

CHAPTER 92: ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES

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§ 92.01 TITLE AND ADMINISTRATION.

(A) This chapter is hereby entitled and may be cited as "An Ordinance to Provide for the Removal and Disposition of Abandoned, Nuisance and Junked Motor Vehicles," and may be referred to as the "Junked Motor Vehicle Ordinance."

(B) The City of Trinity City Council shall be primarily responsible for the administration and enforcement of this chapter, but they may delegate this responsibility by resolution. The City Council shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property as well as within the public right-of-way of streets and highways. The city may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store and dispose of abandoned, nuisance and junked motor vehicles in compliance

with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of any law enforcement officers and fire departments and other authorized agencies in enforcing other laws or in otherwise carrying out their duties.

(Ord. passed 6-16-1998)

§ 92.02 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. As authorized and defined in G.S. § 160A-303, an abandoned vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left upon a public street or highway for longer than 7 days;
- (3) Is left upon property owned or operated by the city for longer than 24 hours; or
- (4) Is left upon private property without the consent of the owner, occupant or lessee thereof for longer than 2 hours.

AUTHORIZED OFFICIAL. The Enforcement Officer or other city official designated by the City Council to authorize the removal of vehicles under the provisions of this chapter.

BUSINESS ENTERPRISE. Any for-profit commercial activity, whether conducted by an individual, partnership or corporation, either full-time or part-time. The activity must be operated in a lawful place, as shown by full compliance with all local licensing and zoning laws. It must also be operated in a lawful manner, as demonstrated by properly dated and authenticated business licenses, legal documentation (such as articles of incorporation, partnership agreements or assumed name certificates), federal and/or state tax returns or automobile dealer's licenses.

CAR COVER. One that is specifically manufactured and retailed for the purpose of covering a car.

CLASSIC VEHICLE. A vehicle that is:

- (1) Titled (vehicle owner must possess title);
- (2) Listed with the County Tax Department;
- (3) A minimum value of \$400;

(4) Restorable; and

(5) Must contain a power train system (including a motor and transmission).

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 vehicle and that:

(1) Is partially dismantled or wrecked;

(2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or

(3) Is more than 5 years old and appears to be worth less than \$100.
(Am. Ord. passed 7-16-2002)

JUNKYARD (SALVAGE). Any land or area used, in whole or part, for the storage, keeping or accumulation of materials, including scrap materials or used building materials, for the dismantling, demolition or abandonment of automobiles or other motor vehicles or machinery or parts thereof. This definition includes the following SIC groups: 5025 Motor Vehicle Parts, Used or 5093 Scrap and Waste Materials. These would only include legally operated businesses that conform to the City of Trinity Zoning Ordinances.

MOTOR VEHICLE. Any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled motor vehicle.

NUISANCE MOTOR 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 motor vehicle found to be:

(1) A breeding ground or harbor for mosquitoes or other insects or rats or other pests;

(2) A point of heavy growth or weeds or other noxious vegetation over 8 inches in height;

(3) A point of collection of pools or ponds of water;

(4) A point of concentration of quantities of gasoline, oil and 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 danger of its 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;

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

(9) So offensive to the sight as to damage the community, neighborhood or area appearance;

or

(10) For other reasons declared a health and safety hazard and a public nuisance by the Enforcement Officer and/or the City Council.

(Ord. passed 6-16-1998)

§ 92.03 ABANDONED VEHICLES UNLAWFUL; REMOVAL.

(A) It shall be unlawful to abandon a motor vehicle (as defined above) by the registered owner or person entitled to possession of that motor vehicle.

(B) Upon investigation the authorized city official may determine that a motor vehicle is an abandoned motor vehicle as defined above and order the motor vehicle removed.

(Ord. passed 6-16-1998) Penalty, see § 92.99

§ 92.04 NUISANCE VEHICLES UNLAWFUL; REMOVAL.

(A) It shall be unlawful for the registered owner of a motor vehicle or for the owner, lessees or occupant of the real property upon which the motor vehicle is located to leave or allow the motor vehicle to remain on the property after it has been declared a nuisance motor vehicle.

(B) Upon investigation, the authorized city official may determine and declare that a motor vehicle is a health hazard or safety hazard and nuisance motor vehicle as defined above and order the motor vehicle removed.

(Ord. passed 6-16-1998) Penalty, see § 92.99

§ 92.05 JUNKED VEHICLES REGULATED; REMOVAL.

(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 motor vehicle to remain on the property after the motor vehicle has been ordered removed.

(B) It shall be unlawful to have more than 2 junked motor vehicles, as defined herein, on the premises of private property. Junked motor vehicles shall strictly comply with the location and concealment requirements of this section and the City of Trinity Zoning Ordinance. If a conflict exists, the more restrictive requirements shall apply.

(C) It shall be unlawful for any 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 fail to comply with the locational requirements or the concealment requirements of this section.

(D) Subject to the provisions of division (E) below upon investigation, the Trinity City Council may order the removal of a junked motor vehicle, as defined above, after finding in writing that the aesthetic benefits of removing the motor vehicle outweigh the burdens imposed on the private property owner. Those 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 appearance. The following relevant factors, among others, 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;
- (5) Maintenance of the attractiveness of the city's roadways for the traveling public;
- (6) Vehicle is located in an area specifically prohibited by the zoning ordinance; and
- (7) Promotion of the comfort, happiness and emotional stability of area residents.

(E) Two junked motor vehicles may be located in the rear yard of a residential lot, as defined in the City of Trinity Zoning Ordinance, provided that junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable car cover. The covering shall remain in good repair and not allowed to deteriorate. The Enforcement Official has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision.

(Am. Ord. passed 7-16-2002) Penalty, see § 92.99

§ 92.06 RIGHT OF ACCESS TO INSPECT MOTOR VEHICLES.

The City Enforcement Officer, the County Health Director and the Mayor or their designees 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 motor vehicle is a health or safety hazard (nuisance) or is detracting the aesthetics of the area.

(Ord. passed 6-16-1998)

§ 92.07 INDEMNIFICATION AGAINST LOSS.

The city may require a person requesting removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify (protect) the city against any expense or liability incurred because of the motor vehicle's removal, storage or sale.
(Ord. passed 6-16-1998)

§ 92.08 REMOVAL OF VEHICLES; PRE-TOWING NOTICE REQUIREMENTS.

(A) Except as set forth in § 92.11 below, an abandoned, nuisance or junked motor vehicles shall not be towed until notice has been given to the registered owner or person entitled to possession of the motor vehicle. In the case of a nuisance motor vehicle or a junked motor vehicle, if the name and mailing address of the registered owner or person entitled to the possession of the motor vehicle or the owner, lessee or occupant of the real property upon which the motor vehicle is located can be determined with diligence, the Enforcement Officer shall send notice by first class mail. The Enforcement Officer shall be responsible for the mailing and shall keep a written record of the date, name and address of the people notified. If the name and address cannot be determined or if the motor vehicle to be removed is an abandoned motor vehicle, notice shall be affixed to the windshield or some other conspicuous place on the motor vehicle indicating that the motor vehicle will be removed on a specific date (no sooner than 7 days after the notice is affixed) unless the motor vehicle is moved by the owner or legal possessor prior to that date.

(B) The registered owner or person entitled to possession may choose not to remove the motor vehicle, but appeal the determination that the motor vehicle is abandoned, a nuisance motor vehicle or, in the case of a junked motor vehicle, that the aesthetic benefits of removing the motor vehicle outweigh the burdens. Appeal shall be made to the City of Trinity City Council in writing and be heard at their next regularly scheduled meeting. Further proceedings to remove the motor vehicle shall be stayed until the appeal is heard and decided.
(Ord. passed 6-16-1998)

§ 92.09 EXCEPTIONS TO PRIOR NOTICE REQUIREMENTS.

The notification requirement may 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. Findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. By way of illustration but not limitation, circumstances include blocking or obstructing ingress and egress to businesses and residences, motor vehicles parked in a location or manner as to pose a traffic hazard and motor vehicles causing damage to public or private property. Vehicles parked in violation of any parking restrictions imposed under this code.
(Ord. passed 6-16-1998)

§ 92.10 REMOVAL OF VEHICLES; POST-TOWING NOTICE REQUIREMENTS.

(A) Whenever a motor vehicle is removed, the Enforcement Officer shall immediately notify the last known registered owner of the following:

- (1) A description of the motor vehicle;
 - (2) The location where the motor vehicle is stored;
 - (3) The violation which caused the motor vehicle to be towed;
 - (4) The procedure the owner must follow to have the motor vehicle returned to him or her;
- and
- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

(B) This written notice, including the information set forth in divisions (A)(1) through (5) above, shall be mailed to the owner's last known address, unless this notice is waived in writing by the motor vehicle owner or his or her agent. If the motor vehicle is registered in North Carolina, notice shall be given to the registered owner within 72 hours from the removal of the motor vehicle.

(C) Whenever a motor vehicle does not have valid registration or registration plate, the city shall make reasonable efforts, including checking the motor vehicle identification number, to determine the last known registered owner of the motor vehicle and to notify him or her of the information set forth in divisions (A)(1) through (5) above.

(Ord. passed 6-16-1998)

§ 92.11 PROBABLE CAUSE HEARING PROCEDURE.

(A) The owner or any other person entitled to claim possession of the motor vehicle may request in writing a hearing to determine if probable cause existed for the towing. The request shall be filed with the County Magistrate (or in any other office designated to receive requests by the Chief District Court Judge) who shall set the hearing within 72 hours of receiving the request. The owner, the Enforcement Officer, the person who towed and any other person affected by the action may present evidence at the hearing.

(B) The only issue at the hearing is to determine whether or not probable cause existed for the removal of the motor vehicle. If the magistrate finds that cause existed the lien on the motor vehicle continues. If the magistrate finds no cause existed, the lien is extinguished and the motor vehicle shall be immediately returned to the owner. Any aggrieved party may appeal the magistrate's decision to District Court.

(Ord. passed 6-16-1998)

§ 92.12 REDEMPTION OF VEHICLE DURING PROCEEDINGS.

At any stage of the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed motor vehicle by paying the towing fee, including storage charges or by posting a bond for double the amount of the fees and charges to the city. Upon regaining possession, the owner or person entitled to the possession of the motor vehicle shall not allow or engage in further violations of this chapter.

(Ord. passed 6-16-1998)

§ 92.13 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 city and in accordance with G.S. Chapter 44A, Article 1.

(Ord. passed 6-16-1998)

§ 92.14 CONDITIONS ON REMOVAL OF VEHICLES FROM PRIVATE PROPERTY.

In no case will a vehicle be removed by the city 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 Enforcement Office or other properly authorized public official. The city may require any person requesting the removal of an abandoned, nuisance or junked 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. passed 6-16-1998)

§ 92.15 NO 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 a motor vehicle as provided in this chapter.

(Ord. passed 6-16-1998)

§ 92.16 EXCEPTIONS.

Nothing in this chapter shall apply to any motor vehicle:

(A) Which is located in a junkyard as defined in this chapter;

(B) Which is in an enclosed building (See § 92.05(E));

(C) Which is on the premises of a business enterprise being operated in a lawful place and manner if the motor vehicle is necessary to the operation of the enterprise; or

(D) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the city.

(Ord. passed 6-16-1998)

§ 92.17 PERSONAL CLASSIC VEHICLE STORAGE EXEMPTION.

No more than 6 personal classic vehicles may be stored on private property under this exemption, without the issuance of a special use permit. The owner of these vehicles must reside on the property where the vehicles are stored. Persons with vehicles that are visible from adjoining properties and/or an access road must provide adequate screening which may include car covers, fencing or natural buffers. (Ord. passed 6-16-1998) Penalty, see § 92.99

§ 92.18 UNLAWFUL REMOVAL OF IMPOUNDED MOTOR VEHICLES.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the city any motor 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 fees, have been paid.

(Ord. passed 6-16-1998) Penalty, see § 92.99

§ 92.99 PENALTY.

In addition to the other remedies specified in the North Carolina General Statutes, the owner of the abandoned, junked or nuisance motor vehicles and/or the owner of the property on which the vehicles are located shall be subject to a fine per motor vehicle. Each day of violation shall be considered a separate offense. The fines shall cover the cost of removal, storage and disposal of the abandoned, nuisance or junked motor vehicle. If not paid, the debt shall be considered a lien against the motor vehicle owner's property or the property on which the motor vehicle is located. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies, either criminal or civil or both, as set forth in § 10.99.

(Ord. passed 6-16-1998)(Am. Ord. passed 7-16-2002)

