



# **TOWN OF SEDALIA**

## **NUISANCE ORDINANCE**

**WHEREAS**, the Town Council of the Town of Sedalia held a public meeting on May 6, 2002 and heard comments from the public to consider the adoption of a nuisance ordinance; and

**WHEREAS**, on this date all residents of the Town of Sedalia were given an opportunity to be heard; and

**WHEREAS**, it is the purpose of this ordinance to promote the health, safety, clean appearance, morals and general welfare of the residents of the Town of Sedalia through the regulation of this ordinance; and

**NOW THEREFORE**, be it ordained by the Town Council of the Town of Sedalia;

**I. Property and/or Parcels**

- 1) It shall be unlawful for the owner or occupant of any lot or parcel of land in the Town of Sedalia to permit to exist on any such lot or parcel of land any condition which may be declared to be noxious, detrimental to health, have unkempt appearance, or to constitute a nuisance.
- 2) The existence of any of the following conditions on any lot or parcel of land in the Town is hereby declared to be noxious, detrimental to health, have unkempt appearance, and to constitute a nuisance and to be volatile of the provisions of this ordinance;
  - (a) Any growth of weeds or other vegetation to a height of 1 ½ feet, or any rank vegetable growth which exhales unpleasant and noxious odors, or which may conceal filthy deposits, or harbor insects or any offensive matter or thing, whether the same be upon occupied or vacant premises.

- (b) Any accumulation of animal or vegetable matter that is offensive by virtue of strong odors or vapors or by the inhabitants therein of rats, mice, snakes, or vermin of any kind.
- (c) Any accumulation of garbage, rubbish, junk, furniture, refrigerators, stove, toys, mattresses, and other appliances, inoperative and derelict automobiles, boats, trucks, and vehicles of like nature. Inside furniture left outside for multiple days is considered unkempt appearance constituting a nuisance.
- (d) Businesses operating in the Town of Sedalia must hold appropriate business licensing from Guilford County and/or the State of North Carolina, must operate in accordance with zoning requirements and must not be a public nuisance to the neighbors.
- (e) Any condition found to be detrimental to the health of the Town or any of its inhabitants or which is in violation or any of the rules and regulations of the Town Council.

- II. Vehicles – Any parking, storing or allowing to be parked or stored on residentially zoned property or property occupied by a single-family residence or duplex:
- 1) More than four vehicles, neither on a designated driveway nor on the street in front of the same property, than what is currently licensed to that residence.
  - 2) This section does not apply to the following:
    - (a) Any vehicle kept or located in or under any lawfully permitted and constructed privacy fencing or building.
    - (b) Temporary parking for a duration not to exceed 7 days, for example, for temporary repairs and cleaning.

III. Abandoned/Junked/Nuisance Vehicles

- 1) It shall be unlawful for any person to abandon any motor vehicle coming under the provisions of this ordinance and no person shall allow any abandoned, junked or otherwise discarded motor vehicle on public or private property.
- 2) Definitions - For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them;
  - (a) An **abandoned motor vehicle** is one that:

- i. has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
- ii. is left on property owned or operated by the Town for longer than 24 hours; or
- iii. is left on any public street or highway for longer than seven days.

(b) A **junked motor vehicle** is an abandoned motor vehicle that also:

- i. is partially dismantled or wrecked; or
- ii. Cannot be self-propelled or moved in the manner in which it was originally intended; or
- iii. is more than five years old and appears to be worth less than one hundred dollars (\$100); or
- iv. is less than five years old and appears to be worth less than five hundred dollars (\$500); or
- v. does not display its current license plate

(c) A **nuisance motor vehicle** is one that:

- i. is a health hazard and it creates an environment that is harmful; or
- ii. a breeding ground or harbor for mosquitos, other insects, rats or other pests; or
- iii. a point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
- iv. a point of collection of pools or ponds of water; or
- v. a point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or
- vi. one which has areas of confinement which cannot be operated from the inside, such as trunks, hoods and the like; or
- vii. so situated or located that there is a danger of it failing or turning over; vehicle mounted on bricks or blocks; or
- viii. any other vehicle specifically declared a health and safety hazard and a public nuisance by the Sedalia Town Council
- ix. 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.

- (d) **Designated Driveway:** The surface roadway of asphalt, concrete, gravel or similar material, leading from the street to the garage, covered parking area, other permitted off street parking area.
- (e) **Recreational Vehicle:** A motorized or non-motorized conveyance that includes, but is not limited to motor homes, travel trailers, folding tent trailers, truck campers removed from a truck or pickup, horse trailers, boat trailers with or without boats, utility trailers, and similar vehicles.
- (f) **Vehicle:** A motorized or non-motorized conveyance that includes, but is not limited to, an automobile, car, truck, trailer, camper, motorcycle, watercraft, and similar vehicles.

### III. Graffiti

#### 1) Definitions

- (a) **Graffiti** shall mean writings, drawings, inscriptions, figures, or marks of paint, ink, chalk, dye or other similar substances on public or private building, sidewalks, streets, structures, or places which are not authorized or permitted by the property owner or possessor. For the purpose of this chapter, graffiti shall include drawings, writings, markings, or inscriptions regardless of the content or the nature of materials used in the commission of the act.
- (b) However, the definition of **graffiti** shall not be construed to prohibit temporary, easily removable chalk or other water soluble markings on public or private sidewalks, streets or other paved surfaces which are used in connection with traditional children's activities, such as drawings, or bases for stickball, kickball, handball, hopscotch or similar activities, nor shall it be construed to prohibit temporary, easily removable chalk or other water soluble markings used in connection with any lawful business or public purpose or activity.

- 2) It shall be unlawful for any person to write, paint, inscribe, scratch, scrawl, spray, place or draw graffiti of any type on any public or private building, streets, sidewalks, structure or any other real or personal property.

#### 3) Removal of graffiti

- (a) It shall be unlawful for any person owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti upon such property.
- (b) Any such person in non-compliance of a violation of this paragraph shall receive a letter from the Town of Sedalia according to Section IV. If the graffiti is removed or effectively obscured within (14) days from the mailing of the notice which was sent by the Town no further action will be taken. However, if the property owner

is not compliant within 14 days the property will be investigated by the Sedalia Code Enforcement Officer and the property owner will be assessed a fee of \$75. The Code Enforcement Officer will send out a notice of violation.

- (c) The mandatory fine provided in this section may or may not apply to a property owner, agent, manager, or possessor of property if such property owner, agent, manager or possessor has been victimized two or more times by graffiti within any calendar year and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.
- (d) Upon the failure of the owner or person in possession of any premises upon which graffiti exists to remove or effectively obscure the graffiti within the time allowed, it shall be the duty of the Town to abate such nuisance. The Town shall proceed according to Section V (9)-(13).

#### IV. Notice of Violation

When any public nuisance as enumerated in this ordinance is found to exist on any property within the Town of Sedalia, the Town shall notify by courtesy letter the owner of the premises where the nuisance is located that conditions exist which constitute a public nuisance. If the condition is abated within (14) days from the mailing of the notice which was sent by the Town no further action will be taken. However, if the property owner is not compliant within 14 days the property will be investigated by the Sedalia Code Enforcement Officer and the property owner will be assessed a fee of \$75. The Code Enforcement Officer will send out a notice of violation. If any such lot is owned by more than one person, the notice will be addressed to all persons having any estate or interest in the lot and such service shall be deemed a sufficient compliance with this section. If any such lot is owned by a corporation, the notice may be mailed to any local officer or agent of the corporation. If said notice is not accepted or received by the owner as provided herein, posting "Notice of Violation" of said property shall constitute notice.

#### V. Abatement and Penalties

##### 1) Authorized Removal

- (a) 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 an abandoned or junked vehicle.

- (b) Upon investigation, the town Code Enforcement Officer or other municipal official may determine and declare that a vehicle is a health or safety hazard or a public nuisance as defined in III 2(c) and order the vehicle removed.

2) Pre-Towing Notice Requirements

- (a) A vehicle to be towed or otherwise removed because it has been declared to be an abandoned or junked vehicle shall be towed only after notice to the owner or person entitled to possession of the vehicle. If the name 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 notices shall retain a written record to show the names and addresses to which mailed and the date mailed. If the names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the nuisance vehicle. The notice shall state that the vehicle will be removed by the town on a specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.
- (b) If the owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle, the appeal shall be made to the Sedalia Town Council in writing, heard at the next regularly scheduled meeting of the Sedalia Town Council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.
- (c) A nuisance vehicle may be removed without giving the minimum seven (7) days' prior notice only in those circumstance where the authorizing official finds, and enters findings in appropriate records, a special need for prompt action to maintain the public health, safety and welfare.

3) Post-Towing Notice Requirements

- (a) 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 services for the town. Whenever a vehicle is removed, the last-known registered owner of the vehicle shall immediately be notified, and the notice shall include the following:
  - i. A description of the removed vehicle;
  - ii. The location where the vehicle is stored;
  - iii. The violation with which the owner is charged, if any;
  - iv. The procedure the owner must follow to redeem the vehicle; and

v. The procedure the owner must follow to request a probable cause bearing on the removal.

(b) This notice shall be mailed to the owners' last known address, unless waived in writing.

(c) If the vehicle is registered in the state of 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.

(d) Whenever a nuisance vehicle is removed and the vehicle has no valid registration or registration plate, the reasonable efforts, including the checking of the vehicle identification number, shall be made to determine the last known registered owner of the vehicle and to notify him of the information as set forth in division 3)(a)i through v above.

4) Hearing Before Sale or Final Disposition

After removal of a vehicle declared to be a nuisance, abandoned or junked 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 72 hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. § 20-219.11.

5) Sale and Disposition of Unclaimed Vehicles

(a) With the consent of the owner, the designated city official may dispose of any vehicle as a nuisance, abandoned or junked motor vehicle without holding it for any prescribed period of time.

(b) Any unclaimed nuisance, abandoned or junked motor vehicle, as defined by III 2 (a) through (c), shall be held for a period of at least 15 days. The owner of any vehicle may claim his or her vehicle during the 15-day retention period by exhibiting proof of ownership to the designated town official and after paying all reasonable costs incident to the removal and storage of the vehicle plus administrative expenses. If, after the vehicle is held 15 days, it remains unclaimed, the vehicle may be destroyed or sold at private sales as junk.

(c) Within 15 days after final disposition of a nuisance, abandoned or junked motor vehicle, written notice thereof shall be given to the department of motor vehicles (NCDMV) that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined.

6) 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, have been deducted therefrom, shall be held by the Clerk for 30 days and paid to the owner upon demand. If the owner does not appear to claim the remainder of the proceeds within 30 days after disposal of the vehicle, the funds shall be deposited into the town general fund and the owner's rights therein shall be forever extinguished.

7) Immunity

Neither the town 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 regulated by this chapter.

8) Exceptions

Nothing in this chapter shall apply to any motor vehicle in an enclosed building, any motor vehicle kept or stored in 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.

9) Abatement by Town- Upon the failure of the owner or person in possession of any premises upon which a nuisance exists to abate the same within the time allowed, it shall be the duty of the Town to abate such nuisance.

10) Effect of Defect in Notice- Any defect in the method of giving the notice of violation, or in the form thereof, or giving of such notice to an improper person, shall not prevent the Town, in any case where the work of abatement of any nuisance from any lot is actually done by the Town, from collecting the cost thereof from the owner, nor shall it affect the validity of the lien on the lot for such cost.

11) Abatement without Notice- If any nuisance is in such a dangerous condition as to admit of no delay in its abatement, the Town may, without notice, proceed to abate the same and the costs thereof shall be charged against the lot owner as is provided by this ordinance.

12) Payment of Costs- Upon completion of the abatement of any nuisance by the Town under the provisions of this ordinance, the Town shall deliver a statement including the costs of labor, hauling and necessary items of expense for such abatement to the owner of the lot in the form of a bill covering the costs as provided in North Carolina General Statute 160A-193. In addition according to North Carolina General Statute 14-4 a property owner may be fined \$500 or \$50 a day. The amount of the bill shall become a lien upon said property if not paid within thirty (30) days and shall be collected in the same manner as provided for the collection of delinquent taxes.



13) Criminal Action and Other Civil Remedies- The abatement of any nuisance in accordance with the procedures described by this ordinance shall not prevent the Town of proceeding in a criminal action that has been investigated by an attorney against any person violating the conditions of this chapter. The violation of this ordinance may be subject to abatement summarily by appropriate injunction issued by a court of competent jurisdiction.

14) This ordinance shall become effective upon adoption.

This ordinance is hereby enacted and shall be the Nuisance Ordinance of the Town of Sedalia

Adopted this the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

(SEAL)