

## CHAPTER 90: JUNKED OR ABANDONED MOTOR VEHICLES

### 90.01 Definitions

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**ABANDONED VEHICLE.** As authorized and defined in G.S. § 160A-303, an abandoned vehicle is one that is left:

- (1) Upon a public street or highway in violation of a law or ordinance prohibiting parking.
- (2) On property owned or operated by the Town, for longer than 24 hours.
- (3) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.
- (4) On a public street or highway, and is either:
  - a. Left for longer than seven days; or
  - b. Determined by law enforcement to be a hazard to the motoring public.

**AUTHORIZING OFFICIAL.** The supervisory employee of the Police Department or the Code Enforcement Officer, respectively, designated to authorize the removal of vehicles under the provisions of this chapter.

**ENCLOSED AREA.** An area shall be deemed an enclosed area when surrounded by a fence, wall or other structure that is at least seven feet tall measured from the ground, is constructed of an opaque material, and surrounds the area on all sides, such that abandoned or junked vehicles behind the said fence, wall or other structure are not visible from the public right of way or other private or public property.

**ENCLOSED STRUCTURE.** A garage or building structure erected pursuant to the lawful issuance of a building permit, constructed in accordance with all applicable zoning and building code regulations and which provides a complete enclosure such that abandoned or junked vehicles are not visible from the public right of way or other private or public property.

**HIGHWAY.** Defined, pursuant to G.S. § 20-4.01(13), as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms “highway,” “street,” “road” and other cognates are included within the foregoing definition.

**JUNKED MOTOR VEHICLE.** As defined by G.S. § 160A-303.2, a vehicle which does not display a current license plate and that:

- (1) Is partially dismantled or wrecked;

- (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move;
- (3) Is more than five years old and appears to be worth less than \$500.00.

***MOTOR VEHICLE*** or ***VEHICLE***. Any machine designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

***NUISANCE VEHICLE***. A vehicle on public or private property that is determined and declared to be a safety hazard, a public nuisance and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor'
- (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food or animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which is a place in which debris, bottles or other solid waste is discarded and is present within the vehicle;
- (9) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; and/or
- (10) Any vehicle specifically declared a health and safety hazard and a public health nuisance by the Macon County Department of Health.

## **90.02 Administration**

The Police Department and Town Code Enforcement Officer shall be responsible for the administration and enforcement of this chapter. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the Town, and on property owned by the Town. The Code Enforcement Officer shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Town Police Department or Fire Department in enforcing other laws or in otherwise carrying out their duties.

## **90.03 Vehicles Exempt**

Nothing in this chapter shall apply to any vehicle which is:

- (A) Located in a bona fide automobile graveyard or junk yard as defined in N.C.G.S. § 136-143, in accordance with the Junk Yard Control Act, the same being N.C.G.S. §§ 136-141 *et seq.*, and in compliance with applicable zoning standards;
- (B) In an enclosed building;
- (C) Within either:
  - a. An enclosed area on private property; or
  - b. An enclosed area in the rear or side yard of the place of business of an automobile repair business properly licensed pursuant to §110 (privilege license taxes) of this code; provided
    - i. The vehicle is being kept pursuant to the operation of that business, provided that this exception shall expire after a vehicle has been on the property for a period of 180 days; and further,
    - ii. The movement of a vehicle from the enclosed area to an unenclosed area at the same location shall not be considered removal of the vehicle from the enclosed area;
- (D) In an appropriate storage place or depository maintained in a lawful place and manner by the Town; or
- (E) Covered with a fitted car cover designed for that vehicle and parked on property so that the vehicle cannot be seen from a public street or abutting property.

#### **90.04 Abandoned Vehicles Prohibited; Removal Authorized**

- (A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to cause or allow the vehicle to be abandoned as the term is defined in section §90.01 above.
- (B) Upon investigation, proper authorizing officials of the Town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

#### **90.05 Nuisance Vehicles Prohibited**

- (A) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (B) Upon investigation, the Code Enforcement Officer may determine and declare that a vehicle is a health and/or safety hazard and a nuisance vehicle as defined above and order the vehicle removed.

#### **90.06 Junked Motor Vehicles Regulated; Removal Authorized**

- (A) It shall be unlawful for the registered owner or person entitled to possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(B) The Code Enforcement Officer may order the removal of a junked motor vehicle, as defined in this chapter after finding, in writing, that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. The finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community;  
and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

#### **90.07 Removal of Vehicles In Violation; Towing Notice Requirements**

- (A) Except as set forth in §90.08 below, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the names and addresses to which it was mailed, and the date mailed. If the names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Town on a specified date, but no sooner than seven days after the notice is affixed. Whether notice is by first class mail or by posting as provided above, the notice shall state that the vehicle will be removed by the Town on a specified date, not sooner than seven days after the notice is affixed or mailed, unless the vehicle is removed by the owner or legal possessor prior to that time.
- (B) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned or is a nuisance vehicle, or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, the appeal shall be made to the Town Manager in writing, who shall set a time for the appeal and hear it within a reasonable amount of time, not less than ten nor more than thirty days after receiving the request for the appeal. Further proceedings to

remove the vehicle shall be stayed until the appeal is heard and decided. The decision of the Town Manager shall be appealable to District Court.

(C) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform the services for the Town. Whenever a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, and the notice shall include the following:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle;  
and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(D) The Town shall attempt to give notice to the vehicle owner by telephone. However, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (C)(1) through (C) (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or the owner's agent.

(E) If the vehicle is registered in the state of North Carolina, notice shall be given within 24 hours. If the vehicle is not registered in the state of North Carolina, notice shall be given to the registered owner within 72 hours form the removal of the vehicle.

(F) Whenever an abandoned, nuisance or junked motor vehicle is removed, and the vehicle has no valid registration or registration plates, the authorizing town official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify the owner of the information set forth in subsections (C)(1) through (C) (5) above.

#### **90.08 Exceptions to Prior Notice Requirement**

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare.

(B) The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying removal of vehicles without prior notice include:

- (1) Vehicles abandoned on the public streets and highways, for which the Board hereby determines that immediate removal of the same may be warranted when they are:
  - (a) Obstructing traffic;
  - (b) Parked in violation of an ordinance prohibiting or restricting parking;
  - (c) Parked in a no stopping or standing zone;
  - (d) Parked in a loading zone;
  - (e) Parked in a bus zone; or
  - (f) Parked in violation of temporary parking restrictions imposed under Chapter 73 of this code.
  
- (2) Other abandoned or nuisance vehicles, and with respect to abandoned or nuisance vehicles left on Town-owned property other than the streets and highways, and on private property, the vehicles may be removed without giving prior notice only in those circumstances where the authorizing town official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner so as to pose a traffic hazard, and vehicles causing damage to public or private property.

#### **90.09 Right to Probable Cause Hearing Before Sale or Final Disposition of Vehicle**

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive the hearing requests. The magistrate will set the hearing within 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. §20-219.11.

#### **90.10 Redemption of Vehicle During Proceedings**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of the fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this chapter.

#### **90.11 Sale and Disposition of Unclaimed Vehicle**

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of the vehicle shall be carried out in coordination with the Town and in accordance with G.S. §§44A-1 *et seq.*

#### **90.12 Conditions on Removal of Vehicles from Private Property**

As a general policy, the Town will not remove a vehicle from private property if the owner, occupant or lessee of the property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the Town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Code Enforcement Officer. The Town may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the Town against any loss, expense or liability incurred because of the removal, storage or sale thereof. The Town will not remove or dispose of any motor vehicle that is used on a regular basis for business or personal use.

#### **90.13 Protection Against Criminal of Civil Liability**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of the vehicle as provided in this chapter.

#### **90.14 Unlawful Removal of Impounded Vehicle**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

#### **90.15 Effective Date**

Pursuant to §30.20 of this code, this ordinance shall come into effect on, and shall be effective from, February 1, 2013.