

AN ORDINANCE PROVIDING FOR THE REMOVAL OF ABANDONED, JUNKED, AND NUISANCE MOTOR VEHICLES ON PUBLIC GROUNDS AND PRIVATE PROPERTY

Section 1. Title.

This ordinance shall be known and cited as the "Alamance County Abandoned, Junked and Nuisance Motor Vehicle Ordinance" (hereinafter referred to as "Ordinance").

Section 2. Purpose.

The purpose of this ordinance is to establish guidelines for the removal and disposal of abandoned, junked, and/or nuisance motor vehicles on County-owned and private property within the County's ordinance-making jurisdiction. These standards are adopted in order to promote and protect the public health, safety, and welfare of the citizens of Alamance County.

Section 3. Authority and Enactment.

The Board of Commissioners of the County of Alamance, pursuant to the authority conferred by the General Assembly of the State of North Carolina in General Statutes Chapter 153A, Sections 121, 132, 132.2, 140, and Chapter 20, Section 219, hereby ordains and enacts into law these articles and sections.

Section 4. Jurisdiction.

This ordinance governs the removal and disposal of abandoned, junked, and nuisance motor vehicles on public grounds and private property that fall within Alamance County's ordinance-making jurisdiction.

Section 5. Definitions.

- (a) Abandoned motor vehicle. A motor vehicle that:
- (1) Is left on public grounds or County-owned property in violation of a law or ordinance prohibiting parking; or
 - (2) Is left for longer than twenty four (24) consecutive hours on property owned or operated by the County; or
 - (3) Is left for longer than two (2) consecutive hours on private property without the consent of the owner, occupant, or lessee or the property; or
 - (4) Is left for longer than seven (7) consecutive days on public grounds.
- (b) Antique Motor Vehicle. A motor vehicle, but not a reproduction thereof, manufactured more than twenty-five (25) years prior to the current year and which, because of discontinued production and limited availability, is considered to be a model or

make of significant value to collectors or exhibitors and which has been maintained in or restored, or will be maintained in or restored, to a condition which is substantially in conformity with the manufacturer's specifications and appearance, and is listed for ad valorem taxes in Alamance County.

- (c) Automobile graveyard. Any establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts. Any establishment or place of business upon which six (6) or more unlicensed, used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more shall be deemed an "automobile graveyard" for the purposes of this ordinance.
- (d) House trailer. Any trailer or semi-trailer designed and equipped to provide living or sleeping facilities and to be drawn by a motor vehicle.
- (e) Junked motor vehicle. A motor vehicle that does not display a current license plate and is also:
 - (1) Is partially dismantled or wrecked; or
 - (2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; and is not being renovated and/or restored.
 - (3) Is more than five (5) years old and appears to be worth less than one hundred (100) dollars.
- (f) Junkyard. An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for maintenance or operation of an automobile graveyard. The term shall include garbage dumps and sanitary landfills.
- (g) Mobile home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed to be used as a dwelling when placed on a temporary or semi-permanent foundation and connected to utilities.
- (h) Motor vehicle. Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle. This term shall include house trailers, travel trailers, farm equipment, and mobile homes.
- (i) Nuisance motor vehicle. A motor 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, or
 - (2) A point of heavy growth of weeds or other noxious vegetation over ten (10) 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, or
- (5) One which has areas of confinement which cannot be operated from the inside, unless rendered safe by securing open or closed; or
- (6) So situated or located that there is a danger of it falling or turning over, or
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind, or
- (8) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Board of Commissioners of the County of Alamance.

(j) Tow. To remove a motor vehicle by any means and to store the vehicle.

(k) Travel trailer. A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

Section 6. Administration.

- (a) The Planning Manager, or his/her designee, shall be responsible for the administration and enforcement of this Ordinance. This person shall hereinafter be referred to as "Administrator" for the purposes of this Ordinance.
- (b) The County may contract with private towing operators to remove, store, and dispose of abandoned, junked, and/or nuisance vehicles. This shall be done in compliance with the procedures set forth in N.C.G.S. § 153A-132, § 20-219 and in the provisions that follow below.

Section 7. Application.

- (a) A property owner may store three (3) junked motor vehicles, as defined by this ordinance, on a given parcel of land at any time, provided that the vehicle does not pose an immediate threat to public health or create a public safety hazard. Junked motor vehicles shall be kept behind the main structure or house located on the property and shall be covered with a "Car Cover", as defined by this ordinance, or with a heavy canvass covering that is properly secured.
- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle to cause or allow such vehicle to become a hazard to the public health, safety, or welfare.
- (b) The Administrator has the right, upon presentation of proper credentials, to enter on any premises within the County's ordinance-making jurisdiction at any reasonable hour to determine if any vehicles are abandoned, junked, and/or nuisance motor vehicles.

- (c) Upon investigation, the Administrator may determine that a motor vehicle is an abandoned, junked, and/or nuisance motor vehicle as defined herein. The Administrator may order the motor vehicle removed to a storage garage or area that has been approved by the Board of Commissioners of Alamance County.
- (d) 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 an abandoned, junked, or nuisance motor vehicle.
- (e) A vehicle may not be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Board of Commissioners or the Administrator has declared the vehicle to be a health or safety hazard.
- (f) Alamance County may require a person requesting the removal from private property of any abandoned or junked motor vehicle to indemnify the County against any loss, expense, or liability incurred through the removal, storage, or sale of the vehicle.

Section 8. Exceptions to Applicability.

- (a) This Ordinance does not apply to any vehicle in an enclosed building, or roofed shelter, or 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, such as in the case of a bona fide automobile graveyard or junkyard.
- (b) Restoration of "Antique Motor Vehicles", as defined by this ordinance, shall be considered an exception.
- (c) This Ordinance does not apply to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the County.
- (d) This Ordinance does not apply to any motor vehicles that are being used on a regular basis for business, farm, or personal use.

Section 9. Required Pre-Towing Notice.

- (a) Except as set forth in Section 10 below, an abandoned, junked and/or nuisance motor vehicle which is to be removed shall be towed only after notice has been given to the registered owner or to the person entitled to possession of the motor vehicle. If the names and mailing addresses can be ascertained in the exercise of reasonable diligence, notice shall be given by certified first class mail, return receipt requested. 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 a notice indicating that the vehicle will be removed by the County on or after a specific date. This date will be no sooner than seven (7) days after the notice is mailed or affixed to the vehicle, unless the vehicle is removed by the owner or legal possessor prior to that time.

- (b) The notice required by Subsection (a) shall provide written findings of fact as to why the motor vehicle has been declared an abandoned, junked, or nuisance motor vehicle by the Administrator. This notice shall also state that the vehicle will be removed seven days after the postmarked date or affixation of the notice unless removed prior to that time.
- (c) The notice required by Subsection (a) shall provide information on the availability of the appeal process that is set forth below in Section 11.

Section 10. Exception to Pre-Towing Notice Requirement.

The requirement that notice be given prior to the removal of an abandoned, junked, and/or nuisance motor vehicle may, as determined by the Administrator, 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. This includes, but is not limited to, situations that include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property. Such findings shall be documented in written form by the Administrator and included in the post-towing notice required by Section 12 of this Ordinance.

Section 11. Pre-Towing Appeals Procedure.

Except in those instances where pre-towing notice is not required, if the owner or person entitled to possession does not remove the vehicle, but wishes to appeal the Administrator's determination that the vehicle constitutes an abandoned, junked, and/or nuisance motor vehicle, he or she may submit a written request of appeal to the Administrator prior to the expiration of the required seven (7)-day period. Such appeal shall be heard by the Board of Commissioners within thirty (30) days of the appeal and further proceedings to remove the vehicle shall be stayed pending the outcome of the appeal.

Section 12. Required Post-Towing Notice.

- (a) Any abandoned, junked, and/or nuisance motor vehicle which has been ordered removed may be towed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the County.
- (b) Whenever a vehicle with a valid registration plate or registration is removed, the Administrator shall immediately notify the last known registered owner of the vehicle. This notice shall include the following:
 - 1. A description of the removed vehicle;
 - 2. The name, address, and contact number for where the vehicle is stored;
 - 3. The violation with which the owner is charged, if any;

4. The procedure which the owner must follow to redeem the vehicle; and
 5. The procedure to be followed in order to request a probable cause hearing on the towing.
- (c) If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within twenty-four (24) hours. If the vehicle is not registered in this state, notice must be provided within seventy-two (72) hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his or her last address by certified mail, return receipt requested, unless he/she or his/her agent waives this notice in writing.
- (d) If the removed vehicle has neither a valid North Carolina registration plate nor registration, the Administrator shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and to notify him or her of the information listed in Subsection (b).

Section 13. Probable Cause Hearing.

- (a) After removal of an abandoned, junked, and/or nuisance motor vehicle and within ten (10) days from receipt of the notice required in Section 12 above, the owner or any person entitled to possession may file a request with the Alamance County Magistrate for a probable cause hearing. The only issue at this hearing will be that of whether probable cause existed for the removal of the vehicle.
- (b) The Magistrate shall set the hearing within seventy-two (72) hours of receiving the request. The owner, the person requesting the hearing (if different from the owner), the tower, and the person who authorized the towing shall be notified of the time and the place of the hearing.
- (c) The owner, the tower, the person who authorized the towing, and 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 an affidavit does not preclude that person from appearing and testifying.
- (d) If the Magistrate determines that probable cause for the towing existed, the owner of the vehicle will remain responsible to the tow truck operator or towing business having custody of the vehicle for any towing and storage fees.
- (e) If the Magistrate determines that the vehicle was towed in error and
1. The hearing is held before the vehicle is reclaimed, the Administrator will notify the person or business in possession of the vehicle to release it. The County will pay all applicable towing and storage charges; or

2. The hearing is held after the vehicle is reclaimed, the County will reimburse the owner for all charges incurred incident to the towing and storage of the vehicle.

(f) Any aggrieved party may appeal the Magistrate's decision to district court.

Section 14. Right to Redeem.

- (a) At any stage in the proceedings, even before a probable cause hearing, the owner may obtain possession of the removed vehicle by paying all towing and storage fees accrued to date or by posting a bond for double the amount of such fees with the towing operator or business having custody of the vehicle.
- (b) The owner shall also be responsible for paying a vehicle redemption fee to Alamance County. This fee shall be assessed in order to cover the administrative costs of this Ordinance. The amount of the fee shall be determined by the Board of Commissioners.

Section 15. Unlawful Removal of Impounded Vehicle.

It shall be unlawful for any person to remove or attempt to remove any vehicle which has been impounded pursuant to this Ordinance from any facility designated by Alamance County for the storage of towed abandoned, junked, and/or nuisance motor vehicles unless and until all towing and storage fees have been paid or a bond in lieu of fees has been posted.

Section 16. Disposition of Removed Vehicles.

Any abandoned, junked, and/or nuisance motor vehicle which is not claimed by the owner or other person legally entitled to possession may be disposed of by the County or tow truck operator or towing business which has custody of the vehicle. Disposition of such vehicle shall be carried out in coordination with the County and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

Section 17. Immunity from Criminal or Civil Liability.

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

Section 18. Civil Penalties.

In addition to other remedies cited herein or otherwise provided by state law, this Ordinance may be enforced by the issuance of civil citations to the owner of the abandoned, junked, and/or nuisance vehicle and the owner of the property upon which the vehicle is placed.

Section 19. Conflict with Other Laws.

It is not intended that this Ordinance repeal, abrogate, annul, impair, or interfere with any existing provisions of any other ordinances or laws. However, if the requirements of any other lawfully adopted rules, regulations, or ordinances of the County of Alamance conflict with this Ordinance, the more restrictive or that imposing the higher standards will govern.

Section 20. Severability.

If any section of specific provision or standard of this Ordinance is found by a court to be invalid, the decision of the court shall not affect the validity of any other section, provision, or standard of this ordinance.

Section 21. Amendment.

This ordinance may be amended from time to time by the Board of Commissioners of the County of Alamance on its own motion or on petition and after public notice and hearing.

Section 21. Effective Date.

This Ordinance shall take effect and be in force upon adoption.

Adopted this the 7th day of May, 2007.

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The foregoing ordinance was approved by the Board of Commissioners for the County of Alamance during regular session on April 16, 2007, and adopted during regular session on May 7, 2007. See Minute Book No. 38, Page 127.