

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST TOWN REGULATIONS

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§ 130.01 INTERFERING WITH FIREFIGHTERS OR FIRE APPARATUS.

No person shall forcibly interfere with a firefighter in the discharge of his or her duty, or hinder him or her in the performance of the duty.

(1990 Code, § 130.01) Penalty, see § 130.99

§ 130.02 ASSEMBLY ON SIDEWALKS TO OBSTRUCT PASSAGE PROHIBITED.

The assembling together of persons on the sidewalks or streets of the town for the obstruction of the free passage of persons or vehicles thereon is hereby forbidden, and each individual involved in the assembling or contributing to the obstruction, inconvenience or embarrassment of users of the sidewalks and streets of the town shall be deemed guilty of violating this section.

(1990 Code, § 130.02) Penalty, see § 130.99

§ 130.03 INJURY TO PROPERTY; OBSTRUCTING DRAINS.

It shall be unlawful for any person to willfully injure or deface any schoolhouse, church or other property within the town, or to place any obstruction in any drain or sewer either public or private.

(1990 Code, § 130.03) Penalty, see § 130.99

§ 130.04 [Formally 130.4] [Repealed 4-1-2012]

§ 130.05 DISCHARGE OF FIREARMS.

It shall be unlawful for any person, except a police officer, to shoot or discharge any gun or other firearm within the town, unless it be in defense of his or her person or property, or with the consent of the Town Manager, or cause any explosion of powder, or other explosives.
(1990 Code, § 130.05) Penalty, see § 130.99

§ 130.06 MASKS PROHIBITED IN PUBLIC; EXCEPTIONS.

(A) *Concealing of identity.* It shall be unlawful for any person to appear in the town on or in any street or alley or upon any property other than his or her own premises while wearing a mask, hood or other device whereby the person, face or voice is disguised so as to conceal the identity of the wearer, except as provided in division (B) below.

(B) *Exceptions.* Division (A) above shall not apply to the following:

(1) Children under the age of 12;

(2) Workers while engaged in a work wherein a covering is worn for physical safety and protection against occupational hazards or because of the nature of his or her occupation, trade or profession;

(3) Persons while engaged in theatrical productions or masquerade balls; and

(4) Persons while wearing gas masks prescribed in civil defense drills and exercises, or by authorized persons in emergencies.

(C) *Trick or treat visitations limited.*

(1) It shall be unlawful for any person to appear on or in any public street or alley of the town or upon any property other than his or her own premises for the purpose of making trick or treat visitations, except as provided in this division.

(2) Division (C)(1) above shall not apply to children 12 years of age and under before the hour of 8:00 p.m. on each Halloween night in the residential areas of the town.

(D) *Responsibility of parent or guardian.* It shall be unlawful for any parent, guardian or other person standing in loco parentis to knowingly permit any minor child or ward in his or her care and custody to violate the provisions of this section.

(1990 Code, § 130.06) (Ord. passed 8-14-1973) Penalty, see § 130.99

§ 130.07 LOITERING PROHIBITED; ENGAGING IN DRUG RELATED ACTIVITIES.

(A) No loitering shall be allowed on the 100 block of Southeast Railroad Street between 7:00 p.m. and 5:00 a.m., Monday through Sunday.

(B) Loitering for the purpose of engaging in drug related activities.

(1) *Definitions.* For the purposes of this division, **PUBLIC PLACE** means any area generally accessible to the public for common usage and access, including any street, sidewalk, bridge, alley or alleyway, plaza, park, playground, driveway, parking lot or transportation facility, the doorways and entrance ways, stairway, hall, courtyard, passage way or common areas to any building which fronts on any of those places, or a motor vehicle in or on any of those places, or any property owned by the town.

(2) *Unlawful.* It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the intent to engage in a violation of any subdivision of the North Carolina Controlled Substances Act, G. S. Chapter 90, Article 5. When done with the intent of violation of the aforementioned statutes, the circumstances shall include:

(a) Repeatedly beckoning to, stopping or attempting to stop passers by, or repeatedly attempting to engage passers by in conversation;

(b) Repeatedly stopping or attempting to stop motor vehicles;

(c) Repeatedly interfering with the free passage of other persons; or

(d) The person repeatedly passes to or receives from passers by, whether on foot or in vehicle, or by courier, money or objects.

(1990 Code, § 130.07) (Ord. passed 7-17-1990; Ord. passed 11-14-1995) Penalty, see § 130.99

§ 130.08 YOUTH PROTECTION AND CURFEW.

(A) The purpose of this section is to protect juveniles from victimization and exposure to criminal activity by establishing a curfew for juveniles 17 years of age and younger in the town. This section is intended to reinforce and promote the role of the parent in raising and guiding children, and promote the health, safety and welfare of both juveniles and adults by creating an environment offering better protection and security for all concerned.

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

1. DIRECT ROUTE. The shortest reasonable path of travel or a commonly used route to reach a final destination without any detour or unnecessary stop along the way.

2. EMERGENCY. An unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster and automobile accident, or any situation requiring immediate action to prevent serious bodily injury or death. This term also shall include any action that is reasonably necessary in order to respond to the medical needs of a family member of the juvenile regardless of whether the juvenile's action is taken in order to prevent death or serious bodily injury.

3. ESTABLISHMENT. Any privately owned place of business operated for profit to which the public has access or is invited including but not limited to any place of amusement or entertainment.

4. GUARDIAN. A person who is appointed by a court to be responsible for a juvenile.

5. JUVENILE. Any person 17 years of age or younger.

6. OWNER/OPERATOR. Any individual, firm, association, partnership or corporation, operating, managing or conducting any establishment, including the employees, members or partners of an association or partnership, and the officers of a corporation.

7. PARENT. A person who is a natural parent, adoptive parent, foster parent or step-parent of another person, or a person to whom legal custody has been given by court order.

8. PUBLIC PLACE. Any place that is generally open to and used by the public or a substantial group of the public, whether it be publicly or privately owned, including but not limited to: streets, sidewalks, highways, alleys, rights-of-way, public vehicular areas and parking lots, transportation facilities, theaters, restaurants, shops, bowling alleys, schools and school grounds, places of business and amusement, playgrounds, parks,

similar areas that are open to the public and other common areas open to or accessible to the public.

9. REMAIN. To linger or stay in a public place, or to fail to leave the premises when requested to do so by a police officer, or to fail to leave the premises of an establishment when requested to do so by the owner/operator or employee of the premises.

10. RESTRICTED HOURS. The time of night referred to herein is based upon the prevailing standard of time, whether Eastern Standard Time or Eastern Daylight Savings Time, generally observed at that hour by the public in the town. Restricted hours shall mean:

(a) For any child under 13 years of age, between the hours of 10:00 p.m. and 6:00 a.m. on any day of the week;

(b) For any child 13, 14, 15, 16, or 17 years of age, between the hours of 11:00 p.m. and 6:00 a.m. on any day of the week.

(C) *Offenses.* Except as provided by division (D) below, the following offenses constitute a violation of this section:

(1) A juvenile commits an offense by being present in or remaining in any public place or on the premises of any establishment within the town during the restricted hours;

(2) A parent or guardian of a juvenile commits an offense if he or she knowingly permits, or by insufficient control, allows the juvenile to remain in any public place or on the premises of any establishment within the town during the restricted hours. The term knowingly includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was completely indifferent to the activities or conduct or whereabouts of the juvenile;

(3) The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a juvenile to remain upon the premises of the establishment during the restricted hours. The term knowingly includes knowledge that an operator or employer should reasonably be expected to have concerning the patrons of an establishment. The standard for knowingly shall be applied through an objective test: whether a reasonable person in the operator's or employee's position should have known that the patron was a juvenile in violation of this section;

(4) It shall be a violation of this section for any person 18 years of age or older to aid or abet a juvenile in the violation of division (C)(1) above; and

(5) It shall be a violation of this section for a parent or guardian to refuse to take custody during the restricted hours of a juvenile for whom the parent or guardian is responsible.

(D) *Exceptions.* A juvenile who is in a public place or establishment during the restricted hours shall not be in violation of this section if the juvenile is:

(1) Accompanied by his or her parent or guardian;

(2) Accompanied by an adult 18 years of age or older authorized by the parent or guardian of the juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area; authorization shall be in written form and notarized. It shall state the date, time and place the authorization is valid. Separate authorization is required for each period.

(3) On an errand, using a direct route, at the direction of the juvenile's parent or guardian;

(4) In a motor vehicle with parental consent engaged in interstate travel through the town or

originating or terminating in the town;

(5) Traveling in a motor vehicle with a parent or guardian, or traveling in a motor vehicle with an adult 18 years of age or older authorized by the parent or guardian of the juvenile to take the parent or guardian's place in accompanying the juvenile for a designated period of time and purpose within a specified area;

(6) Engaged in a lawful employment activity, or using a direct route going to or coming from the juvenile's place of lawful employment;

(7) Reacting or responding to an emergency;

(8) Attending or traveling to or from, by direct route, an official school, religious or recreational activity that is supervised by adults and sponsored by a public or private school, town or other governmental entity, a civic organization or another similar entity that accepts responsibility for the juvenile;

(9) Exercising First Amendment rights protected by the United States Constitution such as the free exercise of religion, freedom of speech and the right of assembly;

(10) Married or emancipated;

(11) When authorized, by special permit from the Chief of Police or his or her designee, carried on the person of the juvenile thus authorized, as follows: when necessary nighttime activities of a juvenile may be inadequately provided for by other provisions of this section, then recourse may be had to the Chief of Police, or his or her designee, either for a regulation as provided in division (D)(12) below or for a special permit as the circumstances warrant. Upon the findings of reasonable necessity for the use of a public place to the extent warranted by a written application signed by a juvenile, and by a parent of the juvenile, if feasible, stating the name, age and address of the juvenile, the name, address and telephone number of a parent thereof, the height, weight, sex, color of eyes and hair and other physical characteristics of the juvenile, the necessity that requires the juvenile to remain upon a public place during the restricted hours otherwise applicable, the public place and the beginning and ending of the period of time involved by date and hour, the Chief of Police or his or her designee may grant a permit in writing for the juvenile's use of a public place at the hours as in the opinion of the Chief of Police may reasonably be necessary and consistent with the purposes of this section; and

(12) When authorized by regulation issued by the Chief of Police or his or her designee in other similar cases of reasonable necessity, similarly handled as set forth in division (D)(11) above but adapted to reasonably necessary nighttime activities of more juveniles than can readily be dealt with on an individual special permit basis. Normally the regulation by the Chief of Police or his or her designee permitting use of public places should be issued sufficiently in advance to permit appropriate publicity through news media and through other agencies such as the schools, and shall define the activity, the scope of the use of the public places permitted, the period of time involved not to extend more than one hour beyond the time for termination of the activity and the reason for finding that the regulations reasonably necessary and is consistent with the purposes of this section.

(E) *Defense.* It is a defense to prosecution under division (C)(3) above that the owner, operator or employee of an establishment promptly notified the Police Department that a juvenile was present on the premises of the establishment during the restricted hours and refused to leave.

(F) *Enforcement.*

(1) Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place or establishment during restricted hours.

(2) The officer shall not prepare a juvenile arrest report, issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, not exception or defense in divisions (D) or (E) above is present.

(G) *Penalty.* Any violation of this section shall be punishable under Town of Benson Ordinance § 130.99. (1990 Code, § 130.08) (Ord. passed 8-8-1995) (Ord. passed 8-2007) (Ord. passed- 8-11-2009) (2000) (2008) (Revised and Amended 04-10-2012)

§ 130.09 POSTING OF SIGNS PROHIBITING THE CARRYING OF CONCEALED WEAPONS.

(A) *Posting of signs required.* The Town Manager is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to the buildings, indicating that carrying a concealed weapon is prohibited therein.

(B) *Location of signs.* Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Town Manager shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks. (1990 Code, § 130.09) (Ord. passed 11-14-1995)

§ 130.10 CIVIL PENALTY FOR RECURRING FALSE FIRE AND BURGLAR ALARMS.

The purpose of this section is to encourage alarm users to assume increased responsibility for maintaining the mechanical reliability and proper use of alarm systems, to prevent unnecessary police and fire emergency response to false alarms and thereby protect the emergency response capabilities of the Town of Benson from misuse.

(A) Each commercial and industrial establishment in the Town of Benson shall be allowed a total of three free false fire alarms per fiscal year (July 1 to June 30). In the event there is a fourth false fire alarm for a commercial and industrial establishment within a fiscal year, a civil citation will be issued in the amount of \$100. For each subsequent false alarm within the fiscal year, the civil citation will increase in \$25 increments.

(B) For those private residences that are equipped with a burglar alarm systems, five free false burglar alarms will be allowed in the Town of Benson per fiscal year. For the sixth false burglar alarm, a civil citation in the amount \$25 will be issued and for each subsequent false alarm within the fiscal year, the civil citation will increase in \$25 increments.

(C) For commercial and industrial establishments that are equipped with burglar alarm systems, five free burglar alarms will be allowed in the Town of Benson per fiscal year. For the sixth false burglar alarm, a civil citation in the amount \$25 will be issued and for each subsequent false alarm within the fiscal year, the civil citation will increase in \$25 increments.

(D) The Fire and Police Chiefs, respectively, have the responsibility and authority to monitor alarm activations and cause to be issued the appropriate civil citations, as necessary. The Fire Chief is the final authority for issuing or forgiving fines for false fire alarms, while the Police Chief is the final authority for issuing or forgiving fines for false burglar alarms. (Ord. passed 2-10-2004)

§ 130.11 BEGGING, PANHANDLING, OR SOLICITING CONTRIBUTIONS.

(a) Definitions:

(1) To *beg, panhandle, or solicit contributions*, shall be defined to include, without limitation, the spoken, written, or printed word or such other acts as are conducted in furtherance of the purpose of obtaining contributions;

(2) *Accosting another person*, shall be defined as approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act or damage to property in his immediate possession;

(3) *Intimidate another person*, shall be defined as acting in such a way as would cause a reasonable person to fear bodily harm and therefore to do something he or she would not otherwise have done;

(4) *Forcing oneself upon the company of another person*, shall be defined as:

- (i) Continuing to request or solicit contributions in close proximity to the person addressed after that person has responded negatively;
- (ii) Blocking the passage of the person addressed; or
- (iii) Otherwise engaging in conduct which reasonably could be understood as intended to force a person to accede to demands.

(5) *Public place*, shall be defined to include streets, highways, and roadways (including the shoulders and medians), sidewalks, alleys, and other public property, as well as townowned and town-controlled property and private property open to the public unless permission to solicit has been obtained from the town or from the property owner or other person in authority.

(6) *Vocal appeal*, shall be defined as begging, panhandling, or solicitation of contributions by spoken word or other verbal request. This shall not include the act of performing music with a sign or other indication that a contribution is being sought, without any vocal request other than in response to an inquiry.

(7) *Direct written appeal*, shall be defined as begging, panhandling, or solicitation by handing to a person or attempting to hand to a person a written solicitation for immediate contributions.

(b) No person shall beg, panhandle, or solicit contributions in a public place in a manner so as to intimidate another person or by accosting another person, or by forcing oneself upon the company of another person.

(c) No person shall beg, panhandle, or solicit contributions from another person within twenty (20) feet of an entrance or exit of any bank or financial institution or within twenty (20) feet of any automated teller machine.

(d) No person shall beg, panhandle, or solicit contributions from another person within twenty (20) feet of an entrance or exit of any grocery store, convenience store, or an eating establishment.

(e) No person shall beg, panhandle, or solicit contributions while sitting or standing on a roadway or the shoulder or median of a roadway.

(f) No person shall beg, panhandle, or solicit contributions in a public place by vocal appeal or direct written appeal.

(g) Violation of this section shall constitute a misdemeanor and shall subject the violator to a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than seven (7) days.

(h) Exceptions. Benson Town Ordinance 130.11 shall not prohibit licensed vendors from lawfully operating as per Benson Town Ordinance(s). During Annual Mule Days Celebrations in September, licensed vendors shall be exempted from Ordinance 130.11. Ordinance 130.11 does not prohibit churches, non-profit organizations, or other chartable or civic organizations from conducting fundraisers, soliciting membership, or soliciting contributions at any time. Individuals other than churches, non-profit organizations, or other chartable or civic organizations shall obtain either: 1. the prior approval, in writing, of the landowner upon whose property said individual intends to undertake any solicitation or vending OR 2. The prior approval, in writing, of the Benson Chief of Police.
(Ord. passed 5-25-2010)

§ 130.99 PENALTY.

(A) *General.* Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) *Curfew.* Any parent, guardian or person having the legal custody of a minor, which minor violates any provision of § 130.04(A), shall be punished as set forth in § 10.99. In addition, any minor violating any provision of § 130.04(A), may be referred to Juvenile Court.
(1990 Code, § 130.04)

(C) *Loitering prohibited; engaging in drug related activities.* A violation of § 130.07 by any person is a misdemeanor and shall subject its offender to a fine of up to \$50 and/or imprisonment for up to 30 days.
(1990 Code, § 130.07) (Ord. 7-17-1990; Ord. passed 11-14-1995)

(D) *Youth protection and Curfew.*

(1) A juvenile who violates any provision of this section is subject to being an adjudicated delinquent. The court may, in its discretion, impose any dispositional alternative(s) that are provided in the North Carolina Juvenile Code for any juvenile who is delinquent.

(2) Any person other than a juvenile who violates any provision of this section shall be guilty of a misdemeanor and shall be subject to a fine not to exceed \$100, and imprisonment in the discretion of the court in accordance with G.S. § 14-4.
(1990 Code, § 130.08) (Ord. passed 8-8-1995; Ord. passed --) (Ordinance amended 4-10-2012)