

**CHAPTER 5  
ORDINANCE REGULATING  
ABANDONED AND JUNKED MOTOR VEHICLES**

**CHOWAN COUNTY, NORTH CAROLINA**

**Preamble**

WHEREAS, North Carolina General Statute 153A-121(a) provides that ‘a county may by ordinance define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety or welfare of its citizens and the peace and dignity of the county; and may define and abate nuisances’; and,

WHEREAS, North Carolina General Statute 153A-132(a) provides that “a county may by ordinance prohibit the abandonment of motor vehicles on public grounds and private property within the county’s ordinance-making jurisdiction and on county owned property wherever located”; and,

WHEREAS, North Carolina General Statute 153A-132.2 provides that “a county may by ordinance 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 a finding that such regulation, restraint or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and may enforce any such ordinance by removing and disposing of junked motor vehicles”; and,

WHEREAS, this Board finds and declares that abandoned and junked motor vehicles are undesirable in the promotion and enhancement of community, neighborhood or area appearance and that regulation, restraint or prohibition of abandoned or junked cars is necessary and desirable; and,

WHEREAS, this Board desires to enact the following ordinance regulating abandoned and junked motor vehicles in the unincorporated areas of Chowan County, North Carolina.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners for the County of Chowan, as follows:

### 5.01 Title

This ordinance shall be known and may be cited as the “Ordinance Regulating Abandoned and Junked Motor Vehicles in Chowan County”.

### 5.02 Purpose and Objectives

The purpose and objectives of this ordinance are as follows:

- A. To ensure the public health, safety and general welfare by providing controls on the removal and disposal of abandoned and junked motor vehicles.
- B. To prohibit abandoned or junked motor vehicles from being disposed of by leaving them on public or private property.
- C. To eliminate the present accumulation of abandoned and junked motor vehicles.
- D. To prevent future accumulation of abandoned and junked motor vehicles.
- E. To promote or enhance community, neighborhood or area appearance.

### 5.03 Definitions

For purposes of this ordinance, certain terms and words are hereby defined: words used in the present tense shall include the future; words in the singular number shall include the plural, and the plural, the singular; the word “shall” is mandatory and the word “may” is permissive.

- A. Abandoned motor vehicle is one that:
  - 1. is left on public grounds or county-owned property in violation of a law or ordinance prohibiting parking; or
  - 2. is left for longer than 24 hours on property owned or operated by the county; or
  - 3. is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property; or
  - 4. is left for longer than seven days on public grounds.
- B. Board of Commissioners: shall mean the Board of Commissioners of Chowan County, North Carolina
- C. County: “the county” shall mean Chowan County, North Carolina.
- D. Health Hazard: An abandoned or junked motor vehicle shall be declared to be a health hazard when its condition is such that the motor vehicle can or does harbor diseases, furnish shelter and/or breeding places for mosquitoes or other insects, or become a breeding ground and harbor for rats or other pests.
- E. Junked Motor Vehicle: An abandoned motor 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 was intended; or

3. is more than five years old and appears to be worth less than one hundred dollars (\$100.00).
- F. 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.
  - G. Officers, Employees, Etc: Whenever reference is made to a particular officer, employee, department or agency, without further qualification, it shall be construed to be followed by the words "of Chowan County", unless otherwise specifically provided. A reference to an officer shall include such officer's designated representative.
  - H. Safety Hazard: An abandoned or junked motor vehicle shall be declared to be a safety hazard when its condition is such that the motor vehicle's areas of confinement which cannot be opened from the inside, such as trunk compartments and engine compartment or glass, windows, or any exterior or interior fixtures present physical dangers to the safety and well-being of children or other persons.

#### **5.04 Jurisdiction**

This ordinance shall govern the removal and disposal of abandoned or junked motor vehicles on public grounds and private property within the county and not within a city unless specified below. However, this ordinance shall govern the removal and disposal of abandoned or junked motor vehicles on county-owned property wherever located.

#### **5.05 Complaints**

County officer will investigate abandoned or junk motor vehicle complaints. Citizen complaints will be accepted. Nothing in this ordinance shall preclude a County official from initiating an investigation.

#### **5.06 Abandoned Motor Vehicles**

- A. Abandonment of Motor Vehicles Prohibited: It shall be unlawful for any person to abandon a motor vehicle on public grounds or private property within the unincorporated areas of Chowan County and on county-owned property wherever located.
- B. Removal of Abandoned Motor Vehicles: The County may remove to a storage garage or area abandoned motor vehicles that are found to be in violation of this ordinance. An abandoned motor vehicle may not be removed from private property without the written request of the owner, lessee or occupant of the premises unless the County Manager or the Building Inspector has declared the vehicle to be a health or safety hazard. Appropriate county officers and employees may, upon presentation of proper credentials, enter on any premises within the county ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The county may require a person requesting the removal of an abandoned motor vehicle from private

property to indemnify the county against any loss, expense, or liability incurred due to the vehicle's removal, storage or sale.

C. Notification and Probable Cause Hearing:

1. Whenever 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 possible sale or other disposition of the vehicle;
  - (e) the procedure the owner must follow to have the vehicle returned; and,
  - (f) 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 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 the owner's last known address unless the owner or the owner's agent waives this notice in writing.

2. Whenever a vehicle with neither a valid registration plate nor registration is towed, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and notify the owner as required by Section 5.06, C, 1 of this ordinance. Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this section, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least ten days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impedes the flow of traffic or otherwise need be given if the vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing was necessary.
3. The owner or any other person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the county all reasonable costs incidental to the removal and storage.
4. The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. ***The hearing request shall be filed in writing with the Director of the county Planning and Inspections Department no later than ten (10) days following notification of removal. Upon receipt of a timely request, a hearing date and time shall be promptly set.*** 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. ***An appeal from the decision of the Director may be timely made to the Chowan County District Court.***

- D. Disposal of Abandoned Vehicles: After holding an abandoned motor vehicle for thirty (30) days after the date of removal, the county may sell or dispose of the vehicle as follows:
1. If the vehicle appears to be worth less than one hundred dollars (\$100.00), the county may dispose of the vehicle as a junked motor vehicle as provided by Section 5.07, D, of this ordinance. With the consent of the owner, the county may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition or age of the vehicle and without holding it for any prescribed period of time.
  2. If the vehicle appears to be worth one hundred dollars (\$100.00) or more, the vehicle shall be sold at a public auction. The county shall give twenty (20) days written notice of the sale to the registered owner at his last known address, to each holder of a lien of record against the vehicle and to the State Division of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the finance officer of the county, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens in that order. The remainder of the proceeds of sale, if any, shall be paid over to the registered owner, or held by the county for sixty (60) days or if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within sixty days after the day of the sale, the funds shall be deposited in the county's general fund and the owner's rights in the vehicle are extinguished.
- E. Exceptions: This article 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.
- F. Payment: Nothing in this ordinance would prohibit the County from assigning responsibility for the removal, storage, sale or disposal of motor vehicles identified to be in violation of the ordinance to an outside agent. Said agent may be authorized to act on behalf of the County as specified in a legally binding contract duly executed between the County and the agent under terms specified by the Board of Commissioners.

## 5.07 Junked Motor Vehicles

- A. Abandonment of Junked Motor Vehicles Prohibited: It shall be unlawful for any person to abandon a junked motor vehicle on public grounds or on private property within the unincorporated areas of Chowan County and on county-owned property wherever located.
- B. Removal of Junked Vehicles: Upon investigation the County Building Inspector or the County Manager may order the removal of a junked motor vehicle as defined in this ordinance after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burden 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:

- (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 the character and integrity of the community; and,
- (e) promotion of comfort, happiness and emotional stability of area residents.

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

C. Notification and Probable Cause Hearing

1. Whenever 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 possible sale or other disposition of the vehicle;
  - (e) the procedure the owner must follow to have the vehicle returned; and,
  - (f) 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, 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 as required by Section 5.07, C, 1, of this ordinance. Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this section, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least ten days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing is necessary.
3. The owner or any other person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the county all reasonable costs incidental to the removal and storage.

4. The owner or any person entitled to claim possession of the vehicle may request in writing a hearing to determine if probable cause existed for the towing. ***The hearing request shall be filed in writing with the Director of the county Planning and Inspections Department no later than ten (10) days following notification of removal. Upon receipt of a timely request, a hearing date and time shall be promptly set.*** 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. ***An appeal from the decision of the Director may be timely made to the Chowan County District Court.***
- D. Disposal of Junked Vehicles: After holding a junked motor vehicle for fifteen (15) days, the county may destroy it or sell it at private sale as junk. Within fifteen (15) days after the final disposition of a junked motor vehicle, the county shall notify the State Division of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined. The full proceeds of the sale of the junked motor vehicle shall be paid to the finance officer of the county, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by the county for thirty (30) days after the day the vehicle is disposed of, the funds shall be deposited in the county's general fund, and the owner's rights in the vehicle are extinguished.
- E. Disposal of Vehicles Without Plates or Identification Numbers: If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, the county may dispose of a junked motor vehicle under this section rather than Section 5.07, D. The county may destroy the vehicle or sell it at private sale, without regard to value, after having held the vehicle for forty-eight (48) hours. The proceeds shall be placed in the county's general fund.
- F. Exceptions: This article does not apply to the following:
1. any motor vehicle in the process of repair or restoration on property under the control of the owner of the vehicle or property under the control of the person repairing or restoring the vehicle. Visible evidence of repair or restoration shall be apparent on a monthly basis.
  2. any motor vehicle that is used on a regular basis for business or personal use.
- G. Payment: Nothing in this ordinance would prohibit the County from assigning responsibility for the removal, storage, sale or disposal of motor vehicles identified to be in violation of the ordinance to an outside agent. Said agent may be authorized to act on behalf of the County as specified in a legally binding contract duly executed between the County and the agent under terms specified by the Board of Commissioners.

#### **5.08 Enforcement Remedies Authorized: Penalties for Violation**

- A. The County may secure injunctions, abatement orders and other appropriate equitable remedies to further insure compliance as provided in G.S. 153A-123.
- B. The violation of this ordinance shall be a misdemeanor and in addition to, or in lieu of, remedies authorized in subsection "A" above shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than thirty (30) days.

**5.09 Severability**

Sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or invalid by a valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not effect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the remaining provisions would have been enacted by the Board of Commissioners without incorporation into this ordinance of any such unconstitutional or invalid language.

**5.10 Adoption**

This ordinance shall become effective upon its adoption.

Adopted by the Board of Commissioners of Chowan County, North Carolina on this day, February 7, 1994; amended March 4 and May 6, 1996; amended July 11, 2002; amended July 10, 2006.

Nancy B. Morgan, Clerk