



## **Ordinance Providing for the Removal and Disposition of Junked or Abandoned Motor Vehicles**

### **Section 1: Definitions**

Definitions: For the purpose of this Ordinance, the following terms shall have the meanings ascribed to them in this section.

A. Abandoned vehicle or abandoned motor vehicle – A vehicle shall be deemed to have been abandoned in any of the following circumstances:

1. It has been left upon a street or highway within the Town of Rural Hall in violation of a law or ordinance prohibiting parking;
2. It is left on property owned or operated by the Town for a period of not less than twenty-four (24) hours;
3. It is left on private property without the consent of the owner, occupant, or lessee for longer than two (2) hours;
4. It is left on any public street or highway within the Town for a period of not less than seven (7) days;
5. It is determined by law enforcement to be a hazard to the motoring public.

B. Health hazard vehicle – An abandoned or junk vehicle found to be:

1. A breeding ground or harbor for mosquitos, insects, snakes, or pests or being used for storage in a manner which may attract such pests; or
2. A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
3. A point of collection for pools or ponds of water; or
4. A source of danger for children from exposed surfaces of metal, glass, or other rigid materials.

C. Junk 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. Is more than five (5) years old and worth less than five hundred dollars (\$500); or
4. Does not display a current license plate.

D. Motor vehicle and vehicle mean all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

E. Safety hazard vehicle means a motor vehicle left upon a street, highway, or private property for longer than seventy-two (72) hours that has been declared a safety hazard by a code enforcement or law enforcement official without regard to whether the vehicle is abandoned or junked as defined in this section and:

1. Is a breeding ground or harbor for rats; or
2. Is a point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials; or
3. Is positioned in a way that there is a danger it will fall or turn over; or
4. Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

## **Section 2: Applicability**

A. Applicability – Nothing in this article shall be construed to apply to any vehicle in an enclosed building or 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 a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Town.

B. Permitted concealment or enclosure of junked motor vehicle – One junked motor vehicle, in its entirety, is permitted if it is entirely concealed by an approved car cover if it does not constitute a safety or health hazard. The Town has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The car cover must remain in good repair and must not be allowed to deteriorate. Tarps, plastic, old

clothes, etc. are not considered approved car covers. No junked vehicle may be left under a car cover on any street or highway.

**Section 3: Abandonment prohibited; removal required; notice of towing**

A. Abandonment prohibited – It shall be unlawful for any person to abandon any motor vehicle defined under section 1 as an abandoned motor vehicle or as a junked motor vehicle.

B. Duty to remove health or safety hazard vehicles – It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle which is a health or safety hazard vehicle as defined in section 1.

C. Duty to remove junked vehicles – It shall be unlawful for any person to leave or allow to remain on property under his control or management any motor vehicle which is a junked motor vehicle for aesthetic purposes as defined in section 4.

D. Notice of towing – Any junked, abandoned, health, or safety hazard vehicle found to be in violation of this Ordinance may be towed to a storage area. Whenever a motor vehicle is towed pursuant to the provisions of this article, the Town shall provide notice to the owner as follows:

1. Where a vehicle with a valid registration plate or registration is towed, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:
  - a. A description of the vehicle;
  - b. The place where the vehicle is stored;
  - c. The violation with which the owner is charged, if any;
  - d. The procedure the owner must follow to have the vehicle returned to him; and
  - e. The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours. If the vehicle is not registered in this state, notice shall be given to the owner within 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 last known address unless he or his agent waives this notice in writing.

2. Whenever a vehicle with neither a valid registration plate nor registration is towed pursuant to the provisions of this Ordinance, the authorizing person 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 listed in subsection D of this section. Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred; except that 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 4: Removal of junked motor vehicles for aesthetic purposes**

A. Definitions – For purposes of this section, the term junked motor vehicle, as authorized by G.S. 160A-303.2, means a vehicle that does not display a current license plate and that:

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 five years old and appears to be worth less than \$500.

B. Abandonment prohibited – It shall be unlawful to abandon a junked motor vehicle, as defined in this section, on public streets, public grounds, or private property.

C. Required finding; order to remove – Upon investigation, a code enforcement officer may order the removal of a junked motor vehicle, as defined in this section, after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed upon the owner of the vehicle. 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. Any of 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, which may be indicated when one or more of the conditions listed in subsections (a) through (d) below exists or indirect protection of public safety, which may be indicated when one or more of the conditions listed in subsections (e) through (h) below exists:
  - a. A breeding ground or harbor for mosquitoes, insects, snakes, or pests or vehicles used for storage in a manner which may attract such pests;

- b. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- c. A point of collection for pools or ponds of water;
- d. A source of danger for children from exposed surfaces of metal, glass or other rigid materials;
- e. Is a breeding ground or harbor for rats;
- f. Is a point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials;
- g. Is positioned in a way that there is a danger it will fall or turn over; or
- h. Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

4. Preservation of the character and integrity of the community; or

5. Promotion of the comfort, happiness and emotional stability of area residents.

If the owner of the vehicle shall request in writing that the vehicle be removed, the code enforcement officer need not make the finding described in this section, nor shall notice of removal be given. Additionally, the code enforcement officer need not make the finding described in this section if he has a written request from the owner, lessee or occupant of the premises to remove a junked motor vehicle. In such cases, prior notice must be given according to subsection D of this section.

#### D. Removal by Town

1. A junked motor vehicle which is to be removed pursuant to this section shall be towed only after notice to the registered owner or person entitled to claim possession of the vehicle. If the names and mailing addresses of the registered owner or person entitled to possession of the vehicle can be ascertained in the exercise of reasonable diligence, the notice shall be given by certified mail. When service is attempted by certified mail, a copy of the letter may be sent regular mail. Service shall be deemed sufficient if the certified mail is returned unclaimed or refused but the regular mail is not returned within ten days after mailing. The notice shall indicate that the vehicle will be removed by the Town or at the Town's direction no sooner than seven days after receipt of notice. A copy of the notice will be retained by the Town. 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 Town or at the Town's discretion on or after a specified date no sooner than seven days after the notice is affixed.



2. If the vehicle is not removed within the allotted time period and the owner wishes to appeal, such appeal must be submitted in writing within seven days after receipt of a notice of towing, if applicable, or before the expiration of the notice affixed to the windshield of the vehicle to be towed, whichever is the latest. The hearing in this matter shall be conducted according to the procedures set forth in section 6, except no second hearing is required before the disposition of the vehicle.

3. If the vehicle is not removed and a written request for a hearing is not made in a timely fashion, the Town shall direct removal of the vehicle. Such vehicle shall be disposed of according to the procedures set forth in section 3. In the event of a timely appeal, the vehicle shall not be removed until the appeal is heard and decided. If the registered owner or person entitled to possession fails to request a hearing within the allotted time or fails to appear at the scheduled hearing, he waives his right to a hearing.

E. Liability for damages – Any person who removes a vehicle pursuant to this Ordinance shall not be held liable for damages for the removal of the vehicle to the owner, lienholder, or other person legally entitled to possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

#### **Section 5: Nonliability of persons disposing of vehicle**

No person shall be held to answer in any civil or criminal action to any owner, lienholder, or other person, legally entitled to the possession of any abandoned, lost or stolen vehicle for disposing of such vehicle as provided in this Ordinance.

#### **Section 6: Right to hearing before sale or final disposition of vehicle; conduct of hearing; appeals**

A. Before the sale or disposition of an unclaimed abandoned motor vehicle, any junked vehicle, or junked motor vehicle for aesthetic purposes, the Town shall issue notice by certified letter to the last registered owner or the person entitled to possession of the vehicle of his right to a hearing, if ascertainable after the exercise of reasonable diligence. When service is attempted by certified mail, a copy of the letter may be sent regular mail. Service shall be deemed sufficient if the certified mail is returned unclaimed or refused but the regular mail is not returned within ten days after mailing.

B. If the registered owner or person entitled to possession desires a hearing, he must inform the Town of his/her desire by certified letter within seven days after receipt of the notice. If the registered owner or person entitled to possession fails to request a hearing within the allotted time or fails to appear at the scheduled hearing, he waives his right to a hearing.

C. If the registered owner or person entitled to possession requests a hearing, a statement shall be sent to that person stating the time and place for the hearing. In addition, the statement shall inform the person requesting the hearing of (1) the specific grounds for the classification of the vehicle as an abandoned, junked, health or safety hazard vehicle under this article, (2) the rules and regulations for

the hearing, (3) the opportunity to present evidence in order to show cause why the sale or disposition of the vehicle should not occur in accordance with this article, and (4) the right to have counsel present at the hearing.

D. The Town Manager or designee shall serve as the hearing officer, shall conduct the hearing in accordance with the procedures stated in this section, and shall prepare a written report within three days of the hearing stating his/her conclusion concerning whether the vehicle was in violation of this Ordinance and the reasons and evidence upon which the conclusion has been based.

E. The written report of the hearing officer shall determine that the Town shall either proceed to dispose of the vehicle in accordance with this article or to immediately return the vehicle to the registered owner. If the hearing officer determines the vehicle was not in violation of this article and must be immediately returned to the registered owner, then the registered owner would not be charged with the cost of removal expenses.

F. The original report of the hearing officer shall be filed in accordance with the most currently adopted Records Retention Schedule and shall be available for public inspection. A copy of the written report shall be mailed to the registered owner. Any aggrieved party may appeal to the District Court of Forsyth County by filing a written notice of appeal with the Clerk of Superior Court within ten days from the date of receipt of the written report of the hearing officer.

#### **Section 7: Disposal of vehicle with owner's consent**

With the consent of the owner of the vehicle, any motor vehicle may be removed and disposed of as a junked motor vehicle regardless of the value, condition, or age of such vehicle.

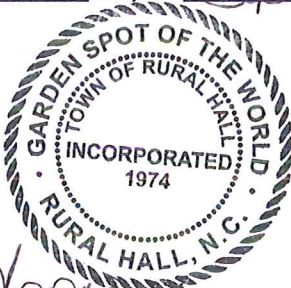
#### **Section 8: Costs**

A. Any and all charges associated with the towing and/or storing of any lawfully impounded vehicle under this Ordinance shall be due and paid directly to the company that removed the vehicle.

B. Any vehicle owner or real property owner who has been notified at least four times within a six-month period of time of a violation of this Ordinance relating to junked, junked motor vehicle for aesthetic purposes, health or safety hazard vehicle shall be assessed a civil penalty of \$250.00 with the fifth and any subsequent notice of violation within a six-month time period. Both the authority to assess a civil penalty and the authority to remove and impound a vehicle(s) may be exercised so as to subject simultaneously the vehicle or real property owner to a civil penalty and impoundment penalties. Thus, the assessment of a civil penalty is in addition to the administrative fee, towing and storage charges assessed. The violation need not occur with the same vehicle each time.

C. If the civil penalty, as set forth herein, is not paid within ten days after notification of the amount due, the Town may recover the penalty, together with all costs, by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

Adopted this the 9<sup>th</sup> day of September, 2019.



ATTEST:

Larry T. Williams  
Larry T. Williams, Mayor

Dora K. Moore  
Dora K. Moore, Town Clerk