

**CITY OF HAVELOCK
TRAFFIC CODE – CHAPTER 75
ABANDONED, NUISANCE & JUNKED VEHICLES
ORDINANCE AMENDMENT
No. 17-O-02**

BE IT HEREBY ORDAINED by the Board of Commissioners of the City of Havelock, North Carolina that the following revisions be made to “Title VII: Traffic Code, Chapter 75 of the City of Havelock Code of Ordinances as follows:

**Please Note: “Blue and underline indicates text to be added”
“Red and Strikethrough indicated text to be removed”**

CHAPTER 75: REMOVAL OF ABANDONED, NUISANCE AND JUNKED ~~AND ABANDONED~~ VEHICLES

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GENERAL PROVISIONS

§ 75.01 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. A motor vehicle that:

- (1) Has been left upon a street or highway in violation of a law, provision of this code, or other ordinance of the City prohibiting parking; or
- (2) Is left on property owned or operated by the City for longer than twenty-four (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 parked or left standing on the right-of-way of any public street or highway for longer than forty-eight (48) hours.

CITY CODE ENFORCEMENT OFFICIAL. Includes the City Building Inspector, Code Enforcement Officer, any sworn police officer and any city employee appointed by the City Manager.

JUNKED MOTOR VEHICLE. 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 appears to be worth less than \$100; or~~ Has not been approved under section 75.22
- (4) ~~Does not display a current license plate.~~

MOTOR VEHICLE. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

NUISANCE VEHICLE. ~~Junked~~ 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, without limitation, a vehicle 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 eight 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 as evidenced by odor or otherwise; or
- (5) So situated or located that there is a danger of it falling or turning over; or
- (6) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners; or

(7) So offensive to the sight as to damage the community, neighborhood, or area appearance, upon a finding that the aesthetic regulation is necessary and desirable for the protection of property values, promotion of tourism, indirect protection of health and safety, preservation of the character and integrity of the community, or promotion of the comfort, happiness, and emotional stability of area residents; or

(8) A junked motor vehicle that has not been fixed or repaired within ten (10) days of being declared a junked motor vehicle by the City; or

(9) A vehicle declared abandoned; or

(10) Any boat or other type of watercraft that meets the criteria of a nuisance vehicle.

PROJECT VEHICLE. Any nonoperating, wrecked, junked, or partially dismantled vehicle that has followed the correct procedure outlined in this chapter to obtain a permit from the City.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.02 LIABILITY OF PERSONS TO OWNERS, AND THE LIKE.

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 motor vehicle for disposing of the vehicle as provided in this chapter.

(Ord. 07-O-01, passed 1-22-2006) Penalty, see § 70.99

§ 75.03 CERTAIN VEHICLES EXEMPTED FROM CHAPTER.

Nothing in this chapter shall apply to any vehicle in an enclosed building or any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, nor to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the City.

(Ord. 07-O-01, passed 1-22-2006)

REMOVAL BY CITY

§ 75.15 GENERALLY.

Any junked, nuisance or abandoned motor vehicle may be removed by the City to a storage garage or area; provided, that no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the City or a duly authorized City official or employee has declared the vehicle to be a health or safety hazard, a public nuisance, or otherwise unlawful. The owner or person entitled to the possession of the vehicle will be notified of removal in accordance with Section 75.17.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.16 INDEMNIFICATION OF CITY BY PERSON REQUESTING REMOVAL.

Any person requesting the removal of a junked, nuisance or abandoned motor vehicle from private property shall indemnify the City against any loss, expense, or liability incurred because of the removal, storage, or sale of the vehicle.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.17 NOTICE.

When any junked, nuisance or abandoned motor vehicle is removed, the City shall give written notice of the removal to the registered owner at his or her last known address according to the latest registration certificate or certificate of title on file with the State Department of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that can be made of the vehicle under this chapter. Notice need not be given to the registered owner of the vehicle when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. The City Code Enforcement Official will notify the owner or person entitled to the possession of the vehicle when it is declared to be an official junked, nuisance or abandoned motor vehicle and affix a notice to the windshield. If the names and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence in the event the motor vehicle is located on private property, the notice shall be given to both by first-class mail. The City Code Enforcement Official shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If the names and addresses cannot be ascertained, notice shall be given by affixing written notice on the windshield or some other conspicuous place on the vehicle.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.18 REDEMPTION BY OWNER.

The owner of an abandoned, nuisance or junked vehicle may regain possession of any vehicle removed by the City pursuant to the provisions of this chapter by paying to the City all reasonable costs incidental to the removal and storage of the vehicle.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.19 SALE OF ABANDONED, NUISANCE AND JUNKED VEHICLES.

(A) *Required.* After holding an unclaimed abandoned, nuisance or junked motor vehicle for thirty (30) days, the City shall sell or dispose of it as provided by this section.

(B) *Procedure; vehicles worth less than \$100.* If the vehicle appears to be worth less than \$100, the City may dispose of the vehicle as a junked motor vehicle as provided by this chapter.

(C) *Procedure; vehicles worth \$100 or more; generally.* If the vehicle is worth \$100 or more it shall be sold at public auction. Twenty-days' (20) written notice of the sale shall be given to the registered owner at his or her last known address, the holders of all liens of record against the vehicle and the State Department of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date.

(D) *Procedure; vehicles worth \$100 or more; disposition of proceeds.* The proceeds of the sale shall be paid to the City Treasurer who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens in that order. The remainder of the proceeds of the sale shall be paid over to the registered owner of the vehicle or held by the City for sixty (60) days if the registered owner cannot be located with reasonable diligence. If the owner of the vehicle does not claim the remainder of the proceeds within sixty (60) days after the sale, the funds shall be deposited in the City's general fund and the owner's rights therein shall be forever extinguished.

(Ord. 07-O-01, passed 1-22-2006)

~~§ 75.20 SALE OF JUNKED VEHICLES.~~

~~—(A) *Generally.* After holding an unclaimed junked motor vehicle for fifteen (15) days, the City may destroy it or sell it at private sale as junk.~~

~~—(B) *Notice to Department of Motor Vehicles.* Within fifteen (15) days after final disposition of a junked motor vehicle, the City shall notify the State Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.~~

~~—(C) *Disposition of proceeds.* Any proceeds from the sale of a junked motor vehicle, after all costs of removal, storage, investigation, and sale and satisfying any liens of record on the vehicle have been deducted therefrom, shall be held by the City for thirty (30) days and paid to the registered owner upon demand. If the owner does not appear to claim the proceeds within thirty (30) days after disposal of the vehicle, the funds shall be deposited in the City's general fund and the owner's rights therein shall be forever extinguished.~~

~~(Ord. 07-O-01, passed 1-22-2006)~~

~~§ 75.20~~ **VEHICLES NOT DISPLAYING LICENSE PLATE OR LEGIBLE IDENTIFICATION NUMBERS.**

Sections 75.19 and ~~75.20~~ shall not apply when the vehicle does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. The vehicles may be destroyed or sold at private sale, without regard to value, after being held for 48 hours.

(Ord. 07-O-01, passed 1-22-2006)

§ 75.2122 REMOVAL AND DISPOSITION OF VEHICLES DECLARED TO BE PUBLIC NUISANCES.

(A) *Nuisance vehicle unlawful; removal authorized.* It shall be unlawful for the owner of a motor 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. Upon investigation, ~~the City Building Inspector~~ a City Code Enforcement Official may determine and declare that a vehicle is a health or safety hazard or a public nuisance as defined above and order the vehicle removed.

(B) *Removal of nuisance vehicle; pre-towing notice requirements.*

(1) A vehicle to be towed or otherwise removed because it has been declared to be a nuisance vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the names and mailing addresses of the owners of the vehicle or the real property upon which it is located can be ascertained in the exercise of reasonable diligence, the notice shall be given to both by first-class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If the names and addresses cannot be ascertained, notice shall be given by affixing written notice on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the City on a specified date, no sooner ~~the~~ than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(2) If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is a nuisance vehicle, the appeal shall be made to the Board of Commissioners in writing, heard at the next regularly scheduled meeting of the Board of Commissioners, and further proceeding to remove the vehicle shall be stayed until the appeal is heard and decided.

(3) A nuisance vehicle may be removed without giving the minimum seven-days' prior notice only in those circumstances where the ~~City Building Inspector~~ a City Code Enforcement Official finds, and enters the findings in appropriate records, a special need for prompt action to maintain the public health, safety, and welfare.

(C) *Removal of vehicle; post-towing notice requirements.*

(1) Any vehicle which has been determined to be a nuisance vehicle may be removed to a storage garage or area by a towing business contracting to perform the services for the City. Whenever the vehicle is removed, the City shall immediately notify the last known registered owner of the vehicle, the notice to include the following:

- (a) A description of the removed vehicle;
- (b) The location where the vehicle is stored;
- (c) The violation with which the owner is charged, if any;
- (d) The procedure the owner must follow to redeem the vehicle; and

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

(2) This notice shall be mailed to the owner's last known address, unless waived in writing.

(3) If the vehicle is registered in North Carolina, notice shall be mailed within twenty-four (24) hours. If the vehicle is not registered in this state, notice shall be mailed to the owner within seventy-two (72) hours from the removal of the vehicle

(4) Whenever a nuisance vehicle is removed and the vehicle has no valid registration or registration plate, reasonable efforts shall be made, including the checking of the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him or her of the information set forth in division (C)(1) above.

(D) *Right to probable cause hearing before sale or final disposition of vehicle.* After removal of a vehicle declared to be a nuisance vehicle, the owner or other person entitled to possession may request in writing a hearing to determine if probable cause existed for removing the vehicle. The request must be filed with the magistrate in the county where the vehicle was towed. The magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11.

(E) *Sale and disposition of unclaimed vehicle.*

(1) With the consent of the owner, the City may dispose of any vehicle as a junked motor vehicle without holding it for any prescribed period of time.

(2) Any unclaimed junked motor vehicle as defined by this section shall be held for a period of at least fifteen (15) days. The owner of any such vehicle may claim his or her vehicle during the fifteen-day (15) retention period by exhibiting proof of ownership to the City and by paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If after the vehicle is held fifteen (15) days it remains unclaimed, the vehicle may be destroyed or sold at a private sale as junk.

(3) Within fifteen (15) days after final disposition of a junked motor vehicle, written notice thereof shall be given to the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

(F) *Disposition of proceeds of sale.* The proceeds of the sale of a junked motor vehicle declared to be a nuisance, after all costs of removal, storage, investigation, and sale, and satisfaction of any lien of record on the vehicle, in that order, have been deducted therefrom, shall be held by the City for thirty (30) days and paid to the owner upon demand. If the owner does not appear to claim the remainder of the proceeds within thirty (30) days after disposal of the vehicle, the funds shall be deposited into the City general fund and the owner's rights therein shall be forever extinguished.

(G) *Immunity.* Neither the City nor any 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 junked, lost, or stolen vehicle for disposing of the vehicle as contemplated by this section.

(H) *Exceptions.* Nothing in this section shall apply to any motor vehicle in an enclosed building, any motor vehicle kept or stored at a bona fide automobile graveyard or junkyard as defined in G.S. § 136-143, or to any motor vehicle that is used on a regular basis for business or personal use.

(Ord. 07-O-01, passed 1-22-2006) Penalty, see § 70.99

§ 75.22 PROJECT VEHICLE PERMIT.

A project vehicle permit for the restoration and repair of one nonoperating, wrecked, junked, or partially dismantled motor vehicle on any residential premises may be granted as follows:

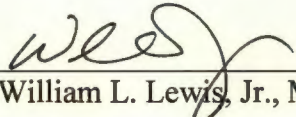
- (1) The motor vehicle to be restored or repaired shall be owned by the applicant.
- (2) The permit shall cover the motor vehicle only and does not authorize the storage of miscellaneous vehicle parts or junk contained, in, on, or near the motor vehicle.
- (3) The fee for such project vehicle permit shall be designated per current City fee schedule.
- (4) Each residential property shall be limited to two project vehicles per calendar year.
- (5) All such permits shall expire after sixty (60) days following the date of issuance thereof.
- (6) The project vehicle permit shall be renewable for thirty (30) additional days with demonstrated progress upon payment designated per current city fee schedule.

This ordinance shall take effect at 12:01 a.m. on November 28, 2017.

Adopted this the 27th day of November, 2017.

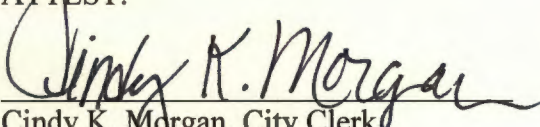


CITY OF HAVELOCK



William L. Lewis, Jr., Mayor

ATTEST:



Cindy K. Morgan, City Clerk