

AN ORDINANCE TO PROVIDE FOR THE REMOVAL AND DISPOSAL OF
ABANDONED AND JUNKED MOTOR VEHICLES

WHEREAS, North Carolina General Statute 153A-121(a) grants to counties general authority to define, regulate, prohibit, or abate acts, omissions or conditions detrimental to the health, safety, or welfare of its citizens; and

WHEREAS, North Carolina General Statute 153A-132 and Chapter 902 of the 1988 Sessions Laws grant to Mecklenburg County the authority to prohibit by Ordinance the abandonment of motor vehicles on public grounds and private property within the County's ordinance-making jurisdiction; and

WHEREAS, the Mecklenburg County Board of Commissioners hereby repeals the "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles" adopted on January 7, 1991, as amended, and adopts in lieu there of this "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles."

NOW, THEREFORE, BE IT ORDAINED BY MECKLENBURG COUNTY THAT:

Section 1. It shall be unlawful to possess or abandon on public or private property within the County's -ordinance-making jurisdiction an abandoned or junked motor vehicle.

Section 2. Definitions.

- a) Motor Vehicle – "Motor Vehicle" includes any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.
- b) Abandoned Motor Vehicle – An abandoned motor vehicle is one that is:
 - 1. Left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
 - 2. Left for longer than 24 hours on property owned or operated by the County; or
 - 3. Left for longer than seven days on private property without the consent of the owner, occupant, or lessee of the property; or
 - 4. Any vehicle left for longer than seven days on public grounds.
- c) Junked Motor Vehicle – a motor vehicle regulated, restrained, or prohibited on public grounds and on private property within the County's ordinance making jurisdiction upon a finding that such regulation, restraint, or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance and which does not display a current license plate, is not used on a regular basis for business or personal use and:
 - 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 one hundred (\$100.00)

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Section 3. Enforcement of Ordinance. This Ordinance shall be enforced by employees of Mecklenburg County specifically charged with the enforcement of this Ordinance.

Section 4. Removal of Vehicles. Mecklenburg County may remove or cause to be removed to a storage garage or area an abandoned or junked motor vehicle found to be in violation of this Ordinance. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the Board of County Commissioners or a duly authorized county official found the vehicle to be an abandoned or junked motor vehicle or the vehicle has been declared to be a health or safety hazard. Appropriate county officers and employees have the right, upon presentation of proper credentials, to enter on any premises within the county ordinance-making jurisdiction at any reasonable hour in order to determine if any motor vehicle is a health or safety hazard. Mecklenburg County may require a person requesting the removal from private property of an abandoned or junked motor vehicle to indemnify the County against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

Whenever an abandoned or junked motor vehicle is removed, the person authorizing the removal shall make diligent efforts, including checking the Vehicle Identification Number (VIN) to identify and locate the last known registered owner of the vehicle. If the owner is identified, Mecklenburg County will immediately notify the owner of the following:

1. A description of the vehicle;
2. The location where the vehicle is stored;
3. The violation which caused the vehicle to be towed;
4. The procedure the owner must follow to have the vehicle returned to him/her.
5. The procedure the owner must follow to request a probable cause hearing on the towing;
6. The possible sale or other disposition that may be made of the vehicle under this section.

The owner may regain possession of the vehicle by making payment directly to the towing service identified in the Notice of Disposition of vehicle. The towing contractor shall release the vehicle to an individual who presents proof of ownership of the vehicle.

Written notice shall be sent to the owner's last known address. If the owner cannot be identified following diligent efforts to do so, notice is not required prior to disposal of the vehicle.

Unless the owner has otherwise been given notice, it will be presumed that the authorizing person has not made reasonable efforts, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven (7) days before the towing actually occurred. No pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardized the public welfare so that immediate towing was necessary.

Section 5. Hearing Before Sale or Final Disposition of Vehicle.

- A. Before the sale or disposition of an unclaimed, abandoned motor vehicle, an unclaimed junked motor vehicle, or vehicle determined to be a health or safety hazard, the County shall notify the last registered owner of the vehicle by certified mail, giving notice of his right to a hearing.

- B. If the registered owner desires a hearing, then he must inform the Director of the Land Use and Environmental Services Agency or designee of his desire for a hearing. This notice must be made within ten (10) days of receipt of the Notice of Disposition of Vehicle and must be delivered by registered or certified mail or by hand-delivering such notice. Failure to notify the Director as required by this section shall be deemed a waiver of the right to a hearing. Upon receiving a request for a hearing, the Director shall set a date, time, and place for a hearing. The notice of the hearing date sent to the owner shall inform him of the specific grounds for classification of the vehicle as abandoned or junked, the rules and regulations of the hearing, his opportunity to present evidence in order to show cause why the sale or disposition of the vehicle should not occur in accordance with the provisions of this Ordinance, and of the right to have counsel present at the hearing.
- C. The Director of the Land Use and Environmental Services Agency or his designee shall serve as the hearing officer, shall conduct the hearing in accordance with rules of procedure given to the owner and shall prepare a written report within five (5) days. This report shall contain findings of fact based on the evidence presented and conclusions based on this Ordinance and other applicable law.
- D. The written report of the hearing officer shall direct that the vehicle be disposed of in accordance with the Ordinance or be immediately returned to the registered owner. If the hearing officer determines that the condition or location of the vehicle was not in violation of this Ordinance, then the vehicle must be immediately returned to the registered owner and the owner is not liable for cost of removal expenses. A copy of the hearing officer's report shall be mailed to the registered owner and the original report shall be filed with the County.
- E. The owner, the person who requested the hearing if someone other than the owner, a representative of the towing company, and the person who authorized the towing shall be notified of the time and place of the hearing.
- F. The owner, the tower, the person who authorized the towing and any other interested parties may present evidence at the hearing. The person authorizing the towing and the tower may submit affidavits in lieu of appearing personally, but a filed affidavit does not preclude that person from testifying at the hearing.
- G. The only issue to be determined at this hearing is whether or not probable cause existed for the towing of the vehicle. If the hearing officer finds that probable cause existed, the charge of towing and storage continues. If the hearing officer finds that probable cause did not exist, the owner can reclaim the vehicle and is not liable for the costs of towing and storage.
- H. Any aggrieved party may appeal the decision of the Hearing Officer to District Court.
- I. Vehicles not reclaimed are to be disposed of in accordance with N.C.G.S. 44A-4, 44A-5 and 44A-6. No further hearings other than that to determine probable cause shall be required. If no one purchases the vehicle at a sale and if the value of the vehicle is less than the amount of the lien, the County may destroy it.

J. If a junked vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, Mecklenburg County may direct disposition of the vehicle without any further notice to the owner.

K. Mecklenburg County may transfer the responsibility of gaining title of the vehicle and subsequent auctioning or sale of the vehicle to the towing company. Any leftover fees shall be given to the vehicle owner if they have presented themselves during the process; otherwise, said leftover fees shall be the property of the towing company.

Section 6. No Liability. No person nor the County may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this section.

Section 7. Exceptions. This Ordinance does not apply to any vehicle in an enclosed building; to any vehicle which is entirely concealed from public view by an acceptable canvas covering (as determined by the Director of the Land Use and Environmental Services Agency or designee) and which is located in the rear yard, limited to two vehicles, subject to zoning approval; to 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 County. If access to the rear yard is not possible or the house is located on a corner lot, then one vehicle would be allowed in the driveway with an acceptable canvas covering (as determined by the Director of the Land Use and Environmental Services Agency or designee).

Section 8. Other Remedies. In addition to the removal and disposal processes provided in the forgoing sections, violation of Section 1 of this Ordinance is a Class 3 misdemeanor, punishable upon conviction as provided in North Carolina General Statute 14-4, with a fine of not more than five hundred dollars (\$500.00).

Section 9. Severability. Should any court of competent jurisdiction declare any provision of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specially declared to be invalid or unconstitutional.

This Ordinance shall take effect from and after its date of ratification.

Ratified this the _____ day of _____, _____.