

Chapter 12 – Motor Vehicles and Traffic

Article VI. Removal of Abandoned, Nuisance and Junked Vehicles.

Sec. 12-71. Definitions.

For the purpose of this Chapter, the following definitions shall apply:

- A. **Abandoned Vehicle.** Per N.C.G.S. § 160A-303, an Abandoned Vehicle is one that is left:
1. Upon a public street or highway in violation of a law or ordinance prohibiting parking;
 2. On the public property owned or operated by the Town for longer than twenty-four (24) hours;
 3. On private property without the consent of the owner, occupant or lessee for longer than two (2) hours; or
 4. On a public street or highway and is either: (i) left for longer than seven (7) days; or (ii) determined by law enforcement to be a hazard to the motoring public.
- B. **Authorizing Official.** The Spruce Pince Police Chief, or designated sworn law enforcement officer, or the Town Code Enforcement Officer, or designee, is designated to authorize the removal of Vehicles under the provisions of this Chapter.
- C. **Enclosed Area.** An area shall be deemed an Enclosed Area when surrounded by a fence, wall or other structure that is at least seven (7) feet tall measured from the ground, is constructed of an opaque material, and surrounds the area on all sides, such that Vehicles behind the said fence, wall or other structure are not visible from the public right-of-way or other private or public property.
- D. **Enclosed Structure.** A garage or building structure erected pursuant to the lawful issuance of a building permit, constructed in accordance with all applicable zoning and building code regulations and which provides a complete enclosure such that Vehicles are not visible from the public right-of-way or other private or public property.
- E. **Highway.** Per N.C.G.S. § 20-4.01(13), as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms streets and roads and other cognates are included within the foregoing definition.

- F. **Junked Vehicle.** Per N.C.G.S. § 160A-303.2, a Vehicle which 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 (5) years old and appears to be worth less than five hundred dollars (\$500).
- G. **Vehicle.** Any machine designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled Vehicle.
- H. **Nuisance Vehicle.** A Junked Vehicle or Vehicle with a current license plate on public or private property that is determined and declared to be a safety hazard, a public nuisance and unlawful, and is found to be:
1. Be a point of concentration of gasoline, oil or other flammable or explosive materials;
 2. Have accessible areas of confinement that cannot be opened from the inside, such as trunks, hoods, etc.;
 3. Be in danger of falling or turning over;
 4. Be a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
 5. Have or collect standing water;
 6. Have exposed sharp parts or edges of metal or glass; or
 7. Otherwise pose a health and safety hazard as determined by the Authorizing Official.

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Revised: July 13, 2009; July 8, 2024 (Ordinance 24-1)

Sec. 12-72. Administration.

- A. The Authorizing Official shall be responsible for the administration and enforcement of this Chapter. The Chief of Police, or designee sworn law enforcement officer, shall be responsible for administering the removal and the disposition of Abandoned Vehicles on the streets and highways within the Town and on property owned by the Town. The Code Enforcement Officer, or designee,

shall be responsible for administering the removal and disposition of Abandoned, Nuisance and Junked Vehicles located on private property.

- B. If the appropriate Authorizing Official has probable cause to believe a violation of this Chapter, the Authoring Official shall have the right to enter on any premises within the Town's corporate limits at any reasonable hour in order to determine if any Vehicle is in violation of this Chapter.
- C. The Town may, on an annual basis and with prior approval of the Town Council, contract with private tow truck operators to remove, store and dispose of Abandoned, Nuisance and Junked Vehicles in compliance with this Chapter and applicable state laws.
- D. Nothing herein shall be construed to limit the legal authority or powers of law enforcement or fire departments in enforcing other laws or otherwise carrying out their duties.

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Sec. 12-73. Vehicles Exemptions.

Nothing in this Chapter shall apply to any Abandoned, Nuisance or Junked Vehicle which is:

- A. Located in a bona fide "automobile graveyard" or "junk yard" as defined in N.C.G.S. § 136-143, in accordance with the Junk Yard Control Act, the same being N.C.G.S. §§ 136-141 *et seq.*, and in compliance with applicable zoning standards;
- B. Located in an Enclosed Structure or an Enclosed Area;
- C. On the property of a business enterprise being operated in a lawful place and manner if necessary to the operation of the business enterprise provided, however that the Abandoned, Nuisance or Junked Vehicle can not remain on the property outside of an Enclosed Structure or Enclosed Area for a period greater than seven (7) business days. Voluntarily removing a Vehicle from the property for a period of time then returning it or moving it into an Enclosed Structure or Enclosed Area and later returning it to an area that is not an Enclosed Structure or Enclosed Area shall not constitute a new seven (7) day period.
- D. In an appropriate storage place or depository maintained in a lawful place and manner by the Town; or
- E. Covered with a fitted cover designed for that Vehicle and parked on property so that the Vehicle cannot be seen from a public street or abutting property.

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Sec. 12-74. 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 an Abandoned Vehicle.
- B. Upon investigation, the Authorizing Official may determine that a Vehicle is an Abandoned Vehicle and order the Vehicle removed.

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Sec. 12-75. Nuisance Vehicles Prohibited; Removal Authorized.

- A. It shall be unlawful for the registered owner or person entitled to possession of a 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 Authorizing Official may determine and declare that a Vehicle is a health and/or safety hazard and a Nuisance Vehicle and order the Vehicle removed.

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Sec. 12-76. Junked Vehicles Prohibited; Removal Authorized.

- A. It shall be unlawful for the registered owner or person entitled to possession of a Junked Vehicle, or for the owner, lessee, or occupant of the real property upon which a Junked Vehicle is located, to leave or allow the Vehicle to remain on the property after the Vehicle has been ordered removed.
- B. The Authorizing Official may order the removal of a Junked 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 the corresponding gain to the public by promoting or 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
5. Promotion of the comfort, happiness and emotional stability of area residents.

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Sec. 12-77. Removal of Vehicles in Violation; Towing Notice Requirements.

- A. Except as set forth in Section 12-78, 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.
 1. In the case of a Nuisance or a Junked 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, 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 it was mailed, and the date mailed. If the names and addresses cannot be ascertained or if the Vehicle to be removed is an Abandoned 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 (7) calendar days after the notice is affixed.
 2. Whether notice is by first class mail or by posting as provided above, the notice shall state that the Vehicle will be removed by the Town on specified date, not sooner than seven (7) calendar days after the notice is affixed or mailed, unless the Vehicle is removed by the owner or legal possessor prior to that time.
- B. With respect to Abandoned Vehicles on private property and Nuisance and Junked Vehicles, if the registered owner or person entitled to possession does not remove the Vehicle but chooses to appeal the determination that the Vehicle is an Abandoned or Nuisance Vehicle, or in the case of a Junked Vehicle that the aesthetic benefits of removing the Vehicle outweigh the burdens, the appeal shall be made to the Town Manager in writing, within seven (7) calendar days after receipt of notice. The Town Manager shall set a time for the appeal and hear it within a reasonable amount of time, not less than ten (10) calendar days after receiving the request for the appeal. Further proceedings to remove the Vehicle shall be stayed until the appeal is heard and decided. In the event that the owner of

person entitled to possession fails to reasonably pursue the appeal, shall be deemed abandoned and the Vehicle ordered removed.

- C. Any Abandoned, Nuisance or Junked 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 Official shall immediately notify the last known registered owner of the Vehicle, and the notice shall 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.
- 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)(1) through (C)(5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the Vehicle owner or the owner's agent.
- E. If the vehicle is registered in the state of North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state of North Carolina, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.
- F. Whenever an Abandoned, Nuisance or Junked Vehicle is removed, and the Vehicle has no valid registration or registration plates, the Authorizing 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 divisions (C)(1) through (C) (5) above.

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Sec. 12-78. Exception to Prior Notice Requirements.

- A. The requirement that notice be given prior to the removal of an Abandoned, Nuisance or Junked 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 removal of vehicles without prior notice include:
1. Vehicles abandoned on the public streets and highways, for which the Town 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 a loading zone;
 - e. Parked in a bus zone; or
 - f. Parked in violation of temporary parking restrictions.
 2. With respect to an Abandoned or Nuisance Vehicle left on property other than the streets and highways, such a Vehicle may be removed without giving prior notice only in 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, such circumstances include those in which a Vehicle is blocking or obstructing ingress or egress to a businesses or residence, poses a traffic hazard, or is causing damage to public property or to the private property of another.

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Sec. 12-79. Right to Probable Cause Hearing before Sale or Final Disposition of Vehicle.

- A. After the removal of an Abandoned, Nuisance or Junked 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 pursuant to N.C.G.S. § 20-219.11. 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 N.C.G.S. § 20-219.11.

- B. The only issue at this hearing is whether or not probable cause existed for the towing. If the County Magistrate finds that probable cause did exist, the tower's lien continues. If the County Magistrate finds that probable cause did not exist, the tower's lien is extinguished.
- C. Any aggrieved party may appeal the County Magistrate's decision to District Court.
- D. The Town shall pay the towing and storage charges if the District Court's decision is that no probable cause existed for the tow of the Vehicle.

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Sec. 12-79. Redemption of Vehicle During Proceedings.

Unless such Vehicle is being detained by police as evidence, in accordance with N.C.G.S. § 20-219.12, 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 Chapter.

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Sec. 12-80. Sale and Disposition of Unclaimed Vehicle.

Any Abandoned, Nuisance or Junked 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 after being held for thirty (30) days. Disposition of the Vehicle shall be carried out in coordination with the Town and in accordance with N.C.G.S. §§ 44A-1 et seq.

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Sec. 12-80. 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 or Junked Vehicle and has been ordered removed by the Authorizing Official. The Town may require any person requesting the removal of an Abandoned, Nuisance or Junked Vehicle from private property to indemnify the Town against any loss, expense or liability incurred because

of the removal, storage or sale thereof. The Town will not remove or dispose of any Vehicle that is used on a regular basis for business or personal use.

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Sec. 12-81. 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 Vehicle, for disposing of the Vehicle as provided in this Chapter.

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Sec. 12-82. 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 Chapter unless and until all towing and impoundment fees which are due, or bond in lieu of the fees, have been paid.

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