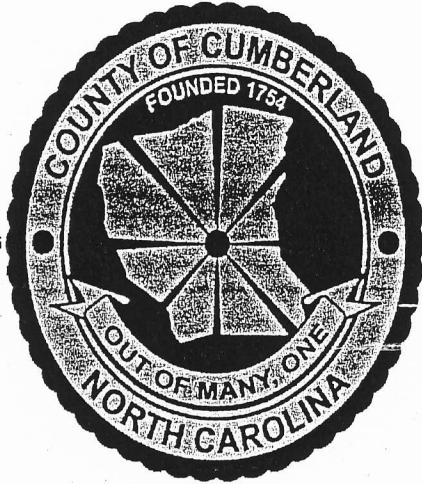


Cumberland County



Abandoned, Nuisance, and Junked Motor Vehicles

CUMBERLAND COUNTY CODE
ARTICLE III. ABANDONED, NUISANCE, AND JUNKED MOTOR VEHICLES

Sec. 9-40. Definition as public nuisance.

Pursuant to the authority in N.C.G.S. Sections 153A-121, 153A-132, 153A-132.2 and 153A-140 to regulate, restrain or prohibit abandoned, nuisance and junked motor vehicles on public and private property, the County of Cumberland does hereby institute the Abandoned, Nuisance, and Junked Motor Vehicle Ordinance. Nothing herein shall be deemed or interpreted to abrogate or limit the authority of the county public health director to abate public health nuisances. (Ord. Of 9-6-88, 1)

Sec. 9-41. Territorial jurisdiction.

This article is applicable to any area of the County of Cumberland, North Carolina, not within the territorial limits of a duly constituted municipality. (Ord. of 9-6-88, 1)

Sec. 9-42. Definitions.

(a) Motor vehicle means any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle, except that said definition shall not include a "mobile home" as defined in County Health Department regulations and in the County Zoning and Subdivision ordinances.

(b) Abandoned motor vehicle means a motor vehicle, other than one located in a bona fide automobile graveyard or junkyard, that:

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

(c) Nuisance motor vehicle means a vehicle(s) on public or private property that is determined and declared to be a health or safety hazard, a public nuisance and unlawful, 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 twelve (12) 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 which cannot be operated from the inside, such as trunks, hoods, etc.; or
- (6) So situated or located that there is a danger of its falling or turning over; or
- (7) One which is a point of collection of garbage, food waste, animal waste or any other rotten putrescible 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 Inspection Department.
- (d) Junked motor vehicle means a motor vehicle, other than one located in a bona fide automobile graveyard or junkyard, that:
 - (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 appears to an inspecting official of the county to be worth less than one hundred dollars (\$100.00); or (Ord. of 9-6-88, 1).
 - (4) Does not display a current license plate.

Sec. 9-43. Violations.

(a) It shall be unlawful and a violation of this Article III for the registered owner, lessee, or person entitled to possession of a motor vehicle to abandon the same as herein defined.

(b) It shall be unlawful and a violation of this Article III for the registered owner, lessee, or person entitled to possession of a nuisance or junked vehicle, as herein defined, to keep or store said nuisance or junked vehicle, on property owned, leased or occupied by such owner, for a period longer than thirty (30) days. The placing, keeping or storing of a motor vehicle in a bona fide "automobile graveyard" or "junkyard," as defined in N.C.G.S. 136-143 shall not be a violation of this Article III.

(c) It shall be unlawful and a violation of this Article III for the owner, lessee or occupant of private property to keep or store an abandoned, nuisance, or junked vehicle on such property for a period longer than thirty (30) days. (Ord. of 9-6-88,1).

Sec. 9-44. Penalties.

(a) A violation of this Article III shall subject the violator to a civil penalty of one hundred dollars (\$100.00) per violation per day for each and every day that the violation continues. The civil penalty shall be issued by citation served personally; by registered mail, return receipt requested; or by any other means authorized by law. If the civil penalty is not paid as set forth in the citation within thirty (30) days of the receipt thereof, the failure to pay shall cause the County Planning and Inspections Department to institute an action in the nature of debt in a court of competent jurisdiction to collect the civil penalty as set forth in N.C.G.S. Section 153A-123.

(b) In addition to the assessment of a civil penalty for a violation of this Article III, the abandoned, nuisance, or junked motor vehicle giving rise to the offense may be removed from the premises on which located and disposed of as hereafter provided.

Sec. 9-45. Administration.

(a) The County Planning and Inspections Department shall be responsible for administration of this Article III, to include without limitation investigation of complaints of violations, assessment of civil penalties, the initiation of court action, and implementation of process to remove and dispose of abandoned, nuisance, and junked vehicles from public or private property. Such designation of responsibility shall not be deemed to preclude enforcement of similar regulations of the Board of Public Health of Cumberland County by sanitarians of the County Health Department.

(b) For the purpose of conducting such investigations, officials of the County Planning and Inspections Department are hereby authorized to enter upon private premises, exclusive of dwelling houses and other enclosed structures, where abandoned, nuisance or junked motor vehicles are located. Nothing in this section shall be construed to free the investigating official from any requirement to obtain the consent of the owner or occupant of the premises concerned or to obtain an administrative inspection search warrant pursuant to Section 15-27.2 or other provisions of the General Statutes of North Carolina or otherwise to view or enter upon such premises in a manner prescribed by law (Ord. of 9-6-88, 1).

Sec. 9-46. Process for removal.

Upon a determination that an abandoned, nuisance or junked vehicle is located on private or public property in violation of this Article III, the County Planning and Inspections Department may initiate process to remove and dispose of such vehicles in accordance with the provisions of this ordinance as permitted by N.C.G.S. Section 153A-132 and N.C.G.S. 20-219.11. (Ord. of 9-6-88,1).

(a) Pre-towing notice. Except as set forth in subsection 9-46(b), an abandoned, nuisance or junked vehicle which is to be removed shall be towed only after notice to the registered owner, lessee or person entitled to possession of the vehicle. In the case of a nuisance or junked vehicle, if the names and mailing addresses of the registered owner, lessee 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. A written record of the name(s) and address(es) and date of mailing of these notices will be maintained by the Inspector. If such information cannot be ascertained, or if the vehicle to be removed is an abandoned vehicle, notice shall be affixed to the vehicle in a conspicuous place. The notice shall state that the vehicle will be removed by the county on a specified date after the notice is affixed or mailed unless the vehicle is moved by the owner or legal possessor prior to that time. The date specified shall be no sooner than seven (7) days after the notice is affixed or mailed. If the registered owner or person entitled to possession chooses to appeal the determination that the vehicle is an abandoned, nuisance or junked motor vehicle, such appeal shall be made to the Planning and Inspections Director or his/her designee. In the event of an appeal further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

Notice of appeal must be made to the Planning and Inspections Director or his/her designee in writing within fifteen days after receipt of the notice of violation or the affixing of the notice to the vehicle. The Planning and Inspections Director or his/her designee shall within ten days after receipt of the notice of appeal send a notice of hearing to the owner setting the time and place for the hearing. The hearing shall be held within twenty days after receipt of the notice of appeal.

(b) Exceptions to pre-towing notice requirement. The requirement that notice be given prior to the removal of an abandoned, nuisance or junked motor vehicle may, as determined by the authorizing official, maybe 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 health safety and welfare. Such findings shall, in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances justifying the removal of vehicles without prior notice include but are not limited to:

- (1) Vehicles blocking or obstructing traffic
- (2) Vehicles blocking or obstructing ingress or egress to businesses or residences
- (3) Vehicles parked in such a manner as to pose a traffic hazard
- (4) Vehicles parked illegally.

(c) Post-towing notice requirements. Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the county, be removed to a storage garage or area by a tow truck operator or towing business contracted to perform such services for the county. Whenever such vehicle is removed, notice shall be given to the last known registered owner or person entitled to the possession of the vehicle. Such notice shall include the following:

- (1) Description of the removed vehicle
- (2) Location where the vehicle is stored
- (3) The violation with which the owner is charged, if any
- (4) The procedure which the owner must follow to redeem the vehicle
- (5) The procedure to be followed to request a probable cause hearing on the towing.

If the vehicle is registered in North Carolina, notice shall be given within 24 hours from removal of the vehicle. Otherwise, notice shall be given within 72 hours from removal of the vehicle. Notice will be given by telephone, if feasible, and in writing to the last known registered owner, lessee or person entitled to possession of the vehicle unless such notice has been waived in writing by the owner or his agent.

(d) Probable cause hearing. After removal of an abandoned, nuisance or junked vehicle, the owner or person entitled to possession may file a written request with the magistrate for a hearing to determine if probable cause existed for the towing of the vehicle.

(e) Disposal of removed vehicles. Any abandoned, nuisance or junked vehicle which is not claimed by the owner or other party entitled to possession may 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 N.C.G.S. Chapter 44A, Article 1.

(f) Protection against criminal or civil liability. No person nor Cumberland County may be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of such vehicle as provided in this article.

Sec. 9-47. Exceptions.

(a) This article shall not apply to vehicles located in a bona fide "automobile grave yard" or "junkyard" as defined in N.C.G.S. 136-143.

(b) This Article III shall not apply to nuisance or junk motor vehicle(s) kept in a garage or building structure that provides a complete enclosure and meets state and local codes and ordinances.

(c) Those vehicles which comply and are maintained in accordance with all local and state requirements, other than Section 9-42(d)(4) of this Article, may be permitted when approved by the Inspector.

(d) This Article III shall not apply to motor vehicles to which the definitions set forth in Section 9-42 apply, but which are lawfully used for bona fide personal or business purposes as set forth below:

- (1) Unlicensed motor vehicles operated or otherwise used on a regular basis off-road and maintained in a good state of repair for their intended purpose, such as farm trucks, tractors, construction equipment, forklifts, recreational vehicles, vehicles used for show purposes and other motor vehicles specified in Section 20-51 of the North Carolina General Statutes as exempt from registration.
- (2) Any vehicle which the Planning and Inspections Director or his/her designee determines on the basis of generally available compilations, data or information is regarded as having appreciable value as an antique.

(e) The foregoing exceptions shall not apply unless the vehicle concerned is listed with the County Assessor for tax purposes and is kept and maintained in a manner that does not constitute a public nuisance as shall be determined by an inspector of the Planning and Inspections Department or by a sanitarian of the Health Department. A vehicle shall be deemed to be a public nuisance if:

- (1) The vehicle is not parked on a paved surface or if not parked on a paved surface, it is not elevated on fully inflated tires or otherwise at least eighteen (18) inches off the ground surface.
- (2) The vehicle is parked within the minimum front, side, or rear yard of the premises as defined in the County Zoning Ordinance.
- (3) The vehicle is not parked within a waterproof shelter, under a waterproof cover, or all internal compartments of the vehicles are not watertight.
- (4) There is evidence of infestation with disease-harboring vectors, such as rodents or insects, in, under or about the vehicle.
- (5) The interior of the vehicle is not made inaccessible to persons other than the owner for purposes of repair or restoration. (Ord. of 9-19-88)