

AMEND ARTICLE II. ABANDONED OR JUNKED MOTOR VEHICLES:

Delete existing code as written in Section 10-8 through 10-15 of the existing Town Code and replace with:

10-8 Definitions.

For the purpose of this article, 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 MOTOR VEHICLE** is one that is left:

- (1) Upon a public street or highway in violations of a law or ordinance prohibiting parking;
- (2) On a public street or highway for longer than seven days;
- (3) On property owned or operated by the town for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

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 STRUCTURE. A garage or building structure erected pursuant to the lawful issuance of a building permit, constructed in accordance with all zoning and building code regulations and which provides a complete enclosure so that the junked motor vehicles cannot be seen from a public street or abutting property.

JUNKED MOTOR VEHICLE. As authorized and defined in G.S. 160A-303.2, means a 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. Any machine designed or intended to travel over land 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 health or 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 waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; and/or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board.

10-9 ADMINISTRATION.

The Police Department and Town Code Enforcement Officer shall be responsible for the administration and enforcement of this article. 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 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 article and applicable state laws. Nothing in this article shall be construed to limit the legal authority or powers of officers of the Town Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

10-10 VEHICLES EXEMPT

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

- (A) Located in a bona fide automobile graveyard or junk yard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, the same being G.S. 136-141.

- (B) In an enclosed building;
- (C) Within an enclosed area in the rear or side yard of the place of business of an automobile repair business property established, and the vehicle is being kept pursuant to the operation of that business.
 - (1) For purposes of this provision, an area shall be deemed enclosed when surrounded by a fence, wall or other structures that is at least seven feet tall measured from the ground, is constructed of an opaque material, and surrounds the area on all sides. A gate providing entry to the area may be provided if constructed of similar material and kept closed during non-business hours.
 - (2) Notwithstanding the requirements of this section, this exception shall expire after a vehicle has been on the property for a period of 180 days, and further, 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.
- (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.

10-11 ABANDONED VEHICLES PROHIBITED; REMOVAL AUTHORIZED.

- (A) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned as the term is defined in 10-8.
- (B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

10-11.1 NUSANCE VEHICLES PROHIBITED; REMOVAL AUTHORIZED

- (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 or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

10-11.2 JUNKED MOTOR VEHICLES REGULATED; REMOVAL AUTHORIZED.

- (A) It shall be unlawful for the registered owner or person entitled to the 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 Office may order the removal of a junked motor vehicle, as defined in this article 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.
- a. Protection of property values;
 - b. Promotion of tourism and other economic development opportunities;
 - c. Indirect protection of public health and safety;
 - d. Preservation of the character and integrity of the community; and
 - e. Promotion of the comfort, happiness and emotional stability of area residents.

(Penalty, see section 1-6)

10-12 REMOVAL OF VEHICLES IN VIOLATION; TOWING NOTICE REQUIREMENT.

- (A) Except as set forth in 10-13, 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 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. 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 moved 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, 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 Board in writing, heard at the next regularly scheduled meeting of the Board, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (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:
 - a. The description of the removed vehicle;
 - b. The location where the vehicle is stored
 - c. The violation with which the owner is charged, if any;
 - d. The procedure the owner must follow to redeem the vehicle; and
 - e. 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 divisions (C) (a) through (C) (e) above, shall also be mailed to the registered owner's last known address, unless the notice is waived in writing by the vehicle owner or the owner's agent.
- (E) 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.
- (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 division (C) (a) through (C) (e)

10-13 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 the removal 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 Loading zones;
 - (e) Parked in bus zones;
 - (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 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 residence, vehicles parked in a location or manner so as to pose a traffic hazard, and vehicles causing damage to public or private property.

Sec. 10-13 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.

Sec. 10-14.1 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 article.

Sec. 10-14.2 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.

Sec. 10-14-3 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.

Sec. 10-14-4 PORTECTION 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 motor vehicle, for disposing of the vehicle as provided in this article.

Sec. 10-15 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.