

## Chapter 94: JUNKED AND ABANDONED MOTOR VEHICLES

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#### 94.01 DEFINITIONS.

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

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

- (1) Is left upon a street or highway in violation of a statute 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 long than two hours;
- (4) Is left on any public street or highway for longer than seven days;
- (5) If left on any privately owned public vehicular area contrary to an ordinance adopted under authority of GS 160.301(d);
- (6) Is left on private property in a properly designed fire lane;
- (7) If left on public or private property in a space properly designated as reserved for handicapped or visually impaired persons or in a manner that obstructs a curb cut or curb ramp for handicapped person;
- (8) Is parked on city or other property in violation of an 99.05, 95.41; or

- (9) May for any other reason lawfully be towed by a law enforcement officer (except that vehicles seized for evidence or forfeited under any state statute) shall not be considered abandoned vehicles under this chapter.

JUNKED MOTOR VEHICLE. An abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked.
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five (5) years old and worth less than \$100; or
- (4) Does not display a current license plat when the motor vehicle is required by state law to have such a plate to operate on the public roads.

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

#### 94.02 REMOVAL OF VEHICLES AUTHORIZED.

- (A) Subject to division (B), the City may have abandoned or junked motor vehicles within the City removed in accordance with the provisions of this chapter.
- (B) No motor vehicle classified as abandoned because it is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours may be removed without the written request of the owner, occupant, or lessee of the premises. The City may require any person requesting removal of such vehicle to indemnify the town against any loss, expense or liability incurred because of the removal, storage of sale thereof.

#### 94.03 NOTICE REQUIRED BEFORE VEHICLE REMOVAL.

- (A) Before removing a vehicle under the circumstances specified herein, the City shall attempt to notify the owner of its intent to tow such vehicle as provided in divisions (B) and (C). This pre-towing notification is required before removing a vehicle that is classified as either of the following:
  - (1) Abandoned because it is either left on property owned or occupied by the city for longer than 24 hours or left on any public street or highway for longer than seven days; or
  - (2) Abandoned for any reason if such vehicle has neither a valid registration plat nor registration and the City Manager or his/her designee authorizing the vehicle to be towed has made a reasonable but unsuccessful effort (including checking the vehicle identification number) to determine the owner of such vehicle, except that notification before towing such vehicle shall not be required if the vehicle impedes the flow of the traffic or

otherwise jeopardizes the public welfare so that immediate towing is necessary.

- (B) The notice required under division (A) shall:
  - (1) Identify the vehicle;
  - (2) Specify its location;
  - (3) State why the vehicle is subject to removal;
  - (4) Inform the owner that, unless the vehicle is removed by a specified date and time (which shall be at least seven days after the date the notice mailed or posted under division (C)), the City shall have the vehicle removed and that, in that event, all charges incident to the removal and storage of such vehicles will have to be paid before the vehicles may be reclaimed.
  - (5) Provide the owner with the name and the number of the City Manager or his/her designee who may be contacted to discuss any matter contained in the notice.
- (C) The notice required in division (A) shall be sent by mail or posted on the vehicle as follows:
  - (1) If notice is required under division (A)(1), the notice shall be sent by mail to the owner of the vehicle at his or her last known address according to the information derived from the registration number or identification number.
  - (2) If notice is required under division (A)(2), the notice shall be posted on the vehicle's windshield or some other conspicuous place.

#### 94.04 NOTICE REQUIRED UPON REMOVAL.

- (A) Whenever any junked or abandoned motor vehicle is towed in accordance with this chapter, the City shall promptly give notification to the owner of the matter set forth in division (C) if the owner can, with reasonable diligence, be identified and contacted.
- (B) If the vehicle has a state registration plate or registration, notice shall be given to the owner within 24 hours. If the vehicle is not registered in this state, notice shall be given to the owner by telephone, but in any case notice shall also be mailed to the owner's address unless the owner or his agent waives this notice in writing.
- (C) If the vehicle has neither a valid registration plate nor registration, then a reasonable effort shall be made (including checking the vehicle identification number) to identify the owner and notify him as promptly as possible of the matters set forth in division (D).
- (D) The notice required under this section shall be sent by mail (certified receipt requested if the owner has not previously been reached by telephone) and shall:
  - (1) Contain a description of the vehicle;

- (2) State why and under what authority the vehicle was removed and identify any violation with which the owner is charged;
- (3) Explain where the vehicle is stored and what the owner must do to obtain possession (including paying the towing fee or posting a bond or double the amount of the fee);
- (4) Inform the owner that he or she is entitled to request in writing a hearing before the magistrate to determine if probable cause existed for the towing. The notice shall further explain that if the magistrate finds probable cause did not exist the tower's lien is extinguished and if the owner has already paid the towing fee, he or she will be entitled to reimbursement from the City.

#### 94.05 Towing.

The City may have vehicles removed under this chapter by private towing operators. Such private towing operators shall be a lien on the vehicles towed and may dispose of such vehicles in accordance with the provisions G.S. Chapter 44A, Article I.

#### 94.06 Exemptions.

The provisions of the chapter shall not apply to any vehicle in an enclosed building or any vehicle on the premises of business enterprise being operated in lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in any appropriate storage place or depository maintained in a lawful place and manner by the City.

#### 94.07 Vehicles Dangerous to the Public Health and Safety.

Nothing contained in this chapter shall be construed to limit the authority of the City to effect the removal or abatement of any motor vehicle, regardless of whether it is located on private property with the consent of the owner, lessee, or occupant thereof, if the motor vehicle is found to constitute a situation dangerous or prejudicial to the public health or safety in accordance with Section 94.22 et seq. because it is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection for pools of water;
- (4) A point of concentration of gasoline, oil, or other flammable or explosive materials;
- (5) So located that there is danger of the vehicle's falling or turning over;

- (6) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces or metal, glass, other materials.
- (7) A danger to the public health or safety for other reasons.

#### 94.08 Storage of Unlicensed Vehicles.

- (A) For purposes of this section, the “Administrator” shall be the City Manager or any person designated by the Manager to perform the functions and exercise the responsibilities assigned by this section to the Administrator.
- (B) No person may cause, suffer or permit, on premises under the control of such person, the storage, outside a fully enclosed structure, of a motor vehicle that does not display current license plates and a current inspection sticker unless a permit has been issued for such vehicle under this section, provided that:
  - (1) The restrictions of this section shall not apply to any person until 45 days after the Administrator initially notifies the responsible person that a permit is required under this section; and
  - (2) This section shall not apply to persons lawfully engaged in a business necessitating such storage so long as such business has received all legally required state and local permits and licenses.
- (C) An application or an initial permit under this section shall be made to the Administrator on a form prescribed by the City within 30 days after the Administrator notifies the responsible person that a permit is required under this section. Permits shall be valid for a period of one year from the date of issuance. The Administrator shall send to the permittee an application for a renewal permit at least 30 days prior to the expiration of the permit, and an application for a renewal permit must be submitted to the Administrator at least 15 days prior to expiration of the permit.
- (D) Any person who submits a completed permit application pursuant to division (B) shall be issued a permit under this section if:
  - (1) The applicant pays an annual storage permit fee as set forth in the City’s adopted annual budget;
  - (2) The applicant demonstrates to reasonable satisfaction of the Administrator either that:
    - (a) The vehicle is operable; or
    - (b) The vehicle is cable of being made operable and the applicant is in the process or repairing the vehicle such that it will be made operable within a period of not more than one year.

- (3) When a vehicle has remained inoperable for a continuous period of one year or more after the issuance pursuant to this division of a permit that was premised upon a finding of compliance with division (D) (2)(b), the Administrator shall regard this in subsequent application as conclusive evidence of the applicant' inability to satisfy division (D)(2)(b);
  - (4) The applicant demonstrates that he or she owns or leases the property on which the vehicle is stored or has the written permission of the property owner or lessee of such property to store the vehicle at that location.
- (E) If the Administrator denies an application for an initial or renewal storage permit on the basis that the applicant has failed to demonstrate that the vehicle is operable or can be made operable within a period of one year, the applicant may appeal this determination to the Board of Adjustment. The Board of Adjustment shall hear and decide this appeal in the same manner as an appeal of decision of the Zoning Administrator. An appeal fee, as set forth in the City's adopted annual budget, shall be required of the applicant and the Board of Adjustment shall decide the appeal by majority vote, a quorum being present. The Board of Adjustment may find that the vehicle is capable of being made operable with a period of one year even if the vehicle has remained inoperable for a period of one year or more after the issuance of a previous permit under this section.

94.09 through 94.19 Reserved

## Enforcement

### Part 1. Ordinary Penalties and Remedies

#### 94.20 Penalties and Remedies

- (A) Any violation of any of the following provisions of this chapter shall constitute a misdemeanor punishable as provided in G.S. 14-4.
- (B) A violation of Section 94.08 of the Chapter shall subject the offender to a civil penalty of \$25. If the offender fails to pay this penalty within 15 calendar days after being cited for a violation, the penalty may be recovered by the City in a civil action in the nature of a debt.
- (C) Each day that a violation continues after a person has been notified that such violation exists and that he is subject to the penalties specified in subsections (a) and (b) of this section shall constitute a separate offense.
- (D) This chapter may also be enforced by any appropriate equitable action, including injunctions or orders of abatement.
- (E) The City may enforce this chapter by any one of or any combination of the foregoing remedies.

#### 94.21 Violations Resulting from Continuing Conditions

- (A) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, a written notice shall be sent to the last known address of the responsible person, specifying the nature of the violation and what must be done to correcting it, requiring the responsible person to correct the violation within ten calendar days after delivery of the notice and informing the responsible person of the possible consequences of his failure to comply.
- (B) Whenever a violation of this chapter results from a continuing condition rather than a discrete event, the penalties and remedies provided for in Section 94.20 may not be invoked until after the ten-day correction period specified in subsection (A) has expired.

#### Part 2. Extraordinary Remedies

#### 94.22 Summary Abatement of Conditions Dangerous or Prejudicial to the Public Health.

If the City Council concludes, after notice and hearing as provided in this part, that any condition or situation prohibited by this chapter or any other condition or situation is dangerous or prejudicial to the public health or safety, further action may be taken to summarily remove, abate or remedy everything so found with the city limits, and impose a lien upon the land affected to recover the cost of nuisance abatement.

#### 94.23 Notice Required.

Before the action authorized by Section 94.22 is taken, notice shall be sent to the respondent, informing him or her of the following:

- (A) What condition or situation is alleged to be dangerous or prejudicial to the public health or safety;
- (B) When and where the City Council will meet to hold a hearing on the issue of whether the condition cited is dangerous or prejudicial to public health;
- (C) If the City Council determines that the cited condition is dangerous or prejudicial to public health or safety, further action may be taken to summarily abate, remedy, or correct the offending condition;
- (D) The expenses incurred by the City in connection with actions described in division (C) of this section, if not paid by the respondent, shall be a lien upon the land where the offending condition is located, to be collected as unpaid taxes. The notice shall be sent by mail (certified, delivered to addressee only, return receipt request) not later than five (5) calendar days prior to the scheduled hearing or delivered to the respondent by a the City Manager or his/her designee, not later than three (3) days prior

to the scheduled hearing. For purposes of this section, the respondent is the person who is responsible for the offending condition, as well as the owner of the property where the offending condition is located, if different from the former.

#### 94.24 Hearing Procedures.

At the hearing held pursuant to this part, the City Manager or his/her designee, as petitioner, shall be responsible for presenting sufficient evidence to the City Council to substantiate a finding that a condition exists that is dangerous or prejudicial to the public health or safety. The City Council may consider all reliable evidence and not be bound by the strict rules of evidence applicable to courts of law, but all witnesses shall be sworn. The respondent may be represented by counsel and may present evidence. All parties may cross examine adverse witnesses. At the conclusion of the hearing, the City Council shall make findings of fact, state its conclusions and enter an appropriate order. The City Council's order shall be reduced to writing and a copy sent by mail or delivered to the respondent within three days of the hearing.

#### 94.25 Conclusion; Orders.

If the City Council concludes that a situation or condition exists that is dangerous or prejudicial to the public health or safety, it may:

- (1) Order the City Manager or his/her designee to summarily remove, abate, or remedy everything so found and to assess the cost of this action against the respondent in accordance with 94.20 of this chapter; or
- (2) Order the respondent to correct the situation within a specified time period and take further action to abate, correct or remedy the offending condition if the respondent fails to act within the prescribed time limits.