

TOWN OF JONESVILLE

AN ORDINANCE DEFINING AND PROHIBITING ABANDONED, HAZARDOUS AND JUNKED MOTOR VEHICLES WITHIN THE TOWN OF JONESVILLE

WHEREAS, pursuant to N.C Gen. Stat. §160A-174 a town may by ordinance define, prohibit, regulate or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town; and

WHEREAS, the Board of Commissioners of the Town of Jonesville finds that abandoned, hazardous and junked motor vehicles are detrimental to the appearance of the town; adversely impacts the value of property throughout the town and is detrimental to tourism and the town's economic well being.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the Town of Jonesville, North Carolina as follows:

Section 1. Intent.

It shall be the intent of this article to promote and enhance the aesthetic appearance of the town; to protect the property values throughout the town; and to promote tourism and the opportunities for economic development of the town. It is further the intent of this article to promote and enhance the attractiveness of the town thoroughfares and residential streets, which present public visibility to visitors and to passers by of the town by controlling and regulating abandoned, hazardous and junked vehicles.

Section 2. Definitions.

For the purposes of this ordinance, certain words and terms are defined as herein indicated:

Abandoned Vehicle: As authorized and defined in §160A-303 of the General Statutes, an ***Abandoned Motor Vehicle*** is a motor vehicle which:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left on a public street or highway for longer than seven (7) days; or
- (3) Is left on property owned or operated by the town for longer than twenty-four (24) hours; or
- (4) Is left on private property without the consent of the owner, occupant or lessee thereof, for longer than two (2) hours.

Approved Motor Vehicle Cover. A ready-fit cover made expressly for motor vehicles which will resist decay, mildew, and ultra-violet sunlight.

Authorizing Official: Any police officer on duty that day, the Town Manager, or Code Enforcement Officer respectively, are designated to authorize the removal of vehicles under the provisions of this article.

Hazardous Vehicle. A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, and 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 eight (8) 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 as evidenced by odor; or
- (5) One which has areas of confinement, such as trunks, hoods, etc., which cannot be operated from inside the area of confinement; or
- (6) One 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) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Town Board of Commissioners.

Junked Motor Vehicle: As authorized and defined in §160A-303.2 of the General Statutes, the term "**Junked Motor Vehicle**" means a vehicle that does not display a current license plate upon that vehicle 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 (5) years old and appears to be worth less than one hundred dollars (\$100.00).

Motor Vehicle or Vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Section 3. Administration.

The Police Department, Town Manager and Code Enforcement Officer shall be responsible for the administration and enforcement of this article. The Police Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the town and on property owned by the town. The Code Enforcement Officer and/or the Town Manager shall be responsible for administering the removal and disposition of "abandoned," "hazardous" or "junked motor vehicles" located on private property. The town may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and

dispose of abandoned vehicles, hazardous vehicles and junked motor vehicles in compliance with this article and applicable state laws. Nothing in this ordinance shall be construed to limit the legal authority or powers of officers of the Town Police Department and Volunteer Fire Department in enforcing other laws or in otherwise carrying out their duties.

Section 4. Abandoned vehicle unlawful; removal authorized.

- (A) Upon investigation, the proper authorizing official of the town may determine and declare that a vehicle is an abandoned motor vehicle as defined above, and order the vehicle removed.
- (B) 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, cause or allow a motor vehicle to become an abandoned motor vehicle.

Section 5. Hazardous vehicle unlawful; removal authorized.

- (A) Upon investigation, the proper authorizing official of the town may determine and declare that a vehicle is a health or safety hazard and a hazardous vehicle as defined above, and order the vehicle removed.
- (B) 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, cause or allow such vehicle to remain on the property after it has been declared a hazardous vehicle.

Section 6. Junked motor vehicle regulated; removal authorized.

- (A) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the junked motor vehicle to remain on the property after the vehicle has been ordered removed.
- (B) Subject to the provisions of division (A) of this section, upon investigation, the Town Manager or Code Enforcement Officer may order the removal of a junked motor vehicle as defined in this ordinance, from private property to a storage garage or storage area after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. 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. 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 and safety;

- (4) Preservation of the character and integrity of the community; and
 - (5) Promotion of the comfort, happiness and emotional stability of area residents.
- (C) Permitted concealment or enclosure of junked motor vehicle.
- (1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Town of Jonesville Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an approved motor vehicle covering for not more than sixty (60) calendar days. Junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building. The Town Manager and Code Enforcement Officer have the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and not be allowed to deteriorate. The covering or enclosure must be compatible with the objectives stated in the preamble of this ordinance.
 - (2) Any one or more junked motor vehicles kept for a period exceeding sixty (60) calendar days shall be kept within a garage or similar structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. Garages or similar structures mean either a lawful, nonconforming use or a structure erected pursuant to the lawful issuance of a building permit and which has been constructed in accordance with all zoning and building code regulations.

Section 7. Removal of abandoned, hazardous or junked motor vehicles; pre-towing notice requirements; appeals.

- (A) Except as set forth in section 8 below, an abandoned, hazardous or junked vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a hazardous vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. Reasonable diligence shall include notification to the registered owner of the vehicle at his last known address according to the latest registration certificate or certificate of title on file with the North Carolina Division of Motor Vehicles; notice to the owner of real property as recorded in the Yadkin County Register of Deeds Office; notice to the owner, lessee or occupant as contained in the records of the town. The person who mails the notice(s) shall retain a written record to show the name(s) and address(es) to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, 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 on a specific date (no sooner than seven (7) days after the notice is affixed). The notice shall state that the vehicle will be removed by the town on specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

- (B) Appeals. The registered owner or person entitled to possessing a vehicle which has been determined to be an abandoned vehicle on private property, hazardous vehicle or junked motor vehicle who has received a notice pursuant to section 7(A) that the vehicle will be removed may appeal the determination. In the case of notice for removal of a junked motor vehicle where the determination has been made that the aesthetic benefits of removing the vehicle outweigh the burdens on the private property owner, in accordance with section 6(B), the registered owner or person entitled to possession of the junked motor vehicle may appeal that determination. Any appeal shall be made within ten (10) days upon receipt of the notice for removal of the vehicle as provided in section 7(A). All appeals shall be made to the Town Board of Commissioners in writing. Appeals held pursuant to this section shall be conducted by the Board of Commissioners within forty-five (45) days after the receipt of a request for a hearing, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Section 8. Exceptions to prior notice requirement.

- (A) The requirement that notice be given prior to the removal of an abandoned, hazardous or junked motor vehicle may, as determined by the authorizing official 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. Such findings shall in all cases be entered by the authorizing official in the appropriate daily records.
- (B) Circumstances justifying the removal of vehicles without prior notice include:
- (1) *Vehicles abandoned on the public streets.* For vehicles left on the public streets and highways, the Police Department or Town Manager hereby determines that immediate removal of such vehicles may be warranted when they are:
 - (a) Obstructing traffic;
 - (b) Parking in violation of an ordinance prohibiting or restricting parking;
 - (c) Parked in a no-stopping or standing zone;
 - (d) Parked in loading zones;
 - (e) Parked in bus zones; or
 - (f) Parked in violation of temporary parking restrictions imposed under any town ordinance.
 - (2) *Other abandoned or hazardous vehicles.* With respect to abandoned or hazardous vehicles left on town-owned property other than the streets and

highways and on private property, such vehicles may be removed without giving prior notice in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances 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, or vehicles causing damage to public or private property.

- (3) *Vehicles left on private property.* A vehicle may be removed that has been left on private property without the consent of the owner, occupant or lessee thereof for longer than two (2) hours and the owner, occupant or lessee has complied with Section 13 of this ordinance, or in those circumstances where there is a finding of a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records.

Section 9. Removal of vehicles; post-towing notice requirements.

- (A) Any abandoned, hazardous or junked vehicle which has been ordered removed may, as directed by the proper authorizing official of the town, be removed to a storage garage or area by the tow truck operator or towing business contracting to perform such services for the town. Whenever such a vehicle is removed, the authorizing town official shall immediately notify the last known registered owner of the vehicle, such notice to include the following:
 - (1) The description of the removed vehicle;
 - (2) The location where the vehicle is stored;
 - (3) The violation with which the owner is charged, if any;
 - (4) The procedure the owner must follow to redeem the vehicle; and
 - (5) The procedure the owner must follow to request a probable cause hearing on the removal.
- (B) The town shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, including the information set forth in subsections (A) (1) through (5) above, shall also be mailed to the registered owner's last known address, unless the notice is waived in writing by the vehicle owner or his agent.
- (C) If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the state, notice shall be given to the registered owner within seventy-two (72) hours of the removal of the vehicle.
- (D) Whenever an abandoned, hazardous or junked motor vehicle is removed and such vehicle has no valid registration or registration plates, the authorizing town official 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 set forth in subsections (A) (1) through (5) above.

Section 10. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, hazardous vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the County Magistrate designated by the Chief District Court Judge to receive such hearing requests. The Magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of North Carolina G.S. §20-219.11, as amended.

Section 11. Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this ordinance.

Section 12. Sale and disposition of unclaimed vehicle.

Any abandoned, hazardous or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in accordance with North Carolina G.S. §44A-1 through 44A-6.

Section 13. Conditions on removal of vehicles from private property.

Except as provided in section 6(B), as a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state laws. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a hazardous vehicle or is a junked motor vehicle which has been ordered removed by the Town Manager or Code Enforcement Officer pursuant to section 6(B). The town shall require any person requesting the removal of an abandoned, hazardous or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

Section 14. Protection against criminal or civil liability.

Any person who removes a vehicle pursuant to this article shall not be held liable for damages for the removal of the vehicle to the owner, lien holder 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.

Section 15. Exceptions.

Nothing in this Ordinance shall apply to any vehicle which meets the following conditions:

- (A) The vehicle is located in a bone fide "automobile graveyard" or "junkyard" as defined in G.S. §136-143, in accordance with the *Junkyard Control Act*, G.S. §136-141 et seq.
- (B) The vehicle is in an enclosed building;
- (C) One (1) junked motor vehicle in its entirety, is located in the rear yard as defined by the town's Zoning Ordinance for no more than sixty (60) calendar days if the junked motor vehicle is entirely concealed from public view by an approved motor vehicle cover. The approved motor vehicle cover must remain in good repair and must not be allowed to deteriorate.
- (D) The vehicle is 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
- (E) The vehicle is in an appropriate storage place or depository maintained in a lawful place and manner by the town.
- (F) The motor vehicle is used on a regular basis for business or personal use.

Section 16. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this ordinance unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

Section 17. Repeal and reenactment of existing Abandoned, Nuisance and Junked Vehicle Ordinance.

The rewriting of this ordinance in part carries forth by reenactment some of the provisions of the existing abandoned, nuisance and junked motor vehicle ordinance of the town and is not intended to repeal, but rather to reenact and continue in force such existing provisions so that all rights and liabilities that have been accrued are preserved and may be enforced. All provisions of the abandoned, nuisance and junked vehicle ordinance which are not reenacted herein are hereby repealed.

Section 18 Severability.

If any part of this ordinance or the application thereof to any person or condition is held invalid such invalidity shall not affect other parts of this ordinance or their application to any other person or condition, and to this end, the provisions of this ordinance are hereby declared to be severable.

This ordinance shall become effective upon its adoption.

ADOPTED this the _____ of _____, 2006 by the Board of Commissioners of the Town of Jonesville, North Carolina.

ATTEST:

Lindbergh Swaim, Mayor

Glenda Gilliam, Town Clerk