

DIVISION 2.- JUNKED ~~AND ABANDONED~~ VEHICLES,
VEHICLES WHICH ARE SAFETY HAZARDS, AND
VEHICLES WHICH ARE AESTHETIC NUISANCES¹

Sec. 12-61.- 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 motor vehicle means a vehicle that:

- (1) Has been left upon a public street or highway in violation of a law or ordinance that regulates or prohibits parking; or
- (2) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours; or
- (2) Is left on property owned or operated by the city longer than 24 hours; or
- (3) Is left on any public street or highway for longer than seven days or on U.S. Highway 52 within the corporate limits of the city for longer than 48 hours; or
- (4) Is determined by law enforcement to be a hazard to the motoring public.

Junked motor vehicle- means A-an abandoned motor vehicle that also;does not display a current license plate and that is partially dismantled or wrecked, cannot be self-propelled or moved in a manner in which it originally was intended to move or is more than five years old and appears to be worth less than \$100.00.

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move; or
- (3) Is more than five years old and worth less than \$500.00; or
- (4) Does not display a current license plate.

Motor vehicle and vehicle mean all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Private tower means an individual or company engaged in the business of towing and storing motor vehicles that tows vehicles, pursuant to an arrangement with the city, at the city's request or authorization.

(Ord. No. 5-97, § 2, 6-2-97)

Cross reference(s)—Definitions generally, § 1-2.

¹Cross reference(s)—Traffic and vehicles, ch. 28.

State law reference(s)—Authority to regulate junked, abandoned and wrecked vehicles, G.S. 160A-303, 160A-303.2.

New Section. Abandonment of motor vehicles prohibited.

- (a) *Abandonment prohibited.* It shall be unlawful for any person to abandon any motor vehicle defined under section 12-61 as an abandoned motor vehicle or as a junked motor vehicle.
- (b) *Duty to remove safety hazard vehicles.* It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle which is a safety hazard vehicle as defined in section 12-63 after notice has been given that such motor vehicle will removed as set forth in section 12-63.
- (c) *Duty to aesthetic nuisance vehicles.* It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle which is an aesthetic nuisance vehicle as defined in section 12-63 after notice has been given that such motor vehicle will removed as set forth in section 12-63.

Sec. 12-62.- Removal of junked or abandoned motor vehicles. ~~from public property,~~

Any junked ~~or abandoned motor vehicle in violation of this article on public property~~ may be moved to a storage garage ~~or storage area by or at the direction of the city manager or his designee, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises except as provided in section 12-63 with respect to aesthetic nuisance vehicles and safety hazard vehicles.~~

(Ord. No. 5-97, § 3, 6-2-97)

Sec. 12-63.- Removal ~~from private property~~ of aesthetic nuisance vehicles and safety hazard vehicles.²

(a) For purposes of this section, the following definitions apply:

(1) *Junked motor vehicle* means a vehicle that does not display a current license plate, and that:

- a. Is partially dismantled or wrecked;
- b. Cannot be self-propelled or moved in the manner in which it originally was intended to move;
or
- c. Is more than five years old and appears to be worth less than \$500.00.

(2) *Aesthetic nuisance vehicle* means a junked motor vehicle on public or private property that upon investigation by the city manager or the city manager's designee, it has been determined that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be in writing and 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;

² G.S. 160A-303.2 and 160A-193

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- d. Preservation of the character and integrity of the community; and
 - e. Promotion of the comfort, happiness and emotional stability of the area residents.
 - (3) Safety hazard vehicle means a motor vehicle left upon a street or highway or private property longer than 72 hours that has been declared a safety hazard by a code enforcement official without regard to whether the vehicle is abandoned or junked as defined in this section and:
 - a. Is a breeding ground or harbor for rats; or
 - b. Is a point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials; or
 - c. Is positioned in a way that there is a danger it will fall or turn over; or
 - d. Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.
 - (b) Except as set forth below, a safety hazard vehicle or aesthetic nuisance vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. Additionally, in the case of a safety hazard vehicle or an aesthetic nuisance vehicle on private property, notice shall be provided to the owner, lessee, or occupant of the real property upon which the vehicle is located. 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 registered or certified mail, return receipt requested. The city shall retain a written record to show the name(s) and address(es) to which the notice was mailed, and the date mailed. If such 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 city on a specified date no sooner than 11 days after the notice is affixed. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than 11 days after the notice is affixed or mailed, unless the vehicle is removed, or the safety hazard or aesthetic nuisance is abated, by the owner or legal possessor before that time.
 - (c) With respect to vehicles on private property which have been declared to be a safety hazard vehicle or aesthetic nuisance vehicle 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 a health or safety hazard vehicle or aesthetic nuisance vehicle, such appeal shall be made within ten days of receipt of the pre-towing notice to the board of adjustment in writing. The board of adjustment shall fix a time for the hearing within 45 days of the appeal, providing written notice of the hearing to all parties, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
 - (d) The requirement that notice be given prior to the removal of safety hazard vehicle may, as determined by the city manager or his designee, be omitted in those circumstances where the city manager finds that there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be memorialized in writing. Circumstances justifying the removal of vehicles without prior notice include but are not limited to:
 - (1) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the city council hereby determines that immediate removal of such 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; or

e. Parked in violation of temporary parking restrictions imposed under this Code.

(2) Other safety hazard vehicles. With respect to health or safety hazard vehicles left on city-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the city manager finds that there is a special need for prompt action to protect and 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.

~~If such junk vehicle is on private property, it shall not be removed from private property without the written request of the owner, lessee or occupant of the premises unless the city manager finds in writing that the aesthetic benefits of removing the junk 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. The following may be considered by the city manager when determining whether a vehicle should be removed from the private property:~~

~~(1) —Protection of property value;~~

~~(2) —Promotion of tourism and other economic development opportunities;~~

~~(3) —Direct or indirect protection of public health and safety;~~

~~(4) —Preservation of the character and integrity of the community; and~~

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

(Ord. No. 5-97, § 4, 6-2-97)

Sec. 12-64.- Indemnification of city.

The city manager may require any person requesting the removal of a ~~junked or abandoned~~ motor vehicle from private property to indemnify the city against any loss, expense or liability incurred because of the removal, storage or sale thereof.

(Ord. No. 5-97, § 5, 6-2-97)

Sec. 12-65.- Notice.

(a) ~~When~~ever a junk motor vehicle is towed as provided in this article, the ~~person authorizing the city manager shall~~towing shall immediately notify the last known registered owner of the vehicle of the following:

(1) A description of the vehicle;

(2) The place where the vehicle is stored;

(3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to have the vehicle returned to him; and

(5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a ~~state~~North Carolina registration plate or registration, notice shall be given to the owner within 24 hours. If the vehicle is not registered in this ~~S~~state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

- (b) Whenever a ~~junk-motor~~ vehicle with neither a valid registration plate nor registration is towed, the ~~city manager~~person authorizing the towing shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (a) of this section. Unless the owner has otherwise been given notice, it is presumed that the ~~city manager~~person authorizing the towing has not made reasonable efforts, as required in this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred;~~;-~~ ~~Not~~except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

(Ord. No. 5-97, § 6, 6-2-97)

Sec. 12-66.-Towing.

The city manager shall, on behalf of the city, enter into a contract with ~~companies~~one or more private towers to tow ~~junked-motor~~ vehicles ~~in violation of this article at his direction.~~ Such contract(s) shall provide that the ~~person-private tower who tows the vehicle~~ is responsible for collecting towing fees. The provisions of G.S. Ch. 20, Art. 7A shall apply.

(Ord. No. 5-97, § 7, 6-2-97)

Sec. 12-67.-Prohibited removal or disposal.

The city may not remove or dispose of any motor vehicle that is used on a regular basis for a business or personal use. Nothing in this article shall apply to any vehicle in an enclosed building or any vehicle 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 to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.³

(Ord. No. 5-97, § 8, 6-2-97)

Secs. 12-68—12-100.-Reserved.

³ G.S. §§ 160A-303(g) and 303.2(b)