

Chapter 13

OFFENSES AND MISCELLANEOUS PROVISIONS*

*Cross reference—General penalty for Code violations, § 1-11.

Sec. 13-1. Noisemaking devices.

(a) The use of noisemaking devices is hereby prohibited within all areas of the town other than those areas classified under the zoning ordinance of the town as rural zones.

(b) The penalty for the violation of this section shall be a fine of not more than twenty-five dollars (\$25.00), and each day on which a violation occurs shall be considered a separate offense. (Ord. of 11-20-72)

State law reference—Municipal noise regulation programs, G.S. § 22a-73.

Sec. 13-2. Loitering.

(a) It shall be unlawful for any person to loiter upon any public or quasipublic property.

(b) For the purposes of this section, the following definitions shall apply:

Loiter shall encompass one (1) or more of the following acts committed on public or quasipublic property within the town:

- a. Obstruction of the free, unhampered passage of pedestrians or vehicles.
- b. Obstructing, annoying or interfering with any person lawfully upon any public or quasipublic property.
- c. Refusing to move on when so requested by a police officer, or other officer having the power of arrest, provided such officer has exercised his discretion reasonably under the circumstances, in order to preserve or promote public peace and order.

Quasipublic property shall include any enclosed or open area of any business property to which the public is invited, including any parking or sidewalk area adjacent thereto.

(c) Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with section 1-11.

(Ord. of 6-15-70, §§ 1—3)

State law reference—Municipal authority to regulate loitering and trespassing, G.S. § 7-148(c)(7)(F).

Sec. 13-3. Littering highways.

(a) *Definitions.* As used in this chapter, the following terms shall have the meanings indicated:

Litter. Any discarded, used or consumed substance or waste material, whether made of aluminum, glass, plastic, rubber, paper or other material or synthetic material or combination thereof, including, but not limited to, any bottle, jar or can or any top, cap or detachable tab of any bottle, jar or can, unlighted cigarette, cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden wastes, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material which has not been deposited in a litter receptacle.

Litter receptacle. A receptacle suitable for the depositing of litter.

Park. Park, reservation, playground, beach, recreation center or any other public area in the town, owned or used by the town and devoted to active or passive recreation.

Private premises. Any dwelling, house, building or other structure, designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place. Any area that is used or is held out for use by the public whether owned or operated by public or private interests.

Town. The Town of Madison.

(b) *Litter in public places; use of public receptacles.* No person shall deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles or in an authorized private receptacle for collection; provided, however, that said public receptacles shall not be used by persons owning or occupying property in the vicinity of said public receptacles for the deposit of domestic or commercial litter arising from the conduct of activities on such property.

(c) *Sweeping litter into streets.* No person shall sweep into or deposit in any gutter, street or other public place within the town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway.

(d) *Sidewalk maintenance.* Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

(e) *Merchants to keep sidewalks free of litter.* No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the town any accumulation of litter, and all persons owning or occupying places of business within the town shall keep the sidewalk in front of their premises free of litter.

(f) *Litter from vehicles.* No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the town or upon private property. The operator of said vehicle shall be deemed, prima facie, to have committed such offense.

(g) *Debris and litter from trucks.* No person shall drive or move any truck or other vehicle within the town unless such vehicle is constructed or loaded as to prevent load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the town, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind, excluding any public road construction.

(h) *Parks.* No person shall throw or deposit litter in any park within the town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

(i) *Bodies of water.* No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the territorial waters of the town.

(j) *Occupied private property.* No person shall throw or deposit litter on any occupied private property within the town, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that the litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(k) *Duty to maintain premises free of litter.* The owner or persons in control of any private premises or public place shall use reasonable efforts to maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in private receptacles for collection.

(l) *Littering on vacant property.* No person shall throw or deposit litter on any open or vacant private property within the town whether owned by such person or not.

(m) *Throwing or distributing handbills.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, utility pole or other public place within the town.

(n) *Handbills on vehicles.* No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

[(o)] *Penalties for offenses.*

- (1) Any person who shall violate provisions of this chapter shall be deemed to have committed an infraction and be subject to a fine of thirty-five dollars (\$35.00).
- (2) Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be fined as such.
- (3) Any owner of a parking area who violates the provisions of this article shall be liable to the town for the reasonable costs and expenses of the town in removing the

litter, and such owner shall also be subject to a fine of not more than one hundred ninety-nine dollars (\$199.00) for each day during which such violation continues.

[(p)] *Enforcement.* The first selectman may appoint and authorize any other person to issue a citation to any person who commits a violation.

[(q)] *Hearing procedure for citations.* The town, acting by its board of selectmen pursuant to article X, section 10.1.1.A of the Town Charter, hereby adopts the provisions of G.S. § 22a-250, which section establishes a hearing procedure for littering violations as set forth in said statute. (Ord. of 5/7/49, §§ 1-5; Ord. of 11-8-10)

State law reference—Littering or dumping prohibited, G.S. § 22a-250.

Sec. 13-4. Discharging liquid substances onto highways.

(a) Between December 1 and April 1 of any year it shall be unlawful for any person to discharge or allow to be discharged upon any public highway within the town any liquid substance, including water and septic tank effluents, in such manner as to create a dangerous and hazardous condition upon the highway.

(b) The superintendent of public works, upon learning of such unlawful discharge, is authorized to issue a cease and desist order to the person responsible for the unlawful discharge. Failure to comply with such order shall constitute an infraction punishable in accordance with section 1-11. (Ord. of 6-21-76, § 2)

Cross reference—Streets and sidewalks, Ch. 19.