Chapter 7 - HEALTH AND SANITATION

ARTICLE I. - IN GENERAL

Sec. 7-1. - Miscellaneous nuisances.

(a) *Exposed refuse.* It shall constitute a nuisance for any person to allow house offal (organs of a butchered animal), dead animals or refuse of any kind to be thrown upon the streets or left exposed by any person; or to throw or place on  any street, alley or on the lot within or without the building of another any decayed flesh or vegetables,  or other offensive matter calculated to create a public nuisance or endanger health. It shall be unlawful for any butcher, fishmonger, huckster, or vendor of merchandise of any kind to leave any refuse upon the streets or uncovered by earth upon any lot in the Town; and all putrid or decaying animal or vegetable matter must be removed from all cellars and out-buildings.

(b) *Hides, bones, etc.* It shall constitute a nuisance for any person to keep hides, dried or green; filthy rags; bones; or anything else that may be adjudged a nuisance to the annoyance of any citizen or the detriment of the public health within the Town.

(c) *Tanyards, slaughterhouses.* It shall constitute a nuisance for any person to establish a Tanyard or slaughterhouse within the Town or within one mile thereof.

(d) *Stagnant water.* Stagnant water in cellars and other places shall constitute a nuisance and shall be removed on notice from the Sanitation Superintendent to the person so offending.

(e) *Burning of refuse.* It shall constitute a nuisance for any person to burn garbage, market waste, manure, or other offensive refuse in the open air, or in any furnace or stove within the Town.

**State Law reference—** Abandoned ice boxes, etc., G.S. § 14-318.1; abatement of nuisances, G.S. § 160A-193.

Sec. 7-2. - Noises—Prohibited.

The creation of any unreasonably loud, disturbing, and unnecessary noise in the Town is prohibited. Noise of such character, intensity, and duration as to be detrimental to the life or health of any individual is prohibited. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive:

(1) *Vehicle horns.* The sounding of any horn or signal device on any automobile, motorcycle, bus or  other vehicle while not in motion, except as a danger signal if another vehicle is approaching  apparently out of control, or, if in motion, only as a danger signal; the creation by means of any  such signal device of any unreasonably loud or harsh sound; and the sounding of such device for  an unnecessary and unreasonable period of time.

(2) *Radios, phonographs, etc.* The playing of any radio, phonograph, or any musical instrument in such manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel, or other type of residence.

(3) *Noisy animals.* The keeping of any animal or bird, which, by causing frequent or long continued noise, shall disturb the comfort and repose of any person in the vicinity.

(4) *Noisy vehicles.* The use of any automobile, motorcycle, or other vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, rattling or other noise.

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

(6) *Unmuffled exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(7) *Compressed air mechanical device.* The use of any mechanical device operated by compressed air unless the noise created thereby is effectively muffled and reduced.

(8) *Construction operations.* The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and  6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety and  then only with a permit from the Town Administrator, which permit may be renewed for a period of  three days or less while the emergency continues.

(9) *Noise near schools, libraries, etc.* The creation of any excessive noise on any street adjacent to any school, institution of learning, library or sanitarium, or court while the same is in session, or adjacent to any hospital or any church during services, which unreasonably interferes with the working of such institution.

(10) *Loading or unloading vehicles; opening or destroying bales, boxes, etc.* The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

(11) *Bells and gongs.* The sounding of any bell or gong attached to any building or premises which disturbs the quiet or repose of persons in the vicinity thereof, except in cases of emergency.

(12) *Shouting by peddlers, hawkers, etc.* The shouting or crying of peddlers, hawkers or vendors which disturbs the quiet and peace of the neighborhood.

(13) *Drums, loudspeakers, etc.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, sale, display, or advertisement of merchandise.

(14) *Sound trucks, etc.* The use of mechanical loudspeakers or amplifiers on trucks, airplanes, or other vehicles for advertising or other purposes, except upon permit issued by authority of the Town Administrator.

**State Law reference—** Municipal authority to regulate noise, G.S. § 160A-184. Sec. 7-3. - Same—Tests and standards.

(a) *Factors to consider:* The standards which shall be considered in determining whether a violation of section 7-2 exists shall include but shall not be limited to the following:

(1) The volume of the noise.

(2) The intensity of the noise.

(3) Whether the nature of the noise is usual or unusual.

(4) Whether the origin of the noise is natural or unnatural.

(5) The volume and intensity of the background noise, if any.

(6) The proximity of the noise to residential sleeping facilities.

(7) The nature and zoning of the area within which the noise emanates.

(8) The density of inhabitation of the area within which the noise emanates.

(9) The time of the day or night the noise occurs.

(10) The duration of the noise.

(11) Whether the noise is recurrent, intermittent, or constant.

(12) Whether the noise is produced by a commercial or noncommercial activity.

Sec. 7.3. – Athletic Events.

Athletic events and contests such as football games, baseball games, and other outdoor sporting events  shall be exempt from regulation hereunder so long as such events are sponsored under the authority of  the Town of Glen Alpine, the Glen Alpine Recreation Foundation, the County of Burke, the Burke County Public Schools the Burke County Recreation Department, or any other governmental authority, Provided,  however, the use of any loudspeaker or electronic sound amplification equipment in connection with any  athletic event which results in the creation of unreasonably loud and disturbing noises and sound levels  which a reasonable prudent person would recognize as likely to unreasonably disturb the quiet, comfort  and repose of persons in the vicinity, shall be allowed only after the appropriate permit is issued  hereunder.

Sec. 7.4. – Permits.

Application for permission to engage in activities related and allowed by this Ordinance only with the issuance of a permit shall be made to the Police Chief of the Town of Glen Alpine, or any designee thereof, on forms supplied by the Town. The permit shall not be unreasonably withheld, and may contain appropriate conditions, including specific limitations on the time, place and types of activities permitted, as well as maximum decibel levels. Activities that significantly involve religious or political purposes shall be granted permits subject only to “reasonable time, place, and manner” restrictions. Permits issued under this section shall specify the expiration date and shall provide that such permits may be revoked after actual notice. Persons shall not be held in violation of this Ordinance from acting in compliance with permit conditions, but any permit may be revoked if it is determined if the authorized activity has resulted in the generation of creation of unreasonably loud and disturbing noises or sound levels. In case an application for permit is denied, or a permit is approved with conditions unacceptable to the applicant, or permit is revoked, the applicant or permit holder shall be entitled to an informal hearing with the Police Chief, upon submission of a written request. Any person aggrieved by a matter regulated by the section may submit such grievance for review by the Board of Aldermen of the Town of Glen Alpine, by requesting the Town Administrator place him or her on the agenda for the next regularly scheduled meeting of the Board of Aldermen. Any person aggrieved after appearance before the Board of Aldermen may then appeal to a court of competent authority.

Sec. 7.5 – Civil Penalties.

(a) Any person, firm, or corporation violating any provision of this Ordinance shall be subject to the imposition by citation of a Civil Penalty for each such violation in the amount of One Hundred Dollars ($100.00) which shall be paid in full within seventy-two (72) hours of the service of the citation in accordance with North Carolina General Statute §160A-175.

(b) Any person, firm, or corporation violating any provision of this Ordinance shall further be subject to Glen Alpine enforcing the provisions of this Ordinance by applying to a court of competent authority in the General Court of Justice for equitable relief including, but not limited to mandatory or prohibitory injunctions and/or orders in accordance with North Carolina General Statute §160A-175.

(c) Each day of violation shall be considered a separate and distinct offense for the purpose of the enforcement of this Ordinance.

(d) Failure to make payment and to correct the violation within the Seventy-Two (72) hour period will result in an additional fine of Twenty-five Dollars ($25.00) per day for a total of Fifteen (15) days.  The penalty and delinquent charge may be recovered by the Town in a civil action. (e) The violator may be charged as provided in General Statutes §14.4.

Sec. 7.6-7.30 Reserved.

ARTICLE II. - JUNKED, ABANDONED OR NUISANCE VEHICLES

**State Law reference—** Abatement of nuisances, G.S. 160A-193; authority to regulate, restrain or prohibit abandoned or junked motor vehicles, G.S. § 160A-303.

Sec. 7-31. - Definitions.

For purposes of this article certain words and terms are defined as follows:

*Abandoned motor vehicle.* An abandoned motor vehicle is one that:

(1) Has been left on a street or highway in violation of a law or ordinance prohibiting parking;

(2) Is left on property owned or operated by the Town for longer than 24 hours;

(3) Is left on private property without the consent of the owner, occupant, or lessee thereof for longer than two hours;

(4) Is left on any public street or highway for longer than seven days:

(5) is not properly tagged and insured.

*Junked motor vehicles.* The term junked motor vehicle means an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked;

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

(3) Is more than five years old and appears to be worth less than $100.00; or

(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.* A junked or abandoned motor vehicle on public or private property that is determined and declared to be a health and safety hazard, a public nuisance, or unlawful, including a vehicle found to be:

1. A breeding ground or harbor for mosquitoes, other insects, rats, or other pests;
2. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
3. A point of collection of pools or ponds of water;

(4) A point of collection of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor;

(5) One which has areas of confinement which cannot be opened from the inside, such as trunks, hoods, etc;

(6) So situated or located that there is a danger of it falling or turning over;

(7) Any other vehicle specifically found to be a health or safety hazard or a public nuisance by the Code Enforcement Officer or Building Inspector; or

(8) So offensive to the sight as to damage the community, neighborhood or area appearance, upon a finding by the Code Enforcement Officer or Building Inspector that such aesthetic regulation is necessary and desirable for the protection of property values, promotion or 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.

No more than one vehicle that is not properly tagged and insured will be allowed on property; nor can it be in a state of disassembly, if vehicle is in a state of disassembly it will have to be in a enclosed structure.

Sec. 7-32. - Removal authorized.

It shall be unlawful for the owner of such 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, junked, or abandoned vehicle.

Upon investigation, the Town Building Inspector Code Enforcement Officer may determine and declare that such vehicle is junked or abandoned or a health or safety hazard or a public nuisance as defined above and order the vehicle removed.

Sec. 7-33. - Pre-towing notice requirement.

(a) A vehicle to be towed or otherwise removed because it has been declared to be a nuisance or junk 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 registered owners of the vehicles can be ascertained, 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 such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the Town on a specified date, no sooner than ten days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time. However, notice need not be given to the registered owner of the vehicle when it does not display a license plate and the vehicle identification numbers have been removed or defaced so as to be illegible. Nevertheless, where such vehicle is on private property, the owner, occupant, or lessee of the private property shall be notified.

(b) 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, junked or abandoned vehicle, such appeal shall be made  to the Town Administrator in writing, within the ten-day period set out in paragraph (a) above, and further  proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(c) Upon receipt of an appeal to the Town Administrator, as set out in paragraph (b) above, the Town shall promptly notify the appellant in writing of the date, time, and place of such hearing. Within three days, the Town Administrator shall notify the appellant in writing of his determination and may, upon such notice, proceed under section 7-34.

Sec. 7-34. - Post-towing notice requirements.

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

(1) A description of the removed vehicle;

(2) The location where the vehicle is stored;

(3) The violation with which the owner is charged, if any;

(4) The procedure the owner must follow to redeem the vehicle;

(5) The procedure the owner must follow to request a probable cause hearing on the removal. (b) This notice shall be mailed to the owner's last known address, unless waived in writing.

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

Sec. 7-35. - Right to probable cause hearing before sale or final disposition of vehicle.

After removal of a vehicle declared to be an abandoned, junked or nuisance vehicle, the owner or other person entitled to possession shall be given notice as required by G.S. § 20-219.11(a) and (b), and such person 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 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-21.11. Any vehicle towed under this provision shall be released to the owner or person entitled to possession upon the posting of a bond or payment of fees and costs due.

Sec. 7-36. - Sale and disposition of unclaimed vehicle.

Sale procedure for abandoned, junked or nuisance vehicles shall be as provided in G.S. §§ 44A-4, 44A-5, and 44A-6, except that no probable cause hearing shall be required or permitted. If no one purchases the vehicle at the sale and if the value is less than the amount of the lien, the Town shall destroy the vehicle. The lien shall be the amount of costs and expenses including reasonable attorney fees.

Sec. 7-37. - Miscellaneous provisions.

(a) *Written request from owner required for removal of junked, etc., vehicle from private property.* No junked or abandoned vehicle shall be removed from private property without the written request of the  owner, lessee, or occupant of the premises unless the building inspector or code enforcement officer  has declared such vehicle to be a health or safety hazard under one or more of the provisions of  section 7-31.

(b) *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 motor vehicle for disposing of the vehicle as provided in this section.

(c) *Vehicle in enclosed buildings, etc.* Nothing in this section 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, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.