

## **CHAPTER 101: ABANDONED, JUNKED, AND NUISANCE VEHICLES**

### **§ 101.01 ADMINISTRATION.**

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

### **§ 101.02 DEFINITIONS.**

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

**ABANDONED VEHICLE.** A motor vehicle that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on property owned or operated by the city for longer than 24 hours;
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public.

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

**JUNKED VEHICLE.** A motor vehicle that 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; or
- (3) Is more than five years old and appears to be worth less than \$500.

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

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

- (1) A breeding ground or harbor for mosquitos, other insects, rats, or other pests;

- (2) A point of heavy growth of weeds or other noxious vegetation over 12 inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible material or objects of a like nature;
- (5) One which has parts thereof which may fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside;
- (6) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked, or jacked vehicles;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the City Council.

**STRUCTURE.** A building which is either a lawful, nonconforming use, or a building erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and NC State Building Code regulations.

**VEHICLE COVER.** A product specifically designed by the manufacturer for the purpose of covering vehicles. Covering material shall be non-transparent and tight fitting to the contour of the vehicle.

### **§ 101.03 ABANDONED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.**

- (A) Upon investigation, proper officials of the city may determine that a vehicle is an abandoned vehicle and order the vehicle removed.
- (B) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to cause or allow such vehicle to be abandoned.

### **§ 101.04 NUISANCE VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.**

- (A) Upon investigation, the Code Enforcement Officer of the city may determine and declare that a vehicle is a nuisance vehicle as defined herein and order the vehicle removed.
- (B) It shall be unlawful for the register 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.

## **§ 101.05 JUNKED VEHICLE UNLAWFUL; REMOVAL AUTHORIZED.**

- (A) Upon investigation, the Code Enforcement Officer of the city may determine and declare that a vehicle is a junked vehicle and order the vehicle removed after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such 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;
  - (5) Promotion of the comfort, happiness, and emotional stability of area residents; or
  - (6) Any other factor which is relevant to make this determination.
- (B) It shall be unlawful for the register 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 the vehicle has been declared a junked vehicle and has been ordered removed.
- (C) It shall be unlawful for any owner, person entitled to the possession of a junked vehicle, or for the owner, lessee or occupant of the real property upon which a junked vehicle is located to fail to comply with the following location and concealment requirements.
- (1) A single junked vehicle, in its entirety, can be located in the rear yard if the vehicle is entirely concealed from public view from public streets or from abutting premises by an acceptable vehicle cover, as the term is defined herein. The Code Enforcement Officer has the authority to determine whether any junked vehicle is adequately concealed as required by this provision. The vehicle covering must remain in good repair and must not be allowed to deteriorate.
  - (2) One or more junked vehicles can be located within a structure, as defined herein, that provides a complete enclosure so that the vehicle(s) cannot be seen from a public street or from abutting premises.

## **§ 101.06 REMOVAL; PRE-TOWING NOTICE REQUIREMENTS.**

- (A) Except as set forth in § 101.07, 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 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 or personal delivery. The person who mails the notice(s) shall retain a written record to show the name(s) and addresses(es) to which mailed, and the date mailed. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is mailed or personal delivered, unless the vehicle is moved by the owner or legal possessor prior to that time. Service shall be deemed sufficient if the first class mail is not returned by the post office within ten (10) calendar days after the mailing.

If the names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(B) With respect to abandoned vehicles on private property, nuisance vehicles and junked 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, a nuisance vehicle or in the case of a junked vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, he or she may submit a written request of appeal to the Director of the Inspections and Codes Department before the seven day period has expired. The appeal shall be heard by the City Manager within 30 days of the appeal and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

#### **§ 101.07 EXCEPTIONS TO PRE-TOWING NOTICE REQUIREMENTS.**

(A) The requirement that notice be given prior to the removal of an abandoned, nuisance or junked 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. The findings shall, in all cases, be entered by the authorizing official in the appropriate daily records.

(B) Circumstances justifying the removal of vehicles without prior notice includes:

(1) *Vehicles abandoned on streets.* For vehicles left on the public streets and highways, the City Council hereby determines the immediate removal of the vehicles 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 loading zones;
- (e) Parked in bus zones; or
- (f) Parked in violation of temporary parking restrictions imposed under code sections.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city 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 official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and of limitation, the circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in a location or manner as to pose a traffic hazard and vehicles causing damage to public or private property.

#### **§ 101.08 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.**

(A) Any abandoned, nuisance or junked vehicle which has been ordered removed may, as directed by the city, be removed to a storage garage or area by the tow truck operator or towing business contracting to

perform the services for the city. Whenever a vehicle is removed, the authorizing official shall immediately notify the last known registered owner of the vehicle, 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.

(B) The city 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 divisions (A)(1) through (A)(5) above, shall also be mailed to the register owner's last known address, unless this notice is waived in writing by the vehicle owner or his or her agent.

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

(D) Whenever an abandoned, nuisance or junked vehicle is removed, and the vehicle has not valid registration or registration plates, the authorizing official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in divisions (A)(1) through (A)(5) above.

#### **§ 101.09 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.**

After the removal of an abandoned, nuisance or junked vehicle, the owner or other person entitled to possession is entitled to a hearing for the purposes of determining if probably 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 request. 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 the applicable state general statutes.

#### **§ 101.10 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.

### **§ 101.11 SALE AND DISPOSITION OF UNCLAIMED VEHICLE.**

Any abandoned, nuisance or junked 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 a vehicle shall be carried out in coordination with the city and in accordance with G.S. 44A-1 et seq.

### **§ 101.12 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.**

As a general policy, the city 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 city from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance or junked vehicle which has been ordered removed by the Code Enforcement Officer. The city may require any person requesting the removal of an abandoned, nuisance or junked vehicle from private property to indemnify the city against any loss, expense or liability incurred of the removal, storage or sale thereof.

### **§ 101.13 PROTECTION AGAINST CRIMINAL OR 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 vehicle, for disposing of the vehicle, as provided in this chapter.

### **§ 101.14 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 city, any vehicle which has been impounded pursuant to the provisions of this chapter unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

### **§ 101.15 EXCEPTIONS.**

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

- (1) Located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq;
- (2) In an enclosed building;
- (3) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (4) In an appropriate storage place or depository maintained in a lawful place and manner as permitted by the city.