemptions* . This section shall not apply to those individuals exempted under G.S. § 14-269, except as otherwise specifically addressed by law.
- (e) *Posting of signs required*. The county manager is hereby ordered to post appropriate signage consistent with the provisions of state law and this section at each county park facility now or hereafter owned, leased as lessee, operated, managed, or controlled by Forsyth County.

- (f) *Location of signs.* Said signs shall be visibly posted on the exterior of each entrance by which the general public can access the building and appurtenant premises. The county manager shall exercise discretion in determining the necessity and appropriate location for other signs posted on the interior of the building and appurtenant premises.
- (g) *Violations .* Any person who possesses or carries a weapon on county property where prohibited shall be punished as provided by state law.

(Ord. No. 2-92, §§ 3, 4, 4-13-92; Ord. No. 3-95, §§ 1, 2, 7-10-95; Ord. No. 1-2012, 2-27-12; Ord. No. 2-2014, 10-14-13)

Sec. 15-28. - Violations and penalties.

If any person shall violate this ordinance or chapter or any provision thereof, he shall be guilty of a class 3 misdemeanor and shall be fined not more than five hundred dollars (\$500.00).

(Ord. No. 2-92, §§ 3, 4, 4-13-92; Ord. No. 3-95, §§ 1, 2, 7-10-95)