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AN ORDINANCE AMENDING THE GREENSBORO CODE OF ORDINANCES
CHAPTER 17 NUISANCES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENSBORO:

Section 1. That Chapter 17 of the Greensboro Code of Ordinances is hereby amended as follows:

ARTICLE I. - NUISANCES

Sec. 17-1. - Nuisances prohibited; enumeration.

- (a) The following enumerated and described conditions are found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the city and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful. The natural conditions on lands dedicated to and/or accepted by the city as natural stream corridors, floodplain and/or open space which are established in order to preserve natural greenways, vegetative stream buffers, and/or natural connecting networks along floodways, streams and creeks are deemed and declared as exceptions for the purpose of enforcement of this article.
- (1) Any condition which constitutes a breeding ground or harbor for rats, mosquitoes, harmful insects, or other pests.
 - (2) Any place of dense growth of grass, weeds or other noxious vegetation over twelve (12) inches in height, except for ornamental grasses chosen for features like color and form, such as switch grass, pampas grass, fountain grass, and bamboo, and with the following provisions:
 - a. A parcel consisting of adjacent vacant lots, under the same ownership, will be considered as one lot.
 - b. Exceptions for lots exceeding one acre in size, or a parcel with combined adjacent vacant lots exceeding one acre in total size, or lots covered with trees:
 1. These lots shall be maintained to a depth of 20 feet from the improved road surface for all dense growth and noxious vegetation where the main trunk, main stem, or main shaft is less than one inch in thickness.
 2. If and only if the adjacent property is occupied by a dwelling or other structure, lots exceeding one acre, vacant undeveloped lots, or lots covered with trees shall be maintained to a depth of 20 feet from the side and rear property lines for all dense growth and noxious vegetation where the main trunk, main stem, or main shaft of vegetation is less than one inch in thickness.

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c. Natural landscape areas and wooded lots shall be allowed under the following conditions:

1. Natural landscape areas and wooded lots shall be maintained and shall not harbor, create nor allow to exist any condition defined as a nuisance or as determined by the code enforcement officer to be a condition which poses a health hazard for the general welfare of the public;
 2. Natural landscape vegetation shall not overhang into the public right-of-way nor into adjoining properties; and
 3. Natural landscape areas shall utilize borders to define the areas. Borders may consist of, but not be limited to, edging material, an edge of low plants, wood timber, or stone or woodchips.
- (3) An open place of concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature.
 - (4) An open place of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind.
 - (5) Hides, dried or green, provided the same may be kept when thoroughly cured and odorless.
 - (6) Any furniture, ~~appliances~~, or metal products of any kind or nature openly kept which have jagged edges of metal or glass, or areas of confinement.
 - (7) Any condition which blocks, hinders, or obstructs in any way the natural flow of water in swales, streams, creeks, surface waters, ditches, or drains, to the extent that standing water is created on the premises.
 - (8) Structures and remains of structures or other condition on a lot in, or abutting, residential districts, which are in a damaged condition as the result of fire, wind, flood, or other disaster or due to age and decay and which remain in an un-repaired state for a period of thirty (30) days. For purposes of the enforcement of this subsection a condition that is detrimental, dangerous, or hazardous to the public safety, health and welfare shall be a condition, which consists of one (1), or more, of the following:
 - a. Glass, metal, or other sharp objects in accessible areas;
 - b. Unstable structures or trees which may fall or collapse;
 - c. Holes, excavations, surviving foundations or walls that may collapse or create heights in excess of three (3) feet in areas where they may be scaled;
 - d. Any substance which is hazardous or harmful to humans or pets; and
 - e. Any open or accessible utility lines such as natural gas, water, sewer, or electrical.
- Any owner of property, which is in non-compliance with this subsection, may enclose the portions of their property in violation with a secure fence of five (5) feet in height,

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which prevents the entry of humans until such time as the property is repaired to Code standards or completely demolished and is no longer in a detrimental, dangerous or hazardous state. Such enclosure shall be deemed compliance with this subsection provided the nuisance condition does not reach beyond the perimeter of the property.

(9) Obstructions in the public right of way which pose danger to the general public.

(10) Appliances, which are designed for indoor use, stored outside; however, these appliances may be kept inside the primary structure or in accessory structures, designed to withstand the elements and having a roof, walls, and door(s).

(11) Household furniture, which is not designed to withstand the elements, stored outside or placed on porches, decks or landings, on accessory structures, or in yards or any other area which provides a location where insects, rodents, or other vermin may breed or may reasonably be expected to breed. This section shall not prohibit the use of household furniture in a totally enclosed porch, designed to withstand the elements and having a roof, walls, screens, or glass windows.

(b) For the purpose of enforcement of this article, an open place is defined as an area of property or portion thereof that is open, including building openings of residential dwelling units that are open to the exterior, such as attached carports, or porches, and any other exterior portions of properties ordinarily exposed to public view.

(Code 1961, § 8-20; Ord. No. 90-39, § 1, 3-15-90; Ord. No. 99-213, § 1, 12-21-99; Ord. No. 00-218, § 1, 12-5-00; Ord. No. 01-209, § 1, 10-16-01)

Sec. 17-2. - Notice to abate; emergency abatement by city.

(a) If any person shall violate the provisions of section 17-1, it shall be the duty of the Director of Neighborhood Development or their designated representative to give notice to the owner or to any person in possession of the subject property, as provided by section 17-3, directing that all unlawful conditions existing thereupon be abated within ten (10) days from the date of such notice; provided, that if, in the opinion of the Director of Neighborhood Development or their designated representative, the unlawful condition is such that it is of imminent danger or peril to the public, then any authorized representative may, without notice, proceed to abate the same, and the cost thereof shall be charged against the property as is provided in section 17-5.

(b) The Director of Neighborhood Development or their designated representative may enter upon the premises for the purpose of abating the nuisance and may summarily remove, abate, or remedy any condition in the City limits that is a prohibited nuisance under Section 17-1.

(Code 1961, § 8-21; Ord. No. 00-219, § 1, 12-5-00)

Sec. 17-3. - Service of notice.

- (a) The owner of subject property shall be notified of violation of section 17-1 by personal delivery of said notice or by regular and by registered or certified mail, return receipt requested. If such notice is refused or is returned unclaimed, but the regular mail is not returned by the post office within 10 days after the mailing, the service shall be deemed sufficient. The notice shall also be posted in a conspicuous place on the premises affected. The person mailing such order by regular mail shall certify that fact and the date thereof and such certificate shall be deemed conclusive in the absence of fraud. If the name of the owner cannot be ascertained, then the notice shall be served on any person in possession of the subject property.
- (b) Any such notice may be served by any code enforcement officer or by any police officer of the city when so authorized through the Neighborhood Development Department.
- (c) A city may notify a chronic violator of the city's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the city shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by registered or certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of violation at least three times under any provision of the public nuisance ordinance.

(Code 1961, § 8-23; Ord. No. 92-146, § 1, 12-3-92; Ord. No. 00-219, § 2, 12-5-00; Ord. No. 13-115, § 1, 8-20-13)

Sec. 17-4. - Defect in notice not to affect lien.

Any defect in the method of giving, the notice required by section 17-2, or in the form thereof, or the giving of such notice to an improper person, shall not prevent the city, in any case where the work of abating an unlawful condition upon any property is caused by the city, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the property for such cost.

(Code 1961, § 8-24)

Sec. 17-5. - Abatement by city where owner fails to abate.

- (a) Upon the failure of the owner or person in possession of any premises to abate any unlawful condition existing thereupon within the time prescribed by section 17-2, it shall be the duty of an authorized Neighborhood Development representative to cause the removal and abatement of such unlawful condition therefrom.
- (b) Upon completion of such removal and abatement, the Director of Neighborhood Development or their designated representative shall deliver to the city tax collector a statement showing the actual costs of the abatement of the unlawful condition plus an additional fee of ten (10) percent of the total cleanup costs with a minimum of one hundred dollars (\$100.00) to cover the cost of notice and costs of collection as a civil penalty. Civil

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penalties assessed under this section are considered restorative; intended to provide compensation to the city for costs associated with the city's program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the city for its costs. The assessment of civil penalties herein is not intended to be an exercise of powers delegated to other agencies or entities created by the General Assembly to regulate the proscribed conduct. Violations of this article shall not be punishable as a misdemeanor or infraction and Section 14-4 of the North Carolina General Statutes shall not apply to violations of this Chapter. The city tax collector shall thereupon mail to the owner of the subject property a bill covering the cost, if with reasonable diligence the name and address of such owner can be ascertained, and the amount of the bill shall become a lien upon the property, and if not paid within thirty (30) days shall be collected as in the manner provided for the collection of delinquent taxes.

(c) Any city employee charged with enforcement and collection of abatement costs or civil penalties may, in consultation with the appropriate director and City Attorney, reduce the penalties or costs assessed, based on criteria set forth in departmental guidelines. Modification of penalties by the Director, the designee, or the City Attorney may be appealed to the Minimum Housing Standards Commission in accordance with Section 11-49 of the Code.

(Code 1961, § 8-22; Ord. No. 97-88, § 1, 6-3-97; Ord. No. 00-219, § 3, 12-5-00; Ord. No. 01-148, § 1, 6-5-01)

State law reference— Lien authorized, G.S. § 160A-193.

Sec. 17-6. - Appeals.

Within the ten-day period mentioned in section 17-2 hereof, the owner of the property where the nuisance exists may appeal the findings of the director of Neighborhood Development or their designated representative to the city council~~Minimum Housing Standards Commission~~ by giving written notice of appeal to the director of Neighborhood Development or their designated representative. An appeal stays the abatement of the nuisances until a final determination by the council~~Commission~~. In the event no appeal is taken, the director of Neighborhood Development or their designated representative department may proceed to abate the nuisance.

(Code 1961, § 8-25; Ord. No. 00-219, § 4, 12-5-00)

Sec. 17-7. - County health officer may exercise current authority.

It is the intention of this article that any authorized representative of the director of Neighborhood Development or their designated representative shall be primarily responsible for the enforcement of the provisions of this article; but the county health officer shall, in any case where he deems it advisable to act, have all the authority conferred by this article, and any notice served for the purpose of this article, by, or by authority of the county health officer and any charge made by the county health officer in accordance with the provisions of section 17-5,

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subsection (b), shall be as valid as if made by the director of Neighborhood Development or their designated representative.

(Code 1961, § 8-26; Ord. No. 00-219, § 5, 12-5-00)

Secs. 17-8—17-25. - Reserved.

ARTICLE II. - UNSAFE BUILDINGS

Sec. 17-26. - Declaration and findings.

The city council finds and declares that there exists in the city certain occupied and vacant buildings and other nonresidential structures that constitute a health or safety hazard or both to the citizens of the city as a result of conditions creating a fire hazard, bad condition of walls, over-loaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, dangerous conditions creating a threat to children, frequent use by vagrants as living quarters, or the attractions of insects or rodents. In order to alleviate these unsafe and dangerous conditions for the health, safety, and welfare of the citizens of the city, a public necessity exists for the repair, closing or demolishing of such buildings and other nonresidential structures.

Sec. 17-27. - Correction of defects.

If the code enforcement officer finds that the conditions of a building or other nonresidential structure constitutes a fire or safety hazard or is dangerous to life, health or other property and he has notified the owner of these conditions and has also posted the building or nonresidential structure, the owner shall take the necessary measures to correct the unsafe or hazardous conditions found by the building inspector.

Sec. 17-28. - Appeal.

Any owner who has received an order pursuant to this article may appeal from the order to the housing commission by giving notice of appeal in writing to the inspector code enforcement officer within ten (10) days following issuance of the order. In the absence of an appeal, the order of the inspector shall be final. The housing commission shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(Code 1961, § 10-28(c))

Cross reference— Housing commission, § 11-46 et seq.

Sec. 17-29. - Abatement by city—Generally.

- (a) If the owner fails to comply with the order of the code enforcement officer to repair, improve, vacate, demolish or close and secure a building or other nonresidential structure after the code enforcement officer has followed the procedures as prescribed by North Carolina General Statutes sections 160A-425 through 160A-430, then the code enforcement officer may cause the building or other nonresidential structure to be closed and made secure. The determination by the code enforcement officer to close and secure the building or other nonresidential structure upon failure of the owner to comply with the order to repair, improve, vacate, close or demolish, shall not be exercised until the housing commission shall, by resolution, order the code enforcement officer to proceed to cause the building or other nonresidential structure to be closed and secured and the resolution shall describe the location of the property.
- (b) If the code enforcement officer finds a building or structure that is in such a state of disrepair and dilapidation that unless such structure or building is immediately repaired or demolished it would continue to constitute a health or safety hazard and will continue to be dangerous to life, health or other property based upon the standards set forth in subsection (c), he shall order the owner thereof to demolish the structure or to immediately repair it in such a manner that it meets the minimum requirements of the building code. The owner of the building or structure may appeal the order to repair or demolish by appealing to the housing commission as provided in section 17-28. If the owner fails to repair or demolish the structure as required in the order of the code enforcement officer after the officer has followed the procedures as prescribed by North Carolina General Statutes sections 160A-425 through 160A-430, then the code enforcement officer may cause the structure to be demolished.
- (c) Hazardous conditions requiring immediate repair or demolition shall be met if the building inspector finds all of the following:
 - (1) The condition of the walls, floor and roof is in such a state of decay or disrepair that they constitute a serious safety hazard.
 - (2) The cost of repair to bring the building or structure into compliance with the minimum building code of the city would be sixty-five (65) percent or more of the value of the building or structure as it stands at the time of the inspection. The code enforcement officer may use his own opinion to find that the cost of repair of the building or structure would be sixty-five (65) percent of the value of the structure.
- (d) No building or structure shall be caused to be demolished by the building inspector until the minimum housing standards commission shall, by ~~resolution~~, ordinance or other decree order the code enforcement officer to proceed to cause the building or structure to be demolished and the resolution shall describe the location of the property.

(Code 1961, § 10-28(d); Ord. No. 97-45, § 1, 4-15-97; Ord. No. 00-219, § 6, 12-5-00)

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Sec. 17-30. - Demolition lien.

If a building is caused to be demolished by the code enforcement officer pursuant to this article, the amount of the cost for such demolition shall be a lien against the real property upon which such cost was incurred. The lien shall be filed; have the same priority and be collected or foreclosed upon in the same manner as is provided for assessments for local improvements.

(Code 1961, § 10-28(d), (e))

Secs. 17-32—17-49. - Reserved.

ARTICLE III. - ABANDONED AND JUNKED VEHICLES

Sec. 17-50. - Authority.

The City of Greensboro hereby finds that regulation of abandoned and junked vehicles is necessary and desirable to protect the health and safety of the residents of the City and to promote and enhance community, neighborhood and city appearance.

Sec. 17-51. - 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:

- (a) *Abandoned motor vehicle* means any vehicle:
 - (1) Left upon a street or highway in violation of the law or ordinance regulating or prohibiting parking; or
 - (2) Left on property owned or operated by the city for a period of not less than twenty-four (24) hours; or
 - (3) Left on any street or highway for longer than seven (7) days or is determined by law enforcement to be a hazard to the motoring public; or
 - (4) Left on private property without the consent of the owner, occupant or lessee thereof for longer than two (2) hours.
- (b) *Junked motor vehicle* 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 (5) years old and appears to be worth less than five hundred dollars (\$500.00).
- (c) *Motor Vehicle* is defined to include all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle. Use of the term vehicle or trailer in this article shall mean motor vehicle. For purposes of this

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article, an electric personal assistive mobility device as defined in N.C.G.S. § 20-4.01(7a) is not a motor vehicle.

(Code 1961, §§ 13-20(d), 13-21(a); Ord. No. 94-100, § 1, 9-29-94; Ord. No. 00-219, § 7, 12-5-00)

State law reference— Similar provisions, G.S. § 160A-303(b), G.S. § 20-4.01(23) and (49).

Sec. 17-52. - Exemptions.

This article does 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 city. No motor vehicle used on a regular basis for business or personal use shall be removed or disposed of pursuant to this article.

(Code 1961, § 13-21.3)

State law reference— Similar provisions, G.S. § 160A-303(g). & G.S. § 160A-303.2(b).

Sec. 17-53. - Civil, etc., 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 any abandoned, lost or stolen vehicle for disposing of such vehicle as provided in this article.

(Code 1961, §§ 13-20(d), 13-21(e))

State law reference— Similar provisions, G.S. § 160A-303(f).

Sec. 17-54. - Abandonment prohibited.

It shall be unlawful for the registered owner or person entitled to the possession of the vehicle to allow any abandoned motor vehicle or junked motor vehicle to remain on any public street, public property or private property in violation of this article.

(Code 1961, § 13-21.1(a))

State law reference— Authority to so provide, G.S. 160A-303(a).

Sec. 17-55. - Removal generally.

(a) Removal from public streets or public grounds. Any abandoned or junked motor vehicle on the public streets or public grounds may be removed to a city-authorized storage garage or

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area by or under the direction of a law enforcement officer or a code enforcement officer. Notice of each removal shall be given to the owner of the vehicle as promptly as possible in accordance with the procedure below. The owner of such vehicle, before obtaining possession thereof, shall pay to the city all reasonable costs incidental to the removal, storage and locating the owner of the vehicle.

- (b) Removal from private property. Any abandoned or junked motor vehicle on private property may be removed to a city-authorized storage garage or area by or under the direction of a law enforcement officer or a code enforcement officer upon the written request of the owner, lessee, or occupant of the premises.

Any junked motor vehicle upon privately owned property may be removed to a city-authorized storage garage or area by or under the direction of a law enforcement officer or a code enforcement officer without the written request of the owner, lessee, or occupant of the premises when:

- (1) The code enforcement officer declares in writing the vehicle to be a health, safety or fire hazard; or
 - (2) The code enforcement officer makes a finding, in writing, that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such 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:
 - a. Protection of property values;
 - b. Promotion of tourism and other economic development opportunities;
 - c. Indirect protection of public health and safety;
 - d. Preservation of the character and integrity of the community; and
 - e. Promotion of the comfort, happiness, and emotional stability of area residents.
- (c) In determining whether there is a health, safety or fire hazard, the code enforcement officer may take into consideration that the vehicle is found to be:
- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
 - (2) A point of heavy growth of weeds or other noxious vegetation over twelve (12) inches in height; or
 - (3) A point of collection of pools or ponds of water; or
 - (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials; or
 - (5) One which has areas of confinement which cannot be operated from the inside, such as trunks, hoods, etc.; or
 - (6) So situated or located that there is a danger of it falling or turning over; or
 - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

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- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass.
 - (9) A condition or circumstance which exposes the general public to safety or health hazards.
- (d) It shall be unlawful for the registered owner or person entitled to the possession of an abandoned vehicle or junked motor vehicle, or for the owner, lessee or occupant of the real property upon which an abandoned vehicle or junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (e) When a junked motor vehicle is removed from privately owned property, the person who has requested such vehicle to be removed may be required to pay or otherwise indemnify the city for any expenses incurred by reason of its removal, storage or sale thereof.

(Code 1961, §§ 13-20(a), 13-21(b), 13-21.1(b); Ord. No. 94-100, § 2, 9-29-94)

State law reference— Removal authorized, G.S. § 160A-303(c).

Sec. 17-55.1. - Penalties for violations.

Any person who violates any provision of this article shall be subject to assessment of a civil penalty in the amount of twenty-five dollars (\$25.00) for the first violation, fifty dollars (\$50.00) for the second violation, one hundred dollars (\$100.00) for the third violation, and two hundred dollars (\$200.00) for the fourth and each succeeding violation. The enforcement of civil penalties levied hereunder shall be in accordance with the procedures set out in section 30-5-5, Assessment of Civil Penalties, of the Greensboro Land Development Ordinance. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the city for costs associated with the city's program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the city for its costs. Violations of this article shall not be punishable as a misdemeanor or infraction and Section 14-4 of the North Carolina General Statutes shall not apply to violations of this chapter. The assessment of civil penalties herein is not intended to be an exercise of powers delegated to other agencies or entities created by the General Assembly to regulate the proscribed conduct.

(Ord. No. 94-100, § 3, 9-29-94; Ord. No. 04-166, § 1, 9-7-04)

17-56. Pre-tow notice.

- (a) Any junked or abandoned vehicle in violation of this article may be removed to a city-authorized storage garage or area by or under the direction of a law enforcement officer or a code enforcement officer. Such motor vehicle shall be towed after notice is provided by posting a warning notice on the vehicle. Such notice shall be affixed to the windshield or some other conspicuous place on the vehicle. That notice shall state that the vehicle

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will be removed on a specified date, no sooner than seven days after the notice is affixed to the vehicle, unless the vehicle is brought into compliance by the owner or legal possessor prior to that time. The notice shall also state the procedure the owner must follow to request a probable cause hearing before the towing.

- (b) The requirement that notice be affixed to any vehicle at least seven days prior to removal may be omitted in those circumstances where the vehicle impeded the flow of traffic or otherwise to maintain or protect the public safety and welfare.

17-56.1. Post-tow notice.

- (a) Whenever a vehicle with a valid registration plate or vehicle identification number is towed hereunder, the authorizing person shall notify the last known address of the following:
 - (1) A description of the vehicle.
 - (2) The place from which the vehicle may be released.
 - (3) The violation.
 - (4) The procedure the owner must follow to have the vehicle returned to him.
 - (5) The procedure the owner must follow to request a probable cause hearing on the towing.
- (b) If the vehicle has a state registration plate or registration, notice shall be given to the owner within twenty-four (24) hours; if the vehicle is not registered in this state, notice shall be given to the owner within seventy-two (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.
- (c) Whenever a vehicle with neither a valid registration plate nor vehicle identification number is towed as provided in hereunder, the authorizing person shall make reasonable effort to determine the last-known registered owner of the vehicle and to notify him of the information listed in subsection (b). Reasonable efforts shall be presumed if the requirements of section 17-56 or 17-56.1 have been followed.

State law reference— Similar provisions, G.S. §§ 160A-303(c), 20-219.11(a), (b).

Sec. 17-57. - Hearing.

- (a) The owner or any other person entitled to claim possession of the vehicle towed pursuant to this article may request a hearing either before towing or after towing of the motor vehicle. The only issue at this hearing is whether or not the City can demonstrate probable cause to tow the motor vehicle. The request shall be filed with the code enforcement officer, and he shall set the hearing within seventy-two (72) hours of receiving the request. The owner or any other person entitled to claim possession of the vehicle shall be notified of the time and place of the hearing, the specific grounds for the classification of the vehicle as an abandoned vehicle or a junked vehicle, and the reason for removal of the vehicle. The Director of Neighborhood Development or their designee shall be the hearing officer.
- (b) The owner and any other interested parties may present evidence at the hearing and may cross examine all parties.
- (c) If the hearing is pre-tow, and the hearing officer finds that the City has probable cause, the motor vehicle will be removed and the cost for removal will become a lien on the motor vehicle. If the hearing officer finds that probable cause does not exist, the City will not tow the vehicle and no costs shall be charged.
- (d) If the hearing is post-tow, and the hearing officer finds that the City had probable cause, the lien for cost of removal shall remain. If the hearing officer finds that probable cause did not exist, the lien shall be extinguished.
- (e) The hearing officer shall prepare a written report within five days of the hearing stating his conclusion concerning whether the vehicle was in violation of this article and the reasons and evidence upon which the conclusion has been based. The owner or any other person entitled to claim possession of the vehicle shall be notified of this decision by regular mail.
- (f) Any aggrieved party may appeal the hearing officer's decision to board of adjustment by filing an appeal in writing within 15 calendar days after the date of the report of the hearing officer, but not thereafter.
- (g) At any stage in the proceedings, including before the probable cause hearing, the owner or other person entitled to possession may obtain possession of the vehicle by:
 - (1) Paying the towing fee and costs incident to such fee; or
 - (2) Posting a bond for double the amount of the towing fee.

(Code 1961, §§ 13-20(b), 13-21(c))

State law reference— Hearing required, G.S. § 160A-303(d) & G.S. § 160A-303.2(d)

Sec. 17-57.1. - Administrative search and inspection warrants.

The code enforcement officer is authorized to secure an administrative search and inspection warrant, as provided by G.S. 15-27.2, in order to conduct any necessary inspection of the premises on which an abandoned motor vehicle or junked motor vehicle may be located and to obtain evidence to determine whether there is any violation of any provisions of this article.

Sec. 17-58. - Sales, etc., of impounded vehicles.

- (a) Should the owner of a motor vehicle or any other person entitled to claim possession of the vehicle impounded under this article fail or refuse to pay the costs provided for in section 17-55 or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made by a law enforcement officer or the code enforcement officer, and after notice as described herein to him at last-known address and to the holder of any lien of record in the office of the division of motor vehicles, the code enforcement officer or a designated law enforcement officer may ~~alter~~ after holding the vehicle thirty (30) days, dispose of the same by public sale after proper notice, and the proceeds from the sale shall be forwarded to the city treasurer.
- (b) Notice of public sale, whenever required in this section, shall include:
 - (1) The name and address of the person having legal title and of any lienholder to the vehicle.
 - (2) The name of the person with whom the city has dealt, if different.
 - (3) A description of the vehicle.
 - (4) The amount due.
 - (5) The place, date and time of the sale.
- (c) The notice shall, not less than twenty (20) days prior to sale, be:
 - (1) Sent to the division of motor vehicles.
 - (2) Mailed to the person having legal title and to the person with whom the city dealt, if different, and to each lienholder.
 - (3) Posted at the courthouse in the county where the sale is to be held.
 - (4) Published once a week for two (2) consecutive weeks in a newspaper of general circulation with the date of the last publication being not less than five (5) days prior to sale. The notice of sale need not be published if the vehicle has a market value of less than three thousand five hundred dollars (\$3,500.00), as determined by the schedule of values adopted by the Commissioner of Motor Vehicles under G.S. 105-187.3.
- (d) Failure of the person having legal title to, or a lien on, the vehicle to request a hearing as provided in this article or to appear at any sale as provided in this section, shall be deemed to have waived any objection to the sale.
- (e) The proceeds of the sale shall be applied as follows:
 - (1) Payment of reasonable expenses incurred by the City and its towing contractor prior to and in connection with the sale. Expenses of sale include but are not limited to reasonable storage and boarding expenses after giving notice of sale. Provided the total sales price exceeds \$500.00, ten percent (10%) of the sales price shall be submitted to or retained by the City as payment for administrative expenses of the sale.

(Editor's Note: Added text shown with red underlines and deleted text shown with red strikethroughs)

- (2) Payment of the obligation secured by the lien.
- (3) Any surplus, after payment of reasonable sale expenses and the obligation secured by the lien, shall be paid to the person entitled thereto; but when such person cannot be found, the surplus shall be paid to the clerk of superior court of the county in which the sale took place, to be held by the clerk for the person entitled thereto.
- (f) Whenever any abandoned motor vehicle or abandoned junk motor vehicle is removed from public or private property as provided in this article in order to defray the costs of towing, storage, publication and administrative services, the owner of the vehicle shall pay a fee of one hundred seventy-five dollars (\$175.00) if such owner claims the vehicle prior to advertising for public auction; a fee of two hundred dollars (\$200.00) shall be paid for release of the vehicle if it has already been advertised for public auction.
- (g) Whenever any such vehicle shall remain unsold for a period of thirty (30) days from and including the day when the same shall have been delivered under the direction of any municipal officer charged with the keeping or sale of the same, any such vehicle may be destroyed, removed or otherwise disposed of by such municipal officer.

(Code 1961, §§ 13-20(c), 13-21.1; Ord. No. 89-39, § 1, 3-6-89; Ord. No. 92-30, § 1, 3-16-92; Ord. No. 97-5, § 1, 1-7-97; Ord. No. 00-219, § 8, 12-5-00; Ord. No. 01-148, § 2, 6-5-01)

State law reference Sale, etc., G.S. § 160A-304(d).

Sec. 17-59. - Disposition of junk vehicles with owner's consent.

A law enforcement officer or code enforcement officer may, with the consent of the owner of a vehicle, remove and dispose of any motor vehicle as a junk motor vehicle regardless of the value, condition or age of such vehicle and without compliance with the notice, hearing or sale procedures in this article.

(Code 1961, § 13-21(d))

Section 2. That all laws and clauses in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 3. That this ordinance shall become effective immediately upon its adoption.