**CHAPTER 18: ENVIRONMENT**

**CHAPTER** **18:** **ENVIRONMENT**

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***ARTICLE I. IN GENERAL***

**18‑1 PENALTY.**

The penalty for any violation of this chapter is a civil penalty of $100 pursuant to  1‑6.

(2001 Code,  18‑1)

**18‑2 INVESTIGATION UPON COMPLAINT.**

The Town Manager, upon notice from any person of the existence of any public nuisance, shall make or cause to be made an investigation as may be necessary to determine whether, in fact, the conditions constitute a public nuisance.

(1970 Code,  5‑41; 2001 Code,  18‑2)

**18‑3 NOTICE TO PROPERTY OWNER.**

Upon a determination that conditions constituting a public nuisance exist, the Town Manager shall notify, in writing, the owner, occupant or person in possession of the premises in question or responsible for the public nuisance of the conditions constituting the public nuisance and shall order the prompt abatement of the public nuisance.

(1970 Code,  5‑42; 2001 Code,  18‑3)

**18‑4 FAILURE OF OWNER TO ABATE NUISANCE.**

If any person, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the Town Manager shall cause the condition to be removed or otherwise remedied by having employees of the town to go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the Board of Commissioners. Any person who has been ordered to abate a public nuisance may within the time allowed by this article request the town in writing to remove the condition, the cost of which shall be paid by the person making the request.

(1970 Code,  6‑24; 2001 Code,  18‑4)

**18‑5 COST INCURRED BY OWNER.**

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the lot or parcel of land, and it shall be the duty of the Town Manager to mail a statement of the charges to the owner or other person in possession of the premises with instructions that the charges are due and payable within 30 days from the receipt of the statement.

(1970 Code,  6‑25; 2001 Code,  18‑5)

**18‑6 CHARGES BECOME A LIEN.**

If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of the statement of charges, as provided for in  18‑5, the charges shall become a lien upon the land or premises where the public nuisance existed, and shall be collected as unpaid taxes, as provided in G.S.  160A‑193.

(1970 Code,  6‑26; 2001 Code,  18‑6) (Ord. passed 2‑8‑1977)

**18‑718‑40 RESERVED.**

***ARTICLE II. NOISE***

***Statutory reference:***

*Noise regulation, see G.S.  160A‑184*

**18‑41 UNREASONABLE AND UNNECESSARY NOISES PROHIBITED.**

It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonable, loud, disturbing and unnecessary noise in the town. Noise of a character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

(1970 Code,  5‑20; 2001 Code,  18‑41)

**18‑42 NOISES ESPECIALLY PROHIBITED.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this article; but this enumeration shall not be deemed to be exclusive:

(A) The sounding of any horn or signal device or any device on any automobile, motorcycle, bus or other vehicle while not in motion that causes an immediate breach of the peace, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended;

(B) The use of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle;

(C) The use or operation of any piano, manual or automatic, phonograph, radio, loudspeaker or any other instrument, or sound amplifying devices so loudly as to disturb persons in the vicinity, or in a manner as renders the device a public nuisance; however, upon application to the Town Manager, permits may be granted to responsible organizations to produce programs in music, speeches or general entertainment;

(D) The keeping of any animal or bird which by causing frequent or long‑continued noise shall disturb the comfort and repose of any person within 100 yards; the use of any automobile, motorcycle or other vehicle so out of repair, so loaded or in a manner as to create loud or unnecessary grating, grinding, rattling or other noise; and/or

(E) The use of any mechanical loudspeakers or amplifiers on trucks or any moving vehicle for advertising purposes or other purposes which causes an immediate breach of the peace, except where specific license is received from the Town Manager.

(1970 Code,  5‑21; 2001 Code,  18‑42)

**18‑4318‑70 RESERVED.**

***ARTICLE III. GENERAL NUISANCES***

***Cross-reference:***

*Vegetation, see Ch. 40*

***Statutory reference:***

*Authority to abate public health nuisances, see G.S.  160A‑193*

**18‑71 UNCONTROLLED WEEDS AND ACCUMULATION OF REFUSE DECLARED A PUBLIC NUISANCE.**

The existence of any of the following conditions on any vacant or occupied lot or property within the corporate limits of the town or within one mile, as authorized in G.S.  160A‑193, is declared to be dangerous and prejudicial to the public health and safety, and to constitute a public nuisance:

(A) The uncontrolled growth of noxious weeds or grass to a height in excess of 16 inches causing or threatening to cause a hazard detrimental to the public health or safety;

(B) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the habitation of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health; and/or

(C) Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the habitation of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(1970 Code,  6‑2.1; 2001 Code,  18‑71) (Ord. passed 2‑8‑1977; Ord. 2006‑08‑01, passed 8‑9‑2006)

**18‑7218‑100 RESERVED.**

***ARTICLE IV. ABANDONED AND JUNKED VEHICLES***

***Cross-reference:***

*Traffic and vehicles, see Ch. 36*

***Statutory reference:***

*Nuisance cars regulated, see G.S.  160A‑303 et seq.*

**DIVISION 1. GENERALLY**

**18‑101 DEFINITIONS.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***ABANDONED VEHICLE.*** As authorized and defined in G.S.  160A‑303, one that is left on:

(1) A public street or highway in violation of a law or ordinance prohibiting parking;

(2) A public street or highway for longer than seven days;

(3) Property owned or operated by the town for longer than 24 hours; and/or

(4) Private property without the consent of the owner, occupant or lessee for longer than two hours.

***AUTHORIZING OFFICIAL.*** The supervisory employee of the Police Department or the Town Manager or his or her assignee, respectively, designated to authorize the removal of vehicles under the provisions of this article.

***JUNKED MOTOR VEHICLE.*** As authorized and defined in G.S.  160A‑303.2, a vehicle that does not display a current license plate lawfully upon that vehicle and that:

(1) Is partially dismantled or wrecked;

(2) Cannot be self‑propelled or moved in the manner that it originally was intended to move; and/or

(3) Is more than five years old and appears to be worth less than $100.

***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 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 of Commissioners.

(2001 Code,  18‑101) (Ord. 1990‑1, passed 4‑10‑1990)

***Cross-reference:***

*Definitions generally, see  1‑2*

**18‑102 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 motor vehicle for disposing of the vehicle, as provided in this article.

(2001 Code,  18‑102) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑103 EXCEPTIONS.**

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

(A) 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.;

(B) In an enclosed building;

(C) 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; and/or

(D) In an appropriate storage place or depository maintained in a lawful place and manner by the town.

(2001 Code,  18‑103) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑104 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 article, until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

(2001 Code,  18‑104) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑105 ADMINISTRATION.**

(A) The Police Department or the Town Manager or his or her designee 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 Town Manager or his or her assignee 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 or dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this article and applicable state laws.

(B) Nothing in this article shall be construed to limit the legal authority or powers of officers of the Police Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

(2001 Code,  18‑105) (Ord. 1990‑1, passed 4‑10‑1990)

***Cross-reference:***

*Administration, see Ch. 2*

**18‑10618‑130 RESERVED.**

**DIVISION 2. DISPOSAL PROCEDURES**

**18‑131 ABANDONED VEHICLE UNLAWFUL; 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.

(B) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(2001 Code,  18‑131) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑132 NUISANCE VEHICLE UNLAWFUL; 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 Town Manager or his or her assignee may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

(2001 Code,  18‑132) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑133 JUNKED MOTOR VEHICLE 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) Upon investigation, the Town Manager or his or her assignee may order the removal of a junked motor vehicle 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 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/or

(5) Promotion of the comfort, happiness and emotional stability of area residents.

(2001 Code,  18‑133) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑134 REMOVAL OF ABANDONED, NUISANCE OR JUNKED MOTOR VEHICLES; PRETOWING NOTICE REQUIREMENTS.**

(A) Except as set forth in  18‑135, 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 pursuant to G S.  20‑219.11(a) and (b). 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 certified mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If the name and address 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 (no sooner than seven days after the notice is affixed or mailed), unless the vehicle is moved by the owner or legal possessor prior in 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 of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners; provided, the written request is received at least seven days in advance of the next regularly scheduled meeting and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(2001 Code,  18‑134) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑135 EXCEPTIONS TO PRIOR NOTICE REQUIREMENT.**

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 in otherwise maintain and protect the public safety and welfare. The findings shall, in all cases, be entered by the authorizing official on the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include.

(A) *Vehicles abandoned on the streets.* For vehicles left on the public streets and highways, the Board of Commissioners determines that immediate removal of the vehicles may be warranted when they are:

(1) Obstructing traffic;

(2) Parked in violation of an ordinance prohibiting or restricting parking;

(3) Parked in a no stopping or standing zone;

(4) Parked in loading zones:

(5) Parked in bus zones; and/or

(6) Parked in violation of temporary parking restrictions imposed under this code.

(B) *Other abandoned or nuisance vehicles.* 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 residences, vehicles parked in a location or manner as to pose a traffic hazard and vehicles causing damage to public or private property.

(2001 Code,  18‑135) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑136 REMOVAL OF VEHICLES; POST‑TOWING NOTICE REQUIREMENTS.**

(A) 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, the notice to 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 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 (A) (1) through (5) of this section, shall also be mailed to the registered owners 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 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 him or her of the information set forth in subsections (A)(1) through (5) of this section.

(2001 Code,  18‑136) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑137 RIGHT TO PROBABLE CAUSE HEARING BEFORE SALE OR FINAL DISPOSITION OF VEHICLE.**

(A) 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.

(B) 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(C).

(2001 Code,  18‑137) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑138 REDEMPTION OF VEHICLE DURING PROCEEDINGS.**

(A) At any stage in proceedings under this article, 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.

(B) Upon regaining possession of the vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this article.

(2001 Code,  18‑138) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑139 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 a vehicle shall be carried out in coordination with the town and in accordance with G.S.  44A‑1 et seq.

(2001 Code,  18‑139) (Ord. 1990‑1, passed 4‑10‑1990)

**18‑140 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 Town Manager or his or her assignee. 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 its removal, storage or sale.

(2001 Code,  18‑140) (Ord. 1990‑1, passed 4‑10‑1990)