

Chapter 21 ENVIRONMENT

ARTICLE I. IN GENERAL.

Sections 21.1-21.25. Reserved.

ARTICLE II. NUISANCES

Division 1. Generally.

Section 21.26. Conditions constituting nuisance.

Section 21.27. Investigation required.

Section 21.28. Written notice to abate; service.

Section 21.29. Abatement by town; lien for costs, collection.

Section 21.30. Administrative fee.

Section 21.31. Procedures under this article not exclusive.

Sections 21.32-21.45. Reserved.

Division 2. Abandoned Vehicles

Section 21.46. Definitions.

Section 21.47. Abandonment prohibited; removal required; notice of towing.

Section 21.48. Removal of junked motor vehicles for aesthetic purposes.

Section 21.49. Nonliability of persons disposing of vehicle.

Section 21.50. Right to hearing; conduct of hearing; appeals; option to pay or post bond.

Section 21.51. Disposal of vehicle with owner's consent.

Section 21.52. Exceptions.

Sections 21.53-21.65. Reserved.

ARTICLE III. NOISE

Section 21.66. General prohibitions; loud, raucous and disturbing noise.

Section 21.67. Prohibited noise activities.

Section 21.68. Exemptions.

ARTICLE I. IN GENERAL

Sections 21.1 - 21.20 Reserved.

ARTICLE II. NUSANCES

DIVISION I. GENERALLY

SECTION 21.26. Conditions constituting nuisance.

The existence of any of the following condition on any lot or parcel of land within the Town limits is hereby declared to be dangerous and prejudicial to the public health and safety of the inhabitants of the Town and to constitute a public nuisance:

(1) The excessive and uncontrolled growth of grasses, weeds; underbrush, and other growths which may cause hazards which are detrimental to the public health and safety;

(1)(a) Uncontrolled weed growth. The excessive and uncontrolled growth of grasses and weeds (12 inches), underbrush, and other growths which may cause hazards which are detrimental to the public health and safety.

(2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors emanating therefrom, or by the inhabitation thereof, by rats, mice, snakes, domesticated or wild animals, or vermin of any kind which are or may be dangerous to prejudicial to the public health and safety; or

(3) Any accumulation of rubbish, trash, old furniture, appliances, or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation thereof by rats, mice, snakes, domesticated or wild animals, or vermin of any kind which are or may be dangerous to prejudicial to the public health and safety.

SECTION 21.27. Investigation required.

The Chief of Police, or his designee, upon its coming to his attention that any of the conditions described in Section 21.26 may exist, shall make such investigation as may be necessary in order for him to determine whether, in fact, such conditions exist so as to constitute a public nuisance, as declared in such section.

SECTION 21.28. Written notice to abate; service.

(a) Upon a determination by the Chief of Police, or his designee, that such conditions constituting a public nuisance exist, the Chief of Police, or his designee, shall cause a written notice to be served on the property owner, lessee, occupant, or person in charge of any such lot or parcel of

land, reciting in the notice the conditions that exist with respect to the lot

which constitute the same public nuisance, which notice shall order the prompt abatement of the nuisance within 15 days from the receipt of such notice. If the notice cannot be personally given because of the absence from the state of the person to be served, the notice may be given by causing it to be published in a newspaper, circulated in the Town, one time. The notice shall describe the lot or property sufficiently to identify it and shall describe the conditions which constitute a public nuisance and shall state the time within which the nuisance must be abated. In addition to the method of service set out above, the notice may be served utilizing any method authorized for service of summons in Rule 4 of the North Carolina Rules of Civil Procedure.

(b) If the condition to which the notice refers shall include excessive and uncontrolled growth of grasses, weeds, underbrush, and other growths, then, and in that event, the notice may advise the person to whom it was directed that, if he does not correct the condition, the Town may do so as often as necessary to abate the problem during the current growing season.

SECTION 21.29. Abatement by town; lien for costs, collection.

If the owner, lessee, occupant, or other person in charge of the lot or parcel of land shall fail or refuse to comply with the order embodied in the notice served pursuant to this article, then, and in that event, the Town, through its authorized agents and employees, shall enter upon the lot or parcel of land and abate the nuisance identified in the notice. The actual cost of all labor, trucks, mowers, machines, and implements used by the Town to abate the nuisance shall be calculated by the Department of Public Works and shall immediately be and constitute a lien against the subject property. A copy of the original notice served upon the owner, lessee, occupant, or person in charge of such property shall be filed with the tax collector of the Town, together with a statement of the actual cost to the Town of abating the nuisance and, if the amount shall not be paid by the owner, lessee, occupant, or other person in charge of the property within 30 days thereafter, the amount shall be collected by the tax collector by action in the same manner as a suit to collect unpaid taxes due on real estate. The tax collector shall keep an appropriate public record of all such costs and any proceedings had under this article. Provided, however, notwithstanding any other provision of this article, if the party responsible for the nuisance identified in the notice is not the owner of the real property on which the nuisance is located, the cost of abating the nuisance shall be charged against the responsible party as if such cost were unpaid taxes due on personal property and collected by the tax collector as if they were unpaid taxes.

SECTION 21-30. Administrative fee.

The actual cost to the Town of abating the nuisance, to which reference is made in section 21.29, shall include the cost of service of the notice to abate required by section 21.28, and a reasonable administrative fee not to exceed \$50.00.

SECTION 21.31. Procedures under this article not exclusive.

The procedures set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this article shall not prevent the Town from proceeding in a criminal action against any person violating the provisions hereof, as provided in G.S. 14-4.

Sections 21.32-21.45. Reserved.

DIVISION 2. ABANDONED VEIDCLES*

***Cross references:** Traffic and vehicles, chapter 65.

Section 21.46. Definitions.

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

Abandoned motor vehicle means a vehicle that:

- (1) Has been left upon a street or highway in violation of a law or ordinance regulating or prohibiting parking; or
- (2) Is left on property owned or operated by the Town longer than 24 hours; or
- (3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
- (4) Is left on any public street or highway for longer than seven days.

Health or safety hazard means an abandoned or junked motor vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, insects, snakes, rats or pests or being used for storage in a manner which may attract such pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
- (3) A point of collection for pools or ponds of water; or
- (4) A point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials; or
- (5) So located that there is a danger of the vehicle falling or turning over; or
- (6) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside, or from exposed surfaces of metal, glass or other rigid materials.

Junked motor vehicle means an abandoned motor vehicle that also:

- (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 \$100.00; 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.

Section 21.47. Abandonment prohibited; removal required; notice of towing.

(a) *Abandonment prohibited.* It shall be unlawful for any person to abandon any motor vehicle defined in section 21.46 as an abandoned motor vehicle, a junked motor vehicle, or a health or safety hazard vehicle.

(b) *Removal required.* It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle defined in section 21.46 as an abandoned motor vehicle, a junked motor vehicle, or a health or safety hazard vehicle.

(c) *Notice of towing.* The procedure for removal and disposition of junked or abandoned motor vehicles shall be those prescribed by G.S. 160A-303. When an abandoned or junked motor vehicle is removed, the Town shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

Section 21.48. Removal of junked motor vehicles for aesthetic purposes.

(a) *Definitions.* For purposes of this section, the term "junked motor vehicle," as authorized by G.S. 160A-303.2, means a vehicle that does not display a current license plate and that:

- (1) Is partially dismantled or wrecked; or
- (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 \$100.00.

(b) *Abandonment prohibited.* It shall be unlawful to abandon a junked motor vehicle, as defined in this section, on public grounds or private property.

(c) *Removal required* It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle defined in this section as a junked motor vehicle.

(d) *Required finding; order to remove.* Upon investigation, the Chief of Police, or his designee, may order the removal of a junked motor vehicle, as defined, in this section.

(e) *Notice of towing.* The procedure for removal and disposition of junked motor vehicles shall be those prescribed in G.S. 160A-303.2. When an abandoned or junked motor vehicle is removed, the Town shall give notice to the owner as required by G.S. 20-219.11 (a) and (b).

(f) *Exception.* The provisions of this section shall not apply to any motor vehicle that is used on a regular basis for business or person use.

Section 21.49. Nonliability of persons disposing of vehicle.

No person shall be held to answer in any civil or criminal action to any owner, lienholder or other person, legally entitled to the possession of any abandoned, lost or stolen vehicle, for disposing of such vehicle as provided in this division.

Section 21.50. Right to hearing; conduct of hearing; appeals; option to pay or post bond.

(a) The owner or any other person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with a magistrate in the county where the vehicle was towed. The magistrate shall set the hearing within 72 hours of his receiving the request. The owner, the person who requested the hearing if someone other than the owner, the tower, and the person who authorized the towing shall be notified of the time and place of the hearing.

(b) The owner, the tower, the person who authorized the towing, and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit an affidavit in lieu of appearing personally, but the affidavit does not preclude that person from also testifying.

(c) The only issue at this hearing is whether or not probable cause existed for the towing. If the magistrate finds that probable cause did exist, the tower's lien continues. If the magistrate finds that probable cause did not exist, the tower's lien is extinguished.

(d) Any aggrieved party may appeal the magistrate's decision to district court.

(e) At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of his vehicle by:

- (1) Paying the towing fee, or
- (2) Posting a bond for double the amount of the towing fee.

Section 21.51. Disposal of vehicle with owner's consent.

With the consent of the owner of the vehicle, any motor vehicle may be removed and disposed of as a junked motor vehicle regardless of the value, condition or age of such vehicle.

Section 21.52. Exceptions.

The provisions of this division for the removal of abandoned motor vehicles and abandoned junked motor vehicles shall not 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 Town.

Sections 21.53-21.65. Reserved.

ARTICLE III. NOISE*

***State law references:** Authority to prohibit or regulate the emission of noise, G.S. I60A-184 .

Section 21.66. General prohibitions; loud, raucous and disturbing noise.

It shall be unlawful for any person or group of persons, regardless of number; willfully to make, continue, or cause to be made or continued, any loud, raucous and disturbing noise, which term shall mean any sound which because of its volume level, duration, and character annoys, disturbs, injures, or endangers the comfort, health, peace, or safety of reasonable persons of ordinary sensibilities within the limits of the Town: The term 'loud, raucous and disturbing noise' shall be limited to loud, raucous and disturbing noises heard upon the public streets, in any public park, in any school or public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any parking lot open to members of the public as invitees or licensees, or any occupied residential unit which is not the source of the noise or upon the grounds thereof.

Section 21.67. Prohibited noise activities.

The following acts are hereby declared to be public nuisances in violation of the above section, but the acts enumerated in this section shall not be deemed to be exclusive:

(1) The use or operation of any mechanical or electrical device, apparatus, or instrument to amplify, intensify, or reproduce the human voice, or to produce, reproduce, intensify, or amplify any other sound when the sound from such activity is clearly audible more than 100 feet from the device, apparatus, or instrument.

(2) The playing or operation of any radio, cassette tape player, compact disk player, or any other sound-producing instrument, device, or apparatus installed or located in a motor vehicle when the speaker volume is elevated to such an extent that the sound is clearly audible more than 100 feet from the vehicle. The provisions of this subsection shall apply regardless of whether the vehicle is traveling upon the streets of the Town, parked on public or private property, or stopped in traffic.

(3) The sounding of any horn or signal device on any automobile, motorcycle, bicycle, bus, or other vehicle, except as a danger signal, so as to create an unreasonably loud or harsh sound, or the sounding of such device for an unreasonable period of time, or the use of siren horns on bicycles, automobiles, or other vehicles except upon automobiles and other apparatus of the police and fire departments or upon authorized emergency service vehicles.

(4) The playing of any radio, cassette tape player, compact disk player, phonograph, or mechanical or nonmechanical musical or sound-producing instrument in such a manner or with such volume that the sound therefrom creates a loud and raucous noise.

(5) The owning, keeping, or harboring of any animal or bird which frequently, or for continued duration, howls, barks, meows, squawks, or makes other sounds which disturb the reasonable comfort and peace of any person in the vicinity by creating a loud and raucous noise.

(6) The use of any automobile, motorcycle, or vehicle so out of repair, or so loaded, or in such manner or in combination with other vehicles as to create by virtue of its grating, grinding, or rattling sound, a loud and raucous noise.

(7) The blowing of any steam whistle attached to any stationary boiler, except to give notice of time to begin or stop work, or as a warning of danger.

Section 21.68. Exemptions.

The following acts or activities are exempt from the provisions of this article:

(1) The use of a permanently installed loudspeaker or public address system at railroad and bus stations to announce the arrival and departure of trains and buses.

(2) The use of a permanently installed loudspeaker or public address system at athletic stadiums to announce athletic events.

(3) Musical chimes or the sounding of bells emanating from public or religious institutions or facilities.

(4) Sounds emanating from any authorized emergency vehicle responding to an emergency or acting at the time of an emergency.

(5) Noise sources associated with or created by construction, repair, remodeling, demolition, or grading of any real property, provided such activities do not take place between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturdays, or at any time on Sunday.

(6) Noise sources associated with the maintenance of real property, provided such activities take place between the hours of 7:00 a.m. and 10:00 p.m. on any day.

(7) Noise emanating from any burglar alarm or security device on any building, dwelling or vehicle, provided such noise terminates within 30 minutes of being activated.

(8) Any activity to the extent regulation thereof has been preempted by state or federal law.