

AN ORDINANCE PROHIBITING "JUNKED MOTOR VEHICLES"
IN CRAVEN COUNTY, NORTH CAROLINA AND
PROVIDING FOR THEIR PROPER REMOVAL AND DISPOSITION

WHEREAS, Craven County is authorized by N.C. Gen. Stat. § 153A-132.2 to regulate, restrain or prohibit the abandonment of junked motor vehicles on public grounds and on private property within the county's ordinance-making jurisdiction upon finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and to enforce such ordinance by removing and disposing of junked motor vehicles; and

WHEREAS, the Craven County Board of Commissioners finds that prohibiting "junked motor vehicles" within the ordinance-making jurisdiction of Craven County, and providing for their removal and disposition, is necessary and desirable to promote and enhance the attractiveness and aesthetic appearance of the County; to protect property values; to preserve the livability and attractiveness of neighborhoods; to protect the environment; to promote tourism, conventions, and other opportunities for economic development; to promote and enhance the attractiveness of the County's major and minor residential and commercial streets, roads and highways which present the primary public visibility to residents, visitors and commuters of the County; and to promote the comfort, happiness, and emotional stability of residents in the vicinity of junked motor vehicles.

NOW, THEREFORE, the Craven County Board of Commissioners hereby enacts this Ordinance Prohibiting "Junked Motor Vehicles" in Craven County, North Carolina and Providing for Their Proper Removal and Disposition ("this Ordinance"):

Section 1. Definitions.

A. A "junked motor vehicle" means a vehicle that:

1. does not display a current license plate or inspection sticker; and
2. is located such that it is visible from a public street or highway, or from a private subdivision street or road; and
3. is either
 - a. partially dismantled or wrecked, or
 - b. buried or partially buried, or

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- c. cannot be self-propelled or moved in the manner in which it originally was intended to move, or
- d. is more than five (5) years old and appears to be worth less than One Hundred Dollars (\$100.00) based upon the appraised value set by the Craven County Tax Appraiser.

Provided, however, that no vehicle which is kept or stored at a bona fide "automobile graveyard" or "junkyard" as defined in N.C. Gen. Stat. § 136-143 shall be considered a "junked motor vehicle" subject to the provisions of this Ordinance.

B. "Board" means the Craven County Board of Commissioners or a duly authorized county official or employee acting on behalf of the Craven County Board of Commissioners.

Section 2. Junked Motor Vehicles Prohibited.

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

Section 3. Removal of Junked Motor Vehicles from Property without Owner's Consent.

This ordinance provides for the removal of junked motor vehicles from private property, without the consent of the owner, lessee or occupant of the premises and without the consent of the owner of the junked motor vehicle, and for the proper disposition of such vehicles at an automobile graveyard or automobile junkyard.

Section 4. Removal of Junked Motor Vehicles from Property with Owner's Consent.

This ordinance provides for the removal of junked motor vehicles from private property, with the consent of the owner, lessee or occupant of the premises for the proper disposition of such vehicles at an automobile graveyard or automobile junkyard upon presentation of satisfactory evidence of proof of authority to give consent or proof of ownership of said junked motor vehicle by the requestor.

Section 5. 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:

Step 1. Determination whether vehicle is a "junked motor vehicle." The Board shall personally view the alleged junked motor vehicle. If the Board determines that the vehicle is not a junked motor vehicle as defined above, then no further action shall be taken. If the Board determines that the vehicle is a junked motor vehicle as defined above, then it shall proceed to

Step 2. In viewing any alleged junked motor vehicle, the Board shall in all cases where appropriate comply with the provisions of Article 4A of Chapter 15 of the General Statutes of North Carolina.

Step 2. Balancing of Aesthetic Benefits vs. Private Hardship. After viewing the junked motor vehicle and the surrounding area, the Board 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 Board may consider the following factors:

- a. protection of property values;
- b. promotion of tourism and other economic development opportunities;
- c. indirect protection of public health and safety;
- d. preservation of a character and integrity of the community;
- e. promotion of the comfort, happiness, and emotional stability of area residents; and
- f. any other factors reasonably related to the balancing of aesthetic benefits against burdens imposed upon the owner of the junked motor vehicle.

The Board must make written findings showing its 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 Board 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 Board finds that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle, then it shall proceed to the next step.

Step 3. Notice to Owner. If the Board 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 it shall give notice, or make a diligent attempt to give notice, to the owner of the junked motor vehicle, as follows:

- a. in all cases, post written notice on the windshield, or some other conspicuous place on the junked motor vehicle, immediately upon the determination that the aesthetic benefits of removing the junked motor vehicle outweigh the burdens imposed upon the owner of the junked motor vehicle; and
- b. if the vehicle has a North Carolina registration plate or registration, give written notice to the registered owner by certified mail by placing said notice in the mail within 24 hours after the determination is made, and notify by telephonic communication if the owner's telephone number can be ascertained; or

- c. if the vehicle is registered in some other state, give written notice to the registered owner by certified mail by placing said notice in the mail within 72 hours after the determination is made, and notify by telephonic communication, to the owner as soon as the owner's identity can be ascertained; or
- d. if the vehicle is not registered in any state, or its state registration cannot be determined, the Board shall make diligent efforts to obtain the name, address and telephone number of the owner, and to mail written notice, and give notice by telephonic communication, to the owner as soon as the owner's identity can be obtained.

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 Craven County has determined that the vehicle is a "junked motor vehicle" in violation of this ordinance, and the date on which this determination was made;
- c. a statement that Craven County intends to cause the vehicle to be towed to an automobile graveyard or junkyard no sooner than thirty (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 Magistrate of Craven County to contest the proposed towing.

Step 5. Towing. If the owner of the junked motor vehicle has not filed a written request for a hearing before a Magistrate of Craven County within thirty (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 Board may cause the vehicle to be towed immediately upon the expiration of the thirty (30) day period. If the owner makes a timely written request for a hearing before a Magistrate, then the Board 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 ordinance. 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 ordinance and the owner appeals to the district court as provided in this section, the Board may nonetheless cause a vehicle to be towed pending the decision of the district court, but no tower's lien imposed pursuant to Section 6 shall be enforced until such time as the district court rules on such appeal.

Step 6. Owner's Right to Hearing Before Magistrate.

Within thirty (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 Board has determined to be a junked motor vehicle may make a written request to a Magistrate of Craven County 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 ordinance. Such hearing, if properly requested by the Owner, shall be conducted pursuant to N.C. Gen. Stat. § 20-219.11.

Step 7. Appeal to District Court.

Any party who is aggrieved by the Magistrate's decision may appeal from the Magistrate's decision to the District Court of Craven County.

Section 6. Tower's Lien.

Upon towing a junked motor vehicle at the Board's request pursuant to this ordinance, 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 Chapter 44A of the General Statutes of North Carolina.

Section 7. 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.

Section 8. County Authorized To Enter into Contracts.

For the purpose of facilitating the enforcement of this ordinance, 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.

Section 9. Requirement of Indemnification.

The County may require any person requesting the removal of a junked motor vehicle from private property to indemnify the County against any loss, expense or liability incurred because of the removal, storage or sale thereof.

Section 10. 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 Craven County Health Director, or his designee, to be a health or safety hazard, then pursuant to the provisions of

N.C. Gen. Stat. § 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 N.C. Gen. Stat. § 20-219.11(a) and (b).

This Ordinance was adopted by a Craven County Board of Commissioners at its regularly scheduled meeting held on the 19th day of March, 2001, and shall become effective at 12:01 a.m. on the 19th day of March, 2001.

CRAVEN COUNTY

BY: Johnnie Sampson, Jr.
~~C. W. BLAND, Chairman~~ Johnnie Sampson, Jr.,
Vice Chairman
Craven County Board of Commissioners

ATTEST:

Gwendolyn M. Bryan
GWENDOLYN M. BRYAN
Clerk to the Board

[SEAL]

NORTH CAROLINA
CRAVEN COUNTY

I Quinn J. Deussen a Notary Public of Craven County, do hereby certify that GWENDOLYN M. BRYAN personally appeared before me this day and acknowledged that she is the Clerk to the Craven County Board of Commissioners, a body politic and corporate of the State of North Carolina existing by virtue of the laws of the State of North Carolina, and that by authority duly given and as the act of Craven County, the foregoing instrument was signed in its name by its Chairman, sealed with its corporate seal, and attested by herself as its Clerk.

WITNESS my hand and notarial seal, this 19th day of March, 2001.

My Commission Expires:

June 1, 2004
8Cravenjunkcars.org

Quinn J. Deussen
NOTARY PUBLIC