

TOWN OF BOLIVIA
ABATEMENT OF ABANDONED AND JUNKED VEHICLES
ORDINANCE #3

Prepared by the

CAPE FEAR COUNCIL OF GOVERNMENTS
1480 Harbour Drive
Wilmington, NC 28401

and

Bolivia Planning Board

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The Cape Fear Council of Governments is a regional planning agency serving local governments in the North Carolina Counties of Brunswick, columbus, New Hanover, and Pender.

ORDINANCE # 57

ORDINANCE ESTABLISHING PROCEDURE FOR THE ABATEMENT OF ABANDONED AND JUNKED VEHICLES IN THE TOWN OF BOLIVIA

WHEREAS, the Town of Bolivia does not currently have a process for the abatement of abandoned and junked vehicles within the town limits; and

WHEREAS, it would be in the best interest of the health, safety, and general welfare to establish a method of effectively dealing with abandoned and junked vehicles.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Aldermen of the Town of Bolivia, North Carolina, that the following is adopted to handle the abatement of abandoned and junked vehicles in the Town of Bolivia:

I. ABANDONED MOTOR VEHICLES:

SECTION 1. DEFINITIONS.

For the purpose of this ordinance the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Abandoned Motor Vehicle. A motor vehicle that:

1. Has been left upon a street or highway in violation of a law, provision of this ordinance, or other ordinance of the town prohibiting parking;
2. Is left on property owned or operated by the town for longer than 24 hours;
3. Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
4. Is left on any public street or highway for longer than seven days.

Derelict Vehicle. Means a motor vehicle:

1. Whose certificate of registration has expired and the registered and legal owner no longer resides at the address listed on the last certificate of registration on record with the state department of transportation;
2. Whose major parts have been removed so as to render the vehicle inoperable and incapable of passing inspection as required under existing standards;

3. Whose manufacturer's serial plates, vehicle identification numbers, license number plates and any other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner;
4. Whose registered and legal owner of record disclaims ownership or releases his rights thereto; or
5. Which is more than twelve (12) years old and does not bear a current state of North Carolina license plate.

Junked Motor Vehicle. An abandoned motor vehicle that also:

1. Is partially dismantled or wrecked;
2. Cannot be self-propelled or moved in the manner in which it was originally intended to move;
3. Is more than five years old and worth less than \$100; or
4. Does not display a current license plate.

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

SECTION 2. PURPOSE.

Abandoned, junked and derelict motor vehicles constitute a hazard to the health and welfare of the people of the town in that such vehicles can harbor noxious diseases, furnish shelter and breeding places for vermin, and present physical dangers to the safety and well being of children and other citizens. It is therefore in the public interest that the accumulation of abandoned, junked and derelict motor vehicles be eliminated and that the abandonment of such vehicles be prevented.

SECTION 3. LIABILITY OF PERSONS TO OWNERS.

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 any abandoned, lost, or stolen motor vehicle for disposing of the vehicle as provided in this chapter.

SECTION 4. REMOVAL OF ABANDONED VEHICLE BY TOWN.

Any junked, abandoned or derelict motor vehicle may be removed by the town to a storage garage or area. However, no such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises, unless the town or a duly authorized town official or employee has declared that vehicle to be a health or safety hazard. The Town Clerk may cause such investigation to be made upon receipt of a complaint or at the discretion of the Town Clerk.

SECTION 5. INDEMNIFICATION OF TOWN.

Any person requesting the removal of a junked, abandoned or derelict motor vehicle from private property shall indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale of that vehicle.

SECTION 6. NOTICE.

When any junked, abandoned or derelict motor vehicle is removed, the town shall give notice to the owner as required by G.S. 20-219.11(a) and (b).

SECTION 7. SALE OR DISPOSAL OF ABANDONED VEHICLES; HEARING PROCEDURE.

Regardless of whether the town does its own removal and disposal of motor vehicles or contracts with another person to do so, the town shall provide a hearing procedure for the owner. For purposes of this section, the definitions in G.S. 20-219.9 apply.

- (A) If the town operates in such a way that the person who tows the vehicle is responsible for collecting fees, all provisions of G.S. Article 7A, Chapter 20, apply.
- (B) If the town operates in such a way that it is responsible for collecting towing fees, it shall:
 - 1. Provide by contract or ordinance for a schedule of reasonable towing fees;
 - 2. Provide a procedure for a prompt fair hearing to contest the towing;
 - 3. Provide for an appeal to district court from that hearing;
 - 4. Authorize release of the vehicle at any time after towing by the positing of a bond or paying of the fees due; and
 - 5. Provide a sale procedure similar to that provided in G.S. 44A-4, 44A-5, and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the town may destroy it.

SECTION 8. EXEMPTIONS.

Nothing in this chapter shall apply to any vehicle in an enclosed building or 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 town. The provisions of this ordinance shall not apply to vehicles located on used car lots, in private garages, enclosed parking lots, or on any other parking area on private property which is not visible from any public street or highway, nor to motor vehicles classified as antiques and registered under the laws of the state, those not required by law to be registered, or those in possession of a salvage yard as defined in G.S. 20-137.7, unless that vehicle presents some safety or health hazard or constitutes a nuisance.

II. JUNKED MOTOR VEHICLES:

SECTION 1. JUNKED VEHICLES.

- (A) Any junked motor vehicle found to be in violation of this ordinance 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 Board of Aldermen or a duly authorized town official 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:
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.
- (B) The town may require any person requesting the removal of a junked, abandoned or derelict motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage or sale thereof. When an abandoned, junked or derelict motor vehicle is removed, the town shall give notice to the owner as required by G.S. 20-219(a) and (b).
- (C) Hearing procedure. Regardless of whether the town does its own removal and disposal of motor vehicles or contracts with another person to do so, the town shall provide a prior hearing procedure for the owner. For purposes of this division, the definitions in G.S. 20-219.9 apply.
1. If the town operates in such a way that the person who tows the vehicle is responsible for collecting towing fees, all provision of G.S. Chapter 20, Article 7A, apply.
 2. If the town operates in such a way that it is responsible for collecting towing fees, it shall:
 - a. Provide by contract or ordinance for a schedule of reasonable towing fees.
 - b. Provide a procedure for a prompt fair hearing to contest the towing.
 - c. Provide for an appeal to district court from the hearing.

- d. Authorize release of the vehicle at any time after towing by the posting of a bond or paying of the fees due, and
 - e. Provide a sale similar to that provided in G.S. 44-4, 44A-5 and 44A-6, except that no hearing in addition to the probable cause hearing is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, the town may destroy it.
- (D) Any person who removes a vehicle pursuant to this section shall not be held for damages for the removal of the vehicle to the owner, lienholder 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.
- (E) Any ordinance adopted pursuant to this section shall include a prohibition against removing or disposing of any motor vehicle that is used on a regular business or personal use.
- (F) Nothing in this section shall be construed to authorize the town to require the removal of disposal of a motor vehicle kept or stored at a bona fide automobile graveyard or junkyard as defined in G.S. 136-143.

This the 5 day of Sept., 1995.

Attest:


Town Clerk

Mayor

Seal