

AN ORDINANCE PROVIDING FOR THE REMOVAL AND DISPOSITIO OF ABANDONED, NUISANCE AND  
JUNKED MOTOR VEHICLES

WHEREAS, the Board of Alderman of the Village of Alamance is authorized by G.S. 160A-193, G.S. 160A-303.2 to regulate, restrain or prohibit abandoned, nuisance and junked motor vehicles on public and private property within the village ordinance-making jurisdiction; an

WHEREAS, the Board of Alderman of the Village of Alamance finds it necessary and desirable to promote or enhance:

- (1) The quality or urban attractiveness and aesthetic appearance of the Village of Alamance,
- (2) The protection of property values throughout the Village of Alamance
- (3) The preservation of the livability and attractiveness of neighborhoods,
- (4) The promotion of tourism, conventions, and other opportunities for economic development for the Village of Alamance,
- (5) The attractiveness of the Village's thoroughfares and commercial roads which present the primary, public visibility to visitors and to passers-by of the Village of Alamance and
- (6) The promotion of the comfort, happiness, and emotional stability of occupants of property in the vicinity of junked motor vehicles;

NOW, THEREFORE, BE IT ORDAINED by the Board of Alderman of the Village of Alamance, North Carolina;

Section 1, Administration.

The Board of Alderman and Planning Board of the Village of Alamance shall be responsible for the administration and enforcement of this chapter. The Planning Board shall be responsible for administering the removal and disposition of the vehicles determined to be "abandoned" on the public streets and highways within the Village of Alamance, on property owned by the Village of Alamance, and administering the removal and disposition of "abandoned", "nuisance" or "junked motor vehicles" located on private property. The Village of Alamance may on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles and junked motor vehicles in compliance with this chapter and applicable state laws. Nothing in this chapter shall be construed to limit the legal authority or powers of officers of the Village of Alamance police department and fire department in enforcing other laws or in otherwise carrying out their duties.

Section 2. Definitions.

For purpose of this chapter, certain words and terms are defined as herein indicated:

- (a) Abandoned vehicle. As authorized and defined in G.S. 160A-303, an abandoned motor vehicle is one that:
  - (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 Village of Alamance 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.
- (b) Authorizing official. The authorizing official will be that person appointed by the Board of Alderman, designated to authorize the removal of vehicles under the provisions of this chapter.
- (c) Motor vehicle or vehicles. All machines designed or intended to travel over and by self propulsion or while attached to any self-propelled vehicle.
- (d) Junked motor vehicle. As authorized and defined in G.S. 160A-303.2 the term, junked motor vehicle means a vehicle that does not display a current license plate lawfully 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).
- (e) Nuisance 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, 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 pounds 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 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 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 Village of Alamance.

Section 3. Abandoned vehicle unlawful; removal authorized.

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, proper authorizing officials of the Village of Alamance may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

Section 4. Nuisance vehicle unlawful; removal authorized.

- (a) 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.
- (b) Upon investigation, the Village of Alamance authorized official may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

Section 5. 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 vehicle to remain on the property after the vehicle has been ordered removed.
- (b) Subject to the provisions of subsection (e), upon investigation, the Village of Alamance Authorized Official may order the removal of a junked motor vehicle as defined in this chapter 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 factor 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.

The Village of Alamance Board of Alderman has 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 must not be allowed to deteriorate. The covering of enclosure must be compatible with the objectives stated in the preamble of this ordinance

- (2) More than one junked motor vehicle. Any other junked motor vehicle(s) must be kept in a garage or building structure that provides a complete enclosure so that the junked motor vehicle(s) cannot be seen from a public street or abutting property. A garage or building structure means either a lawful, nonconforming use of a garage or building 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 6. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements.

Except as set forth in Section 7 below, an abandoned, nuisance 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 nuisance 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. 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 Village of Alamance 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 Village of Alamance on a specified date, no sooner than seven days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Alderman in writing, heard at the next regularly scheduled meeting of the Board of Alderman, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

#### Section 7. Exceptions to prior 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, 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 finds shall in all cases, be entered by the authorizing official in the appropriate daily records. Circumstances' justifying the removal of vehicles without prior notice includes:

- (a) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the Board of Alderman hereby determines that immediate removal of such vehicles may be warranted when they are:
  - (1) Obstructing traffic
  - (2) Parked in violation of an ordinance prohibiting or restricting parking,
  - (3) Parked in a no-stopping or standing zone,
  - (4) Parked in loading zones,
  - (5) Parked in bus zones, or
  - (6) Parked in violation of temporary parking restriction imposed under code sections.
- (b) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on city owned property other than the streets and highways, and on private property, such vehicles may be removed without giving prior notice only 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, and vehicles causing damage to public or private property.

#### Section 8. Removal of vehicles; post-towing notice requirements.

Any abandoned, nuisance or junked motor vehicle which has been ordered removed may, as directed by the Village of Alamance, be removed to a storage garage or area by the town truck operator or towing business contracting to perform such services for the Village of Alamance. Whenever such a vehicle is removed, the authorizing village official shall immediately notify the last known registered owner of the vehicle, such notice to include the followings:

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner must follow to redeem the vehicle; and
- (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.

The Village of Alamance 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 (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

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 from the removal of the vehicle.

Whenever an abandoned, nuisance or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorizing city 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 (1) through (5) above.

#### Section 9. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance 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 magistrate designated by the chief district court judge to receive such hearing request. 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 G.S. 20-222, as amended.

#### Section 10. Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probably 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 11. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner of 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 a vehicle shall be carried out in coordination with the village and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

#### Section 12. Condition son removal of vehicles from private property.

As a general policy, the Village of Alamance 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 law procedures. In no case will a vehicle be removed by the Village of Alamance from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Board of Alderman or other authorized official. The Village of Alamance may require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the Village of Alamance against any loss, expense or liability incurred because of the removal, storage or sale thereof.

#### Section 13. Protection against criminal or civil liability.

No person shall 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 chapter.

#### Section 14. Exceptions.

Nothing in this chapter shall apply to any vehicle: (1) which is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143, et seq.; in accordance with the " Junkyard Control Act", N.C.G.S. 136-141 et seq.; (2) which is in an enclosed building; (3) which is on the premises of a business enterprise being operated of the enterprise; or (4) which is in an appropriate storage place or depository maintained in a lawful place and manner in the Village of Alamance.

#### Section 15. 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 village any vehicle which has been impounded pursuant to the provisions of this code unless and until all towing and impoundment fees which are due, or bond in lieu of such fee, have been paid.