

CITY OF HIGH POINT

AGENDA ITEM



Title: Resolution to Adopt and Implement the Regulation of Abandoned and Junked Motor Vehicles Ordinance

From: JoAnne Carlyle, City Attorney

Meeting Date: Monday, May 15, 2017

Public Hearing: No

Advertising Date:

Advertised By:

Attachments: Resolution & Abandoned & Junk Vehicle Ordinance

PURPOSE:

Council is requested to adopt a Resolution to adopt and implement the Regulation of Abandoned and Junked Motor Vehicles

BACKGROUND:

BUDGET IMPACT:

There is no budget impact.

RECOMMENDATION / ACTION REQUESTED:

The City Attorney recommends adoption of the Resolution for implementation of the Regulation of Abandoned and Junked Motor Vehicles Ordinance to be effective May 15, 2017. This effective date requires a vote of two-thirds of council membership.

A RESOLUTION TO ADOPT AND IMPLEMENT THE
REGULATION OF ABANDONED AND JUNKED MOTOR VEHICLES ORDINANCE

WHEREAS, the High Point City Council desires to amend and and update the City's Abandoned and Junked Vehicles Ordinance in order to better serve the community; and

WHEREAS, N.C.G.S. 160A-303 authorizes the city to prohibit the abandonment of motor vehicles and remove and dispose of junked or abandoned motor vehicles by the adoption of an ordinance; and

WHEREAS, N.C.G.S. 160A-303.2 authorizes the City to regulate, restrain or prohibit the abandonment of junked motor vehicles by the adoption of an ordinance; and

WHEREAS, N.C.G.S. 160A-75 provides for the adoption of an ordinance by city council by an affirmative vote equal to a majority and said ordinance may be finally adopted on the date on which it is introduced by an affirmative vote equal to or greater than two thirds of council membership.

NOW, THEREFORE, BE IT RESOLVED BY THE HIGH POINT CITY COUNCIL that Council hereby adopts and implement the Regulation of Abandoned and Junked Vehicles Ordinance to be effective upon this 15th day of May, 2017.

Mayor William S. Bencini, Jr.

ATTESTED TO:

Lisa Vierling, MMC
City Clerk

ARTICLE G – REGULATION OF ABANDONED AND JUNKED MOTOR VEHICLES

Sec. 9-11-161 –Purpose and Finding.

The purpose of this Article is to provide for the lawful regulation of abandoned and junked motor vehicles within the City's ordinance-making jurisdiction and to prohibit the abandonment of motor vehicles on public streets or on public or private property within the City, including the removal and disposal of junked or abandoned motor vehicles according to the procedures set forth herein; furthermore, the City Council here hereby finds and declares that the regulation, restraint or prohibition of the abandonment of junked motor vehicles on public grounds, and on private property within the City is necessary and desirable to promote or enhance community, neighborhood or area appearance and such enforcement may include the removal or disposal of junked motor vehicles according to the procedures set forth herein. Further objectives of this Article 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.

Sec. 9-11-162 –Definitions.

- (a) Motor vehicle. A machine designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.
- (b) City Official. Director of Community Housing & Development or his/or designee
- (c) Abandoned motor vehicle. A motor vehicle that:
 - (1) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
 - (2) Is left on property owned or operated by the City for longer than 24 hours; or
 - (3) Is left on private property without the consent of the owner, occupant, or lessee of the private property for longer than two hours; or
 - (4) Is left on any public street or highway for longer than seven days or is determined by law enforcement to be a hazard to the motoring public.

- (d) Health hazard. An abandoned or junked motor vehicle shall be declared by the City Official to be a health hazard when its condition is such that the motor vehicle can or does harbor diseases, furnish shelter and breeding places for mosquitoes and other insects, or become a breeding ground and harbor for rats and other pests.
- (e) Junked motor vehicle. An abandoned motor vehicle that also:
 - (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 years old and worth less than five hundred dollars (\$500.00).
- (f) Nuisance vehicle. A motor vehicle 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 or other insects or a breeding ground or harbor for rats or other pests; or
 - (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or
 - (3) A point of collection of pools or ponds of water; or
 - (4) A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or
 - (5) One which has parts thereof which fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside; or
 - (6) One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
 - (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or
 - (8) One which has 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 City Council.
- (g) 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 compartments and engine or glass, windows, or any exterior or interior fixtures present physical dangers to the safety and well-being of children or other persons.

Sec. 9-11-163

Jurisdiction. This Article shall govern the removal and disposal of abandoned or junked motor vehicles on public grounds and private property within the City unless specified below. However, this Article shall govern the removal and disposal of abandoned or junked motor vehicles on City-owned property wherever located.

Sec. 9-11-164

Complaints. Prior to an investigation to determine whether a motor vehicle is an abandoned or junked motor vehicle, a complaint must be submitted in writing with the appropriate City officer or employee. Nothing in this section or article shall preclude the City Official from initiating his/her own complaint without it being in writing.

Sec. 9-11-165 Abandoned motor vehicles.

- (a) Abandonment of motor vehicles prohibited. It shall be unlawful for any person to abandon a motor vehicle on city owned property and private property within the City and on City-owned property wherever located.
- (b) Removal of abandoned motor vehicles. The City may remove to a storage garage or area abandoned motor vehicles that are found to be in violation of this Article. 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 City Council or a duly authorized City official or employee has declared the vehicle to be a health or safety hazard. Appropriate City officers and employees may, upon presentation of proper credentials, enter on any premises within the City ordinance-making jurisdiction at any reasonable hour in order to determine if any vehicles are health or safety hazards. The City may require a person requesting the removal of an abandoned motor vehicle from private property to indemnify the city against any loss, expense, or liability incurred because of 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 City shall immediately notify the last known registered owner of the vehicle of the following:
 - (i) Notice that the vehicle has been towed, along with a description of the vehicle;
 - (ii) Address where the vehicle is stored;
 - (iii) The violation with which the owner is charged, if any;
 - (iv) The possible sale or other disposition of the vehicle;
 - (v) The procedure the owner must follow to have the vehicle returned to him/her; and

(vi) 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 NC, notice shall be given to the owner within 72 hours. Notice shall be mailed to the owner's last known address unless the owner waives this notice in writing. In addition to written notice by mail, and if feasible, additional notice shall be given by telephone. Whether, or not, the owner is reached by telephone, notice shall be mailed to his last known address unless he/she or his/her agent waives the notice in writing.

2. Whenever a vehicle with neither a valid registration plate nor registration is towed, the City shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and notify the owner as required by this Article. Unless the owner has otherwise been given notice, it is presumed that the City has not made reasonable efforts, as required under this Article, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at the least ten days before the towing actually occurred; except, no pre-towing notice need be given if the vehicle impeded the flow of traffic or otherwise jeopardizing the public welfare so that immediate towing was necessary.
 3. The owner or any person entitled to claim possession of the vehicle may regain possession of the motor vehicle by paying to the City 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 request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. The owner, the City Official 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. The rules of the General Statutes apply to any appeal.
- (d) Disposal of abandoned motor vehicles. After holding an abandoned motor vehicle for 30 days after the date of removal, the City may sell or dispose of the vehicle as follows:
1. If the vehicle appears to be worth less than \$500.00, the City may dispose of the vehicle as a junked motor vehicle as provided by Article. With the consent of the owner, the City 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 a prescribed period of time.
 2. If the vehicle appears to be worth \$500.00 or more, the vehicle shall be sold at public auction. The City shall give 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 City, 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 City for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the day of the sale, the funds shall be deposited in the City's general fund and the owner's rights in the vehicle are extinguished.

(7) 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 city.

(8) 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 and on private property within the City or upon City-owned property wherever located.
- b. Removal of junked motor vehicles. Junked motor vehicles found to be in violation of this Article may be removed to a storage garage or area, but no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the City Council or a duly authorized City officer or employee finds 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:
 - (i.) Protection of property values;
 - (ii.) Promotion of tourism and other economic development opportunities;
 - (iii.) Indirect protection of public health and safety;
 - (iv.) Preservation of the character and integrity of the community; and
 - (v.) Promotion of comfort, happiness, and emotional stability of area residents.

The City may require any person requesting the removal of junked motor vehicle from private property to indemnify the City 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 City shall immediately notify the last known registered owner of the vehicle of following:
 - (i) A description of the vehicle;
 - (ii) The place where the vehicle is stored;
 - (iii) The violation with which the owner is charged, if any;

- (iv) The possible sale or other disposition of the vehicle; and
- (v) 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/she or his/her agent waives the notice in writing.

2. Whenever a vehicle with neither a valid registration plate nor registration is towed, the City shall make reasonable efforts, including checking the vehicle identification number (VIN), to determine the last known registered owner of the vehicle and to notify him of the information as required by this Article. Unless the owner has otherwise been given notice, it is presumed that the City has not made reasonable efforts, as required under this Article, 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 impeded the flow of traffic or otherwise jeopardized 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 City 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 request shall be filed with the magistrate's office in Guilford County. The magistrate shall set the hearing within 72 hours of his/her receiving the request. 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. Any decision by the magistrate may be appealed by either party to district court.
- (d) Disposal of junked vehicles. After holding a junked motor vehicle for 15 days, the City may destroy it or sell it at private sale as junk. Within 15 days after the final disposition of a junked motor vehicle, the City shall notify the state division of motor vehicles that the vehicle has been determined to be a junked motor vehicle and disposed of as such. The notice shall contain as full accurate a description of the vehicle as can be reasonably determined. The full proceeds of the sale of the junked vehicle shall be paid to the finance officer of the City, 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 City for 30 days after the day the vehicle is disposed of, the funds shall be deposited in the City's general fund, and the owner's right in the vehicle are extinguished.
- (e) Disposal of vehicle 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 City may dispose of a junked motor vehicle

under this Article. The City may destroy the vehicle or sell it at private sale, without regard to value, after having held the vehicle for 48 hours. The proceeds shall be placed in the City's general fund.

(f) Exceptions. This articles 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 transportation purposes.

(g) Nuisance vehicle unlawful; removal authorized.

1. 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 or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
2. Upon investigation, proper officials may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined in this ordinance, and order the vehicle removed in accordance with the provisions of this Article.

(h) Enforcement remedies authorized; penalties for violation.

1. The City may secure injunctions, abatement orders and other appropriate equitable remedies to further ensure compliance as provided in G.S. 160A-175.
2. The violation of this Article shall be a misdemeanor and in addition to, or lieu of, remedies authorized in this Article shall be punishable by a fine not to exceed \$500.00, or imprisonment for not more than 30 days.
3. Any act constituting a violation of this Article or a failure to comply with any of its requirements shall subject the offender to civil penalty of \$50.00 for each day the violation continues. If the offender fails to pay this penalty within 15 days after being cited for violation, the penalty may be recovered by the City in a civil action in the nature of debt.
4. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this ordinance.