

Chapter 14

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ARTICLE I. IN GENERAL

Secs. 14-1--14-35. Reserved.

ARTICLE II. NUISANCES*

DIVISION 1. GENERALLY

Sec. 14-36. Violations.

Any person violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with section 1-11. (Code 1973, § 13.1-10)

Sec. 14-37. Remedies.

The procedure set forth in this article shall be in addition to any other remedies that may exist under law to remedy the violations set forth in this article. Nothing in this article shall prevent the city from proceeding in a criminal action against any person violating its provisions. (Code 1973, § 13.1-11)

Sec. 14-38. Illustrative enumeration.

The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

- (1) The uncontrolled growth of weeds or grass to a height of 18 inches or more within 100 feet of any structure.
- (2) Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or which is inhabited by rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.
- (3) Any accumulation of ashes, refuse or rubbish or waste not in compliance with chapter 22 of this Code.

* **State Law References:** Municipal authority to abate public health nuisances, G.S. 160A-193.

- (4) Other provisions of this article to the contrary notwithstanding an abandoned motor vehicle, as defined in section 14-67, shall constitute a

public health nuisance only when it is found to be:

- a. A breeding ground or harbor for mosquitoes or other insects, snakes, rats or vermin of any kind;
- b. A point of growth of weeds and grass over 18 inches in height;
- c. A point of accumulation of stagnant water;
- d. A point of concentration of gasoline, oil, or other flammable or explosive materials;
- e. So located that there is a danger of the vehicle falling or turning over;
- f. A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass or other rigid materials; or
- g. In any other condition detrimental to the public health.

- (5) Open wells.
- (6) An accumulation of stagnant water causing or threatening to cause the inhabitation thereof by mosquitoes.
- (7) Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(Code 1973, § 13.1-1)

Sec. 14-39. Investigation of conditions.

The city inspector, upon notice from any person of the existence of any of the conditions described in section 14-38 shall make, or cause to be made by an official of the city or of the county health department, such investigation as may be necessary to determine whether, in fact, such conditions exist as to constitute a public nuisance. (Code 1973, § 13.1-2)

Sec. 14-40. Order of abatement--Notice.

Upon a determination by the city code enforcement

officer that conditions constituting a public nuisance exist, the city code enforcement officer shall notify, by certified mail, the owner, occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 5 days from the receipt of such written notice. (Code 1973, § 13.1-3)

Sec. 14-41. Same--Appeal.

Within seven days from receipt of the notice provided for in section 14-40, the owner, occupant or person in possession of the premises may request a hearing before the city council to appeal the finding of the city inspector that a public nuisance exists on the premises. The request for a hearing must be in writing and must be filed in the office of the city manager. The city manager shall fix a time for the hearings, and the initial abatement order shall be temporarily suspended pending such hearing. The hearing must be held by the city council within 31 calendar days following receipt of the request for hearing by the office of the city manager. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the city council shall consider the evidence before it and shall either revoke the initial order, issue a final order which differs from the initial order or reinstate the initial order as a final abatement order. (Code 1973, § 13.1-4)

Sec. 14-42. Abatement by city--Conditions.

Upon the occurrence of either of the following conditions:

- (1) A hearing is requested and held as provided for in section 14-41 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within 15 days from adjournment of the hearing;
- (2) No hearing is requested or held, and the person having been ordered to abate such a public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such order;

the city inspector shall cause such condition to be removed or otherwise remedied by having employees of the city to go upon said premises and remove or otherwise abate such

nuisance under the supervision of an officer or employee designated by the city inspector. Any person who has been finally ordered to abate a public nuisance may within the time allowed by this article request the city in writing to remove such condition, the cost of which shall be paid by the person making such request. (Code 1973, § 13.1-5)

Sec. 14-43. Same--Charges.

The actual cost incurred by the city in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land. It shall be the duty of the city finance director to mail a statement of such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof. (Code 1973, § 13.1-6)

Sec. 14-44. Unpaid charges to become lien.

If charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in section 14-43 such charge shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. 160A-193. (Code 1973, § 13.1-7)

Sec. 14-45. Inspections.

Whenever it is necessary to make an inspection in the course of an investigation required by this article, the city inspector or his authorized representative is hereby empowered to enter upon the property upon which there is alleged to exist a public nuisance at any reasonable time to inspect the same, but only if the consent of the owner, occupant or person in possession of the premises is freely given or a search or inspections warrant is obtained.

- (1) If such property be occupied, he shall first present credentials to the occupant and request entry, explaining his reasons therefor;
- (2) If such property be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the property, present proper credentials and request entry, explaining

his reasons therefor; and

- (3) If such entry is refused or cannot be obtained because the owner or other person having charge or control of the property cannot be found after due diligence, the city inspector or his authorized representative shall obtain a warrant to conduct a search or inspection of the property.

(Code 1973, § 13.1-9)

Secs. 14-46--14-65. Reserved.

DIVISION 2. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES*

* **State Law References:** Regulation of abandonment of junked motor vehicles, G.S. 160A-303.2.

Sec. 14-66. Administration.

The police department and the city manager or their duly authorized representative shall be responsible for the administration and enforcement of this division. The police department shall be responsible for administering the removal and disposition of vehicles determined to be abandoned on the public streets and highways within the city, and on property owned by the city. The city manager shall be responsible for administering the removal and disposition of abandoned, nuisance or junked motor vehicles located on private property. The city may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this division and applicable state laws. Nothing in this division shall be construed to limit the legal authority or powers of officers of the city police department and fire department in enforcing other laws or in otherwise carrying out their duties.

(Code 1973, § 12-1)

Sec. 14-67. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned vehicle means, as authorized and defined in G.S. 160A-303, a vehicle which:

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

Authorizing official means the supervisory employee of the police department or the city manager, respectively, designated to authorize the removal of vehicles under the provisions of this division.

Junked motor vehicle means a vehicle that:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it originally was 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 and creates an unsightly image.

Motor vehicle or *vehicle* means all machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle means a vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and 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 concentration 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 operated 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) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the city council.

(Code 1973, § 12-2; Ord. of 9-8-97)

Cross References: Definitions generally, § 1-2.

Sec. 14-68. Prohibited; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned.

(b) Upon investigation, proper authorizing officials of the city may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(Code 1973, § 12-3)

Sec. 14-69. Nuisance vehicle unlawful; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to possession 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.

(b) Upon investigation, the city manager may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle, and order the vehicle removed.

(Code 1973, § 12-4)

Sec. 14-70. Junked vehicle regulated; removal authorized.

(a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

(b) It shall be unlawful to have more than one junked motor vehicle on the premises of public or private property. Single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section.

(c) It shall be unlawful for any owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked vehicle is located to fail to comply with the locational requirements or the concealment requirements of this section.

(d) Subject to the provisions of subsection (e) of this section, upon investigation, the city manager may order the removal of a junked motor vehicle after 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:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

(e) The concealment or enclosure of a junked motor vehicle may be permitted as follows:

- (1) One junked motor vehicle, in its entirety, can be located in the rear yard as defined

by the city zoning ordinance if the junked motor vehicle is entirely concealed from public view from a public street and from abutting premises by an acceptable covering.

- a. The city code enforcement officer has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision.
- b. The covering must remain in good repair and must not be allowed to deteriorate.
- c. The covering or enclosure must be compatible with the objectives of this division.

- (2) Any other junked motor vehicle must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming use or a garage or building structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

(Code 1973, § 12-5)

Sec. 14-71. Removal of vehicles; pretowing notice requirements.

(a) Except as set forth in section 14-72, an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice shall retain a written record to show the name and address to which mailed, and the date mailed. If such names and addresses cannot be ascertained if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield

or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the city on a specified date, no sooner than seven days after the notice is affixed. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner 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.

(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the city council in writing, heard at the next regularly scheduled meeting of the city council, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

(Code 1973, § 12-6)

Sec. 14-72. Exceptions to prior notice requirement.

The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include:

- (1) *Abandoned on streets.* For vehicles left on the public streets and highways, the city council hereby determines that immediate removal of such vehicles may be warranted when they are:
 - a. Obstructing traffic;
 - b. Parked in violation of an ordinance prohibiting or restricting parking;
 - c. Parked in a no stopping or standing zone;
 - d. Parked in loading zones;

- e. Parked in bus zones; or
- f. Parked in violation of temporary parking restrictions imposed under this code.

(2) *Other abandoned or nuisance vehicles.* With respect to abandoned or nuisance vehicles left on city-owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

(Code 1973, § 12-7)

Sec. 14-73. Removal of vehicles; post-towing notice requirements.

(a) Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the city, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the city. Whenever such a vehicle is removed, the authorizing city official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:

- (1) The 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; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

(b) The city shall attempt to give notice to the vehicle owner by telephone; whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (a)(1) through (a)(5) of this section, shall also

be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

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

(d) Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing city official shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (a)(1) through (a)(5) of this section.

(Code 1973, § 12-8)

Sec. 14-74. Right to hearing before sale or final disposition.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. 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. 20-222.

(Code 1973, § 12-9)

Sec. 14-75. Redemption of vehicle during proceedings.

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

(Code 1973, § 12-10)

Sec. 14-76. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with

The city and in accordance with G.S. 44A-1 et seq.
(Code 1973, § 12-11)

Sec. 14-77. Conditions on removal of vehicles from private property.

As a general policy, the city will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state law procedures. In no case will a vehicle be removed by the city from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the city manager. The city may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the city against any loss, expense or liability incurred because of the removal, storage or sale thereof.

(Code 1973, § 12-12)

Sec. 14-78. Protection against criminal or civil liability.

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this division.

(Code 1973, § 12-13)

Sec. 14-79. Exceptions.

Nothing in this division shall apply to any vehicle which is:

- (1) Located in a bona fide automobile graveyard or junkyard as defined in G.S. 136-143, in accordance with the Junkyard Control Act, G.S. 136-141 et seq.;
- (2) In an enclosed building;
- (3) 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
- (4) In an appropriate storage place or depository maintained in a lawful place and manner by the city.

(Code 1973, § 12-14)

Sec. 14-80. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the city any vehicle which has been impounded pursuant to the provisions of this division unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Code 1973, § 12-15)

Secs. 14-81--14-100. Reserved.

Sec. 14-90. Noise – loud, disturbing and unnecessary noise.

The creation of any unreasonably loud, disturbing and unnecessary noise is prohibited. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited. For the state law as to authority of city to regulate noise, see G.S. 160A-184.

Sec. 14 – 91. Same – acts construed as noise.

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but such enumeration shall not be deemed exclusive, namely:

(a) *Blowing horns.* The sounding of any horn or signal devise of 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, after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal devise for any unnecessary are reasonable period of time.

(b) *Vehicle sirens and gongs.* The use of any gong or sirens upon any vehicle, other than police, fire, or other emergency vehicle.

(c) *Radios, phonographs, etc.* The playing of any radio, phonograph or other devises in such manner or with such volume, particularly during the hours between 10:00p.m. and 7:00a.m., as to annoy or disturb the quiet, comfort or repose of any person or persons in any dwelling, hotel or other type of residence.

(d) *Pets.* 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.

Sec. 14-92. Offenses Miscellaneous.

(a) *Use of vehicles.* The use of any automobile, motorcycle or other vehicle so out of repair, so loaded in such a manner as to create loud or unnecessary grating, grinding, rattling or other noise, and such loud and unnecessary noise caused by operation of automobiles, motorcycles or other vehicles unless the noise created thereby is effectively muffled and reduced.

(b) *Blowing 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.

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

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

(e) *Noises near schools, courts and hospitals.* The creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or within one hundred and fifty feet of any hospital, which unreasonably interferes with the working of such institution; provided, that conspicuous signs are displayed in such street indicating that the same is a school, court, or hospital street.

(f) *Loading and unloading operations.* The creation of loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

Sec. 14-93. Violations.

Violations of any section of this ordinance shall be punishable by penalties established by Council on May 2000 under Section 1-11 Chapter 1.. Said fines shall be placed into the General Operating Funds of the City of Cherryville, N.C.

This ordinance became effective June 14, 1999.

ARTICLE III.

TRANSPORTATION OF RADIOACTIVE SUBSTANCES*

* **Cross References:** Hazardous materials and

industrial waste, § 22-66 et seq.; streets, sidewalks and other public places, ch. 24; traffic and vehicles, ch. 28.

State Law References: Municipal authority to regulate the possession, storage, use or conveyance of radioactive substances, G.S. 160A-183.

Sec. 14-101. Purpose.

The purpose of this article is to provide minimum standards and regulations insuring the safe shipment and transportation of radioactive substances through the city and the surrounding one mile radius.
(Code 1973, § 20.1-1)

Sec. 14-102. 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:

Curie means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second. A curie is that quantity of radioactive material which decays such that 37 billion atoms disintegrate per second.

Large quantity radioactive substances means a quantity the aggregate radioactivity of which exceeds that specified in 10 Code of Federal Regulations (CFR) part 71, entitled Packaging of Radioactive Material for Transport, section 71.4(f).

Millicurie means 0.001 of a curie.

Motor vehicle means any vehicle defined as a motor vehicle in state law.

Person means any individual, partnership or corporation engaged in the transportation of passengers or property, as common, contract or private carrier or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended.

Radioactive substance means any material or combination of materials which spontaneously emit ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive substances within the meaning of this article.
(Code 1973, § 20.1-2)

Cross References: Definitions generally, § 1-2.

Sec. 14-103. Penalties.

Any person who violates any provision of this article shall be guilty of a general misdemeanor and shall be punished in accordance with section 1-11.
(Code 1973, § 20.1-7)

Sec. 14-104. Permit required.

(a) A permit issued by the city manager or his designated representative shall be required for the shipping or transportation of the following radioactive materials by motor vehicle into, within, through or out of the city or the immediate one mile surrounding area:

- (1) Plutonium isotopes in any quantity and form exceeding two grams or 20 curies, whichever is less;
- (2) Uranium enriched in the isotope U-235 exceeding 25 atomic percent of the total uranium content in quantities where the U-235 content exceeds one kilogram;
- (3) Any elements with the atomic number 89 or greater, the activity of which exceeds 20 curies;
- (4) Spent reactor fuel elements or mixed fission products associated with such fuel elements the activity of which exceeds 20 curies;
- (5) Large quantity radioactive materials;
- (6) Any quantity, arrangement and packaging combination of fissile material specified by the United States Nuclear Regulatory Commission as a Fissile Class III shipment in 10 CFR Part 71 entitled Packaging of Radioactive Materials for Transport, section 71.4(d)(3); or
- (7) Any shipment or transportation of radioactive material that is required by the appropriate regulating agency to be accompanied by an escort for safety reasons.

(b) This section shall not apply to radioactive materials shipped or transported by or for the United States

Government for military or security purposes or which are related to national defense in time of war.

(c) The chief of police or acting chief must also approve the permit with regard to specific transportation routes, schedules and duration within the area referred to in this article.

(d) The provisions of this chapter shall likewise equally apply to nonmotor vehicular transportation as well as motor vehicular transportation.
(Code 1973, § 20.1-3)

Sec. 14-105. Issuance of permit.

The city manager or his designated representative shall not issue a permit to any person for the shipment or transportation of those radioactive substances specified in this article, unless:

- (1) There is a showing that the radioactive material has been or will be containerized and packaged, and all warning labels affixed to the outer container holding the radioactive material and the motor vehicle transporting such material, in conformity with the regulations of the United States Department of Transportation, United States Nuclear Regulatory Commission or other related federal or state agencies regardless of whether the shipment is being made intracity, intrastate or interstate; and
- (2) There is a showing that the shipment or transportation of radioactive substances is necessitated by urgent public policy or national security or military interests transcending public safety and health concerns of the citizens of the city and the surrounding area.

(Code 1973, § 20.1-4)

Sec. 14-106. Notice.

When those radioactive substances requiring a permit as specified in this article are to be shipped or transported into, within, through or out of the city or the one-mile area, the shipper, carrier or person otherwise responsible shall first notify the city manager, or his designated representative, at least 15 days prior to the date of shipment. The notice shall include the date of shipment, type and quantity of radioactive substances involved, method of transportation, route, starting point, destination,

anticipated duration in the area, and such other information as the city manager or his designated representative may require. Nothing in this section shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended, in time of war.

(Code 1973, § 20.1-5)

Sec. 14-107. Bond.

The city manager or his designated representative may require the person proposing to transport radioactive substances as referred to in this article to post a cash bond sufficient to equal twice the estimated damage to persons and/or property which could reasonably be anticipated to result, directly or indirectly, from any accident arising, directly or indirectly, from the transportation of the radioactive substances referred to in this article.

(Code 1973, § 20.1-6)