

AN ORDINANCE TO AMEND
CHAPTER 38 ("TRAFFIC AND VEHICLES")
OF THE
CRAVEN COUNTY
CODE OF ORDINANCES

BE IT ORDAINED by the Craven County Board of Commissioners that Article III ("Junked Motor Vehicles") of Chapter 38 ("Traffic and Vehicles") is hereby repealed and replaced in its entirety as follows:

ARTICLE III – JUNKED MOTOR VEHICLES

Sec. 38-48. 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:

Junked motor vehicle.

- (1) The term "junked motor vehicle" means a vehicle that:
 - A. Does not display a current license plate; and
 - B. Is either:
 1. Partially dismantled or wrecked;
 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 \$100.00.
- (2) The following shall not constitute a "junked motor vehicle" regulated by this Article:
 - A. A vehicle which is kept or stored at a bona fide "automobile graveyard" or "junkyard," as defined in G.S. 136-143;
 - B. A vehicle which is located such that it is not visible from a public street or highway, or from a private subdivision street or road; or
 - C. A vehicle which is used on a regular basis for business or personal use.

Solid Waste Director.

The term "Solid Waste Director" means the Craven County Solid Waste Director, or his designee.

Sec. 38-49. Junked motor vehicles prohibited.

It shall be unlawful to maintain a junked motor vehicle anywhere within the ordinance-making jurisdiction of the County.

Sec. 38-50. Procedure for determining whether a vehicle is a junked motor vehicle subject to towing.

The County shall determine whether a vehicle is a junked motor vehicle, and is subject to towing, only as follows:

(1) *Step 1--Determination whether vehicle is a junked motor vehicle.* The Solid Waste Director shall personally view the alleged junked motor vehicle. If the Solid Waste Director determines that the vehicle is not a junked motor vehicle, then no further action shall be taken. If the Solid Waste Director determines that the vehicle is a junked motor vehicle as defined above, then he shall proceed to step 2. In viewing any alleged junked motor vehicle, the Solid Waste Director shall first obtain the landowner's consent to enter the property, or otherwise obtain an Administrative Warrant in accordance with the provisions of G.S. Ch. 15, Art. 4A (G.S. 15-27.2).

(2) *Step 2--Balancing of aesthetic benefits vs. private hardship.*

A. After viewing the junked motor vehicle and the surrounding area, the Solid Waste Director shall determine whether the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed on the owner of the junked motor vehicle. In making this determination, the Solid Waste Director may consider the following factors:

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 a character and integrity of the community;
5. Promotion of the comfort, happiness, and emotional stability of area residents; and
6. Any other factors reasonably related to the balancing of aesthetic benefits against burdens imposed upon the owner of the junked motor vehicle.

B. The Solid Waste Director must make written findings showing his consideration of the relevant factors, and must make a written finding as to whether the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed on the owner of the junked motor vehicle. If the Solid Waste Director finds that the aesthetic benefits of removing the junked motor vehicle do not outweigh the burdens imposed upon the owner of the junked motor vehicle, then no further action shall be taken. If the Solid Waste Director finds that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle, then he shall proceed to the next step.

(3) *Step 3--Notice to owner.* If the Solid Waste Director has determined that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle, then he shall give notice, or make a diligent attempt to give notice, to the owner of the junked motor vehicle, as follows:

A. If the junked motor vehicle has a North Carolina registration plate or registration, written notice shall be given to the registered owner by certified mail by

placing said notice in the mail within 24 hours after the determination is made, and notification by telephonic communication shall be made if the owner's telephone number can be ascertained;

B. If the junked motor vehicle is registered in some other state, written notice shall be given to the registered owner by certified mail by placing said notice in the mail within 72 hours after the determination is made, and notification shall be made by telephonic communication to the owner as soon as the owner's identity can be ascertained; or

C. If the junked motor vehicle is not registered in any state, or its state registration cannot be determined, the Solid Waste Director shall make diligent efforts to obtain the name, address and telephone number of the owner, mail written notice, and give notice by telephonic communication to the owner as soon as the owner's identity can be obtained.

D. If after reasonable diligence the owner cannot be identified, or if the owner otherwise has not been given notice, written notice shall be posted on the windshield, or some other conspicuous place at least seven (7) days prior to towing, after having obtained the landowner's consent or an Administrative Warrant.

E. No pre-towing notice need be given if the junked motor vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare to the extent that immediate towing is necessary.

(4) *Step 4--Contents of written notice.* The written notice required by this section shall include the following information:

A. A description of the vehicle and vehicle identification number, if available;

B. A statement that the County has determined that the vehicle is a junked motor vehicle in violation of this article, and the date on which this determination was made;

C. A statement that the County intends to cause the vehicle to be towed to an automobile graveyard or junkyard no sooner than 30 days after the date of determination;

D. The name and address of the automobile graveyard or junkyard to which the vehicle will be towed; and

E. A description of a procedure which the owner must follow to appeal to a Craven County Magistrate to contest the proposed towing.

(5) *Step 5--Towing.* If the owner of the junked motor vehicle has not filed a written request for a hearing before a Craven County Magistrate within 30 days after the determination that the aesthetic benefits of towing a junked motor vehicle outweigh the burdens on the junked vehicle's owner, as provided in this section, the Solid Waste Director may cause the vehicle to be towed immediately upon the expiration of the 30-day period. If the owner makes a timely written request for a hearing before a Magistrate, then the Solid Waste Director shall not cause the vehicle to be towed until and unless the magistrate determines that there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article. If the Magistrate determines that there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article and the owner appeals to the district court as provided in this section, the Solid Waste Director may nonetheless cause a vehicle to be towed pending the decision of the district court, but no tower's lien

imposed pursuant to section 38-51 shall be enforced until such time as the district court rules on such appeal.

(6) *Step 6--Owner's right to hearing before magistrate.* Within 30 days after the date of the determination that the aesthetic benefits of towing a junked motor vehicle outweigh the burdens on the junked vehicle's owner, the owner of a vehicle which the Solid Waste Director has determined to be a junked motor vehicle may make a written request to a Craven County Magistrate to determine whether there is probable cause to believe that the vehicle is a junked motor vehicle subject to towing pursuant to the terms of this article. Such hearing, if properly requested by the owner, shall be conducted pursuant to G.S. 20-219.11.

(7) *Step 7--Appeal to district court.* Any party aggrieved by the magistrate's decision may appeal from the Magistrate's decision to Craven County District Court.

Sec. 38-51. Tower's lien.

Upon towing a junked motor vehicle at the Solid Waste Director's request pursuant to this article, the tower shall have a lien upon the vehicle for towing and storage fees as by law provided. Such lien may be enforced only in accordance with applicable provisions of G.S. Ch. 44A.

Sec. 38-52. Option to pay or post bond.

At any time after the junked motor vehicle has been towed, the owner may obtain possession of the vehicle by:

- (1) Paying the towing fee; or
- (2) Posting a bond for double the amount of the towing fee.

Sec. 38-53. County authorized to enter into contracts.

For the purpose of facilitating the enforcement of this article, the County may enter into contracts with one or more towers, automobile graveyards and/or junkyards for the removal and disposition of junked motor vehicles.

Sec. 38-54. Procedure for junked motor vehicles which constitute health or safety hazards.

In the event that a junked motor vehicle has also been declared by the County Health Director, or his designee, to be a health or safety hazard, then pursuant to the provisions of G.S. 153A-132(c), the County may cause such vehicle to be towed from either public or private property immediately upon the determination that it is a health or safety hazard. In the event that a vehicle is towed immediately pursuant to this provision, the County shall give notice to the owner of the vehicle as required by G.S. 20-219.11(a) and (b).

Sec. 38-55. Liability of person disposing of junked motor vehicles under this article.

No person who removes a junked motor vehicle pursuant to this Article shall be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

Sec 38-56. Penalty

Violation of this Article shall be assessed in accordance with Section 1-11 of the Craven County Code of Ordinances.

This Ordinance Amendment is adopted and effective this ____ day of _____, 2011.

CRAVEN COUNTY

By:

STEVE TYSON, Chairman
Craven County Board of Commissioners

ATTEST:

GWENDOLYN M. BRYAN
Clerk to the Board

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