

TITLE IX: GENERAL REGULATIONS

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§ 90.01 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) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking;

(2) Is left on property owned or operated by the Town for longer than 24 hours without the consent of the Town;

(3) Is left on private property without the consent of the owner or occupant or lessee thereof for longer than two hours; or

(4) Is left on any public street or highway for longer than seven days without valid registration or license plate.

"AESTHETIC NUISANCE VEHICLE." A junked motor vehicle on public or private property that has been determined by authorizing officials of the Police or Planning Departments to be so offensive to the sight as to damage the community, neighborhood or area appearance. In making the determination, the authorizing official must find that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such findings 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. Factors that may be considered are protection of property values, promotion of tourism, indirect protection of health and safety, preservation of the character, and integrity of the community, or promotion of the comfort, happiness, and emotional stability of area residents, provided that this definition shall not apply to any motor vehicle that is used on a regular basis for

business or personal use nor shall it apply to the removal or disposal of a motor vehicle kept or stored at a bona fide "auto graveyard" or "junkyard" as defined in G.S. § 136-143.

"AUTHORIZING OFFICIAL." The supervisory employee of the Police and Planning Departments designated to authorize the removal of vehicles under the provisions of this chapter.

"JUNKED MOTOR VEHICLE." A motor vehicle that does not display a current license plate lawfully upon that vehicle and:

(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 \$100.

"MOTOR VEHICLE" or "VEHICLE." Includes 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, or 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 that has areas of confinement that 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) Used by children in play activities;

(8) One that is a point of collection of garbage, food waste, animal waste, or any other rotten, or putrescible matter of any kind;

(9) One that has sharp parts which are jagged or contain sharp edges of metal or glass; or

(10) Any other vehicle specifically

declared a health and safety hazard or a public nuisance by the Board of Aldermen.

"TOW." As used in this chapter, the word "tow" in any of its forms shall mean removing a vehicle by any means including towing and storing the vehicle.
(Ord. 90-56, passed 4-10-90)

§ 90.02 ABANDONED, NUISANCE, AND AESTHETIC NUISANCE VEHICLES UNLAWFUL; TOWING AUTHORIZED; RESPONSIBILITY FOR COSTS.

(A) Abandoned vehicles. It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to abandon the motor vehicle on public or private property within the Town's municipal boundaries for such time and under such circumstances as to cause the vehicle to appear to have been abandoned.

(B) Nuisance vehicles. 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.

(C) Aesthetic nuisance vehicles. 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 an aesthetic nuisance vehicle.

(D) Towing authorized. Upon investigation, the authorizing officials may determine and declare that a motor vehicle is abandoned, a nuisance vehicle or aesthetic nuisance vehicle and order the vehicle towed.

(E) Owner responsible for removal costs. If an abandoned, nuisance, or aesthetic nuisance vehicle is removed by or at the direction of the Town, the owner shall pay all reasonable costs incident to the removal and storage of such vehicle and incident to locating the owner thereof.
(Ord. 90-56, passed 4-10-90) Penalty, see § 90.99

§ 90.03 ADMINISTRATION.

(A) Responsibility of Town Departments.

(1) The Police Department and Planning Department shall be responsible for the administration and enforcement of this chapter. The authorizing official of the Police Department shall be responsible for administering the towing and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Town, and property owned by the Town. The authorizing official of the Police and Planning Departments may be responsible for determining which vehicles are nuisance or aesthetic nuisance vehicles and shall be

responsible for towing and disposing of abandoned, nuisance, and aesthetic nuisance vehicles located on private property. The Town may, on an annual basis, contract with private tow truck operators or towing businesses to tow, store, and dispose of abandoned, nuisance and aesthetic nuisance vehicles in accordance with this chapter and applicable state law.

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

(B) Right to inspect vehicles on private property. Authorizing officials shall have the right, upon presentation of proper credentials and identification, to enter any premises within the jurisdiction of this chapter during daylight hours to determine if any vehicle is a health or safety hazard or is distracting from the aesthetics of the area.
(Ord. 90-56, passed 4-10-90)

§ 90.04 REMOVAL OF ABANDONED, NUISANCE, AND AESTHETIC NUISANCE VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Pre-towing notice not required. Except as set forth in division (D) below, an abandoned motor vehicle may be towed by or at the direction of the Town without pre-towing notice if the abandoned motor vehicle has a valid registration plate and registration or if the last registered owner is known to the Town, provided post-towing notice is thereafter given as set forth in § 90.05.

(B) Pre-towing notice required. Except as set forth in division (D) below, an abandoned motor vehicle without a valid registration plate or registration, or for which the Town does not know the last registered owner, nuisance and aesthetic nuisance vehicles shall be towed only after notice to the owner or person entitled to possession of the vehicle. Notice shall be given by affixing notice on the windshield or some other conspicuous place on the vehicle. The notice shall state 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 to that time and that a civil penalty may be imposed. Additionally, in the case of a nuisance and aesthetic nuisance motor vehicle, if the names and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence, the notice shall also be given to both by first-class mail. The person who mails notices shall retain a written record to show the names and addresses to which mailed, and the date mailed.

(C) Pre-towing appeal. If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the

determination that the vehicle is a nuisance or aesthetic nuisance vehicle, such appeal shall be made within seven days of the date of the pre-towing notice to the Board of Aldermen in writing, heard at the next available regularly scheduled meeting of the Board of Aldermen, and further proceedings to remove the vehicle and to impose the penalty provided in § 90.99 shall be stayed until the appeal is heard and decided.

(D) Pre-towing notice exception for certain abandoned and nuisance vehicles.

(1) If an authorizing official finds an abandoned motor vehicle on public streets impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate removal is necessary, that vehicle may be removed without any pre-towing notice. Such findings shall be entered by the authorizing official in the appropriate daily records. Circumstances justifying the immediate removal of motor vehicles include vehicles:

- (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 by the Town.

(2) Abandoned vehicles and nuisance vehicles on other public or city property may be removed without pre-towing notice only in those circumstances where the authorizing official finds, and enters such findings in appropriate records, a special need for prompt action to maintain the public health, safety, and welfare. By way of illustration and not of limitation such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(E) Indemnification. When an abandoned, nuisance, or aesthetic nuisance motor vehicle is removed from private property at the request of the owner, lessee, or occupant of the premises, the person at whose request such vehicle is removed may be required to pay or otherwise indemnify the Town for any loss, costs, expense, or liability incurred by the Town by reason of the towing, storage, sale, or other disposal of such vehicle.
(Ord. 90-56, passed 4-10-90) Penalty, see § 90.99

§ 90.05 REMOVAL OF VEHICLE; POST-TOWING NOTICE REQUIREMENTS.

(A) Content of post-towing notice. Any abandoned motor vehicle or any vehicle which has been determined to be a nuisance or aesthetic nuisance vehicle may be removed to a storage garage or area by the Town or a towing business contracting to perform such services for the Town. The authorizing official shall, immediately after removing any abandoned, nuisance, or aesthetic nuisance vehicle, notify the last known registered owner of the vehicle, such notice to include the following:

- (1) A 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 of the vehicle as described in § 90.06(A).

(B) Notice to be telephoned and mailed. This notice shall be mailed to the owner's last known address, unless waived in writing. Additionally, the Town shall attempt to give notice to the registered owner by telephone.

(C) Notice for registered vehicles. 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 owner within 72 hours from the removal of the vehicle.

(D) Notice for unregistered abandoned, nuisance, and aesthetic nuisance vehicles. Whenever an abandoned motor vehicle, nuisance vehicle, or aesthetic nuisance vehicle is removed and such vehicle has no valid registration or registration plate, the authorizing official shall make reasonable efforts, including the checking of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information as set forth in divisions (A)(1) through (A)(5) above.

(E) Compliance with state statutes. All post-towing notices shall comply with the provisions of G.S. § 20-219.11.
(Ord. 90-56, passed 4-10-90)

§ 90.06 RIGHT TO HEARING; RIGHT TO RECOVER VEHICLE; UNAUTHORIZED REMOVAL UNLAWFUL.

(A) Probable cause hearing. After towing of an abandoned, nuisance, or aesthetic nuisance vehicle, the owner or other person entitled to possession may request in writing a hearing to determine if probable cause existed for removing the

vehicle. The request must be filed with the magistrate in the county where the vehicle was towed. 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.

(B) Recovery of vehicle. At any time after towing of an abandoned, nuisance, or aesthetic nuisance motor vehicle, the owner may obtain possession of the motor vehicle by paying the fee for towing and storage or by posting bond in accordance with G.S. § 20-219.12.

(C) Removal unlawful. 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 chapter unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid. (Ord. 90-56, passed 4-10-90) Penalty, see § 90.99

§ 90.07 SALE AND DISPOSITION OF VEHICLE.

(A) Consent of owner. With the consent of the registered owner, the Town or tow truck operator may dispose of any vehicle without holding it for any prescribed period of time.

(B) Sale of vehicle. An abandoned, nuisance, or aesthetic nuisance motor vehicle shall be held for a period of at least 30 days during which time the owner may claim it by exhibiting proof of ownership to the Town or towing business that removes the vehicle and by paying the costs incident to its towing and storage. A motor vehicle may, after being held for 30 days, be sold in accordance with the provisions of G.S. §§ 44A-4, 44A-5 and 44A-6, provided that if the Town is responsible for collecting towing or removal fees, no hearing in addition to the probable cause hearing described in § 90.06(A) shall be required. If no one purchases the vehicle at the sale, and if the value of the vehicle is less than the amount of the lien, the Town may destroy the vehicle. (Ord. 90-56, passed 4-10-90)

§ 90.08 DISPOSITION OF PROCEEDS OF SALE.

The proceeds of the sale of an abandoned, nuisance, or aesthetic nuisance motor vehicle shall be as set forth in G.S. § 44A-5 as follows:

(A) Payment of reasonable expenses incurred in connection with the sale, including but not limited to, reasonable storage expenses after giving notice of sale;

(B) Payment of towing costs and costs incurred in connection with learning the identity of the vehicle's owner or the owner of the real estate on which a nuisance vehicle is located;

(C) Any surplus shall be paid to the person entitled thereto, but when such person cannot be found, this surplus shall be paid to the Clerk of Superior Court of Alamance County to be held by the Clerk for the person entitled thereto. (Ord. 90-56, passed 4-10-90)

§ 90.09 IMMUNITY.

Neither the Town nor any person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of any abandoned, nuisance, or aesthetic nuisance vehicle for disposing of such vehicle as contemplated by this chapter. (Ord. 90-56, passed 4-10-90)

§ 90.10 EXCEPTIONS.

Nothing in this chapter shall apply to any motor vehicle that is:

(A) In an enclosed building;

(B) On the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of such business enterprise;

(C) Located in a bona fide "auto graveyard" or "junkyard" as defined in G.S. § 136-143 in accordance with "Junkyard Control Act" G.S. § 136-141 et seq.; or

(D) In an appropriate storage place or depository maintained in a lawful place and manner by the Town. (Ord. 90-56, passed 4-10-90)

§ 90.99 PENALTY.

(A) Civil penalty. Any violation of § 90.02 (B) and (C) of this chapter shall subject the registered owner of the motor vehicle or the landowner to a civil penalty in the amount of \$50. No penalty shall be imposed if the owner removes the motor vehicle from the property within seven days of the date the pre-towing notice has been given by the Town pursuant to § 90.04. If the owner does not remove the motor vehicle from the property within seven days of the pre-towing notice, the penalty may be imposed for each day the vehicle was permitted to remain on the property commencing with the date the pre-towing notice was given and terminating on the date of removal of the motor vehicle, each day's violation constituting a separate offense.

(B) Recovery of penalty. The penalty may be recovered by the Town in a civil action in the nature of debt if the owner does not pay the penalty within the prescribed period of time after he has been issued a citation.

(C) Citation. The owner shall be issued a written citation by delivery in person or mailed by certified or registered mail. The civil penalty must be paid by the owner within 72 hours of receipt of written citation.

(D) No crime. Violation of this chapter shall not constitute a crime.

(E) Chapter cumulative. Procedures set forth in this chapter shall be in addition to any other remedies that may exist under law including ordinances for the abatement of public nuisances.
(Ord. 90-56, passed 4-10-90)