



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

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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 1987 Session Laws and the 1988 Session 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 the authority to restrain, regulate and prohibit junked motor vehicles on public grounds and private property within the County's ordinance making jurisdiction; and

WHEREAS, the County hereby finds that such regulation, restraint and prohibition of junked motor vehicles within the County's ordinance making jurisdiction is necessary and desirable to promote or enhance community, neighborhood or area appearance; and

WHEREAS, on August 4, 1980 the Mecklenburg County Board of Commissioners adopted an "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles," as amended; 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 August 4, 1980, as amended, and adopts in lieu thereof this "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles;" and

WHEREAS, on September 6, 1988 the Mecklenburg County Board of Commissioners adopted an "Ordinance to Provide for the Removal and Disposal of Abandoned and Junked Motor Vehicles" which was amended by action of the Board of Commissioners on January 7, 1991.

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 2 hours on private property without the consent of the owner, occupant, or lessee of the property; or
 4. Left for longer than 7 days on public grounds.
- c) **Junked Motor Vehicle**-A junked motor vehicle is an abandoned motor vehicle that also:
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. More than 5 years old and appears to be worth less than \$100.00; or
 4. Does not display a current license plate.

or, in addition,

- d) **Junked Motor Vehicle** is 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 originally was intended to move; or
 3. Is more than 5 years old and appears to be worth less than one hundred dollars (\$100.00)

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 Commissioners or a duly authorized county official or employee has declared the vehicle to be a health or safety hazard or if removal is necessary and desirable to promote or enhance community, neighborhood or area appearance. 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, Mecklenburg County shall immediately notify the last known registered 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;
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 posting a bond for double the amount of the towing fee or by paying to the County all reasonable costs incidental to the removal and storage. An individual reclaiming a towed vehicle shall make payment at the Accounting Division of the Charlotte-Mecklenburg Building Standards Department. When an individual presents payment to reclaim a vehicle, the Accounting Division Supervisor or his designee shall not accept such payment until and unless the individual signs a form stating that he understands the vehicle must be removed on the release date shown on the receipt. An individual shall not be permitted to reclaim a vehicle after the release date unless he has made further payment for the days of storage beyond the release date. The towing contractor shall release the vehicle to an individual who presents a paid receipt and proof of ownership of the vehicle on or before the release date shown on the receipt.

This notice shall be given by telephone within 24 hours for vehicles registered within this state, and within 72 hours for vehicles not so registered. Written notice shall be sent to the owner's last known address.

Whenever a vehicle without a valid registration is towed pursuant to this section, the person authorizing the towing shall make reasonable efforts including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to give notice to him of the towing as provided in this section. 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 (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 Charlotte-Mecklenburg Building Standards Department of his desire for a hearing. This notice must be given within ten (10) days of receipt of the notice of right to hearing 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 this 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 Charlotte-Mecklenburg Building Standards Department 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, the tower 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 also 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 for 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.

Section 6. Disposal of Vehicles without Plates or Identification Numbers. 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 dispose of it under this section. The County may destroy the vehicle or sell it at private sale (without regard to value), after having held the vehicle for 48 hours. The proceeds shall be placed in the County's General Fund.

Section 7. 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 8. Exceptions. This section does not apply to any vehicle in an enclosed building, 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.

Section 9. Other Remedies. In addition to the removal and disposal processes provided in the foregoing 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 10. Severability. Should any provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, 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 6th day of September, 1988.

Amended this the 7th day of January, 1991

Amended this the 17th day of September, 1996

For more information contact Tyrone Wade
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