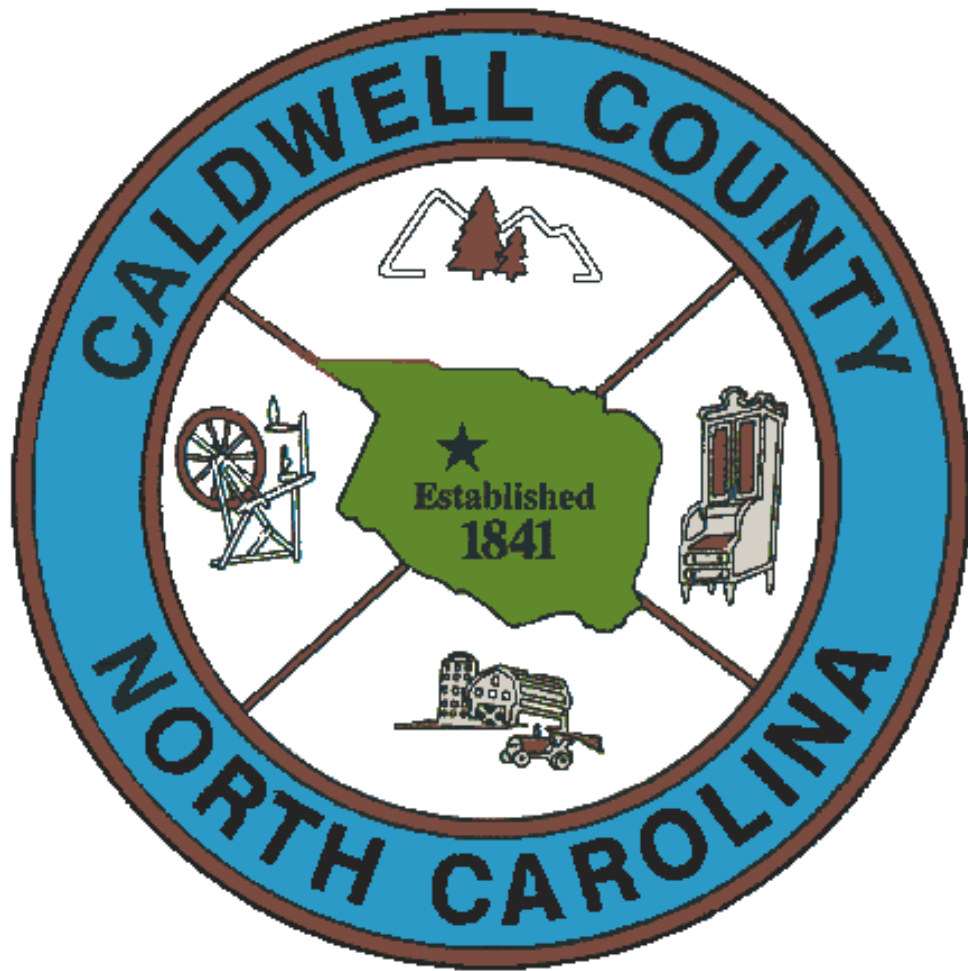


**Removal and Disposal
Of Abandoned and Junked Motor Vehicles**



ADOT

Current as of 03/10/04

AN ORDINANCE PROVIDING FOR THE REMOVAL AND DISPOSAL OF VISIBLE
ABANDONED AND JUNKED MOTOR VEHICLES IN CALDWELL COUNTY,
NORTH CAROLINA

WHEREAS, Caldwell County is authorized by N.C.G.S SS 153A-132 and 132.2 to 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 finding that such regulation, restrain or prohibition is necessary and desirable to promote or enhance community, neighborhood or area appearance, and to enforce such ordinance by removing and disposing of junked motor vehicles; and

WHEREAS, the Caldwell County Board of Commissioners finds that prohibiting junked motor vehicles which are visible from public streets, roads and highways, or from dedicated private streets, within the jurisdiction of Caldwell County, and providing for their removal and disposition, is necessary and desirable to promote and enhance the attractiveness and aesthetic appearance of the County; to protect property values; and to preserve the viability and attractiveness of neighborhoods; to promote tourism, conventions, and other opportunities for economic development; to promote and enhance the attractiveness of the County's major and minor residential and commercial streets, roads and highways which present the primary public visibility to residents, visitors and commuters of the County; and to promote the comfort, happiness, and emotional stability of residents in the vicinity of junked motor vehicles;

NOW, THEREFORE, the Caldwell County Board of Commissioners hereby enacts this Ordinance Prohibiting Visible Junked Motor Vehicles in Caldwell County, North Carolina and Providing for Their Proper Removal and Disposition ("this Ordinance").

Section 1: Short title.

Section 2: Authority and purpose.

Section 3: Jurisdiction.

Section 4: Administration.

Section 5: Definitions.

Section 6: Abandoned vehicle unlawful; removal authorized.

Section 7: Nuisance vehicle unlawful; removal authorized.

Section 8: Right to enter premises.

Section 9: Junked motor vehicles regulated; removal authorized.

Section 10: Enforcement provisions.

Section 11: No liability.

Section 12: Exceptions.

Section 13: Grandfathering

Section 14: Changes in state law.

Section 15: Reserved.

***State law references:** Authority to prohibit the abandonment of motor vehicles on public ground and private property, G.S. 153A-132; authority to abate nuisances, G.S. 153A-140.

Sec. 1. Short title.

This article shall be known as the Abandoned and Junked Vehicle Ordinance for Caldwell County and may be referred to as the "Abandoned and Junked Vehicle Ordinance."

Sec. 2. Authority and purpose.

This article is enacted pursuant to the powers granted to the county by G.S. 153A-121, 153A-132 and 153A-132.2. The purpose of this article is to protect the health, safety and general welfare of the citizens of the county, natural scenic beauty, and property values, of the county from potential adverse effects caused by the proliferation and improper disposal of junked motor vehicles.

Sec. 3. Jurisdiction.

In accordance with G.S. 153A-122, this article applies to and is enforceable in any part of the county which is not within a city. However, the governing board of any city within the county may by resolution permit this article to be enforced within the city. The board of commissioners shall by motion accept the resolution by the city and set the date and terms of enforcement of this article within the city. Further, the city may by resolution withdraw its permission to enforce this article within the city. However, the city shall give the county written notice of its intent to withdraw permission.

Sec. 4. Administration.

The planning director for the county, or designee, shall be responsible for the administration and enforcement of the provisions of this article.

Sec. 5. Definitions.

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

Abandoned vehicle means any motor vehicle that is left:

- (1) Upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) On a public street or highway for longer than seven days; or
- (3) On property owned or operated by the county for longer than 24 hours; or
- (4) On private property without the consent of the owner, occupant or lessee thereof, for longer than two hours.

Enclosed building means a garage or building structure that provides a complete enclosure (all sides of building enclosed) so that the contents of the building cannot be seen from a street or from adjacent property.

Junked motor vehicle means any motor vehicle that does not display a current North Carolina license plate 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 years old and appears to be worth less than \$100;
- and
- (4) Is visible from a public roadway, Coverage with a tarp or similar means is not acceptable.

Magistrate means the magistrate for the county in the warrant issuing office in the county seat, or in any other office designated to receive requests by the chief district court judge.

Motor vehicle or vehicle means all machines designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Nuisance vehicle means 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, nest or harbor for mosquitoes, other insects, rats or other pests;
- (2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
- (3) A point of collection of pools or ponds of water;
- (4) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials;
- (5) One that has areas of confinement that cannot be opened or in the alternative, operated from the inside of the area of confinement, such as trunks, hoods, etc.;
- (6) So situated or located that there is a danger of the vehicle falling, dislodging or turning over;
- (7) One which is a point of collection of refuse, trash, garbage, food waste, animal waste, or any other rotten or decaying matter of any kind;

- (8) One which has parts which are jagged or contain sharp edges of metal, plastic or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the planning director.

Planning director means the planning director or designee, for the county.

Public Roadway means 1) State maintained roads; or 2) Roads within a county approved subdivision.

Sheriff means the sheriff of the county.

Vector means any organism that carries disease-causing microorganisms from one host to another (i.e. rats, mosquitoes, etc.).

Sec. 6. Abandoned 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 public property after it has been declared an abandoned vehicle.
- (b) If a motor vehicle is abandoned on public property as defined in Sec. 16-30, the board of commissioners may direct the sheriff, or designee to removal the vehicle to a designated storage area determined by the sheriff.

Sec. 7. 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 planning director may determine and declare that a vehicle is a health or safety hazard and therefore a nuisance vehicle, as defined herein, and order the vehicle removed. Notice of the determination made by the planning director may be combined with any other notices required under this article and provided to the registered owner or person entitled to possession of the motor vehicle and/or the owner, lessee or occupant of the real property by first class mail except in situations where a name and address cannot be ascertained, notice may be given by affixation on the windshield or some other conspicuous place on the vehicle.

- (c) In cases where it is impractical or impossible to find and/or prosecute the responsible party the county may, at its discretion, have the vehicle towed in accordance with G.S. 153A-132.

Sec. 8. Right to enter premises.

The planning director shall have the right, upon presentation of proper credential and identification, to enter any premises within the jurisdiction of this article during daylight hours to determine if any vehicle is in violation of the Abandoned and Junked Vehicle Ordinance.

Sec. 9. Junked motor vehicles regulated; removal authorized.

- (a) All junked vehicles shall be kept in a garage or building structure that provides a complete enclosure so that they cannot be seen from a public street or from adjacent property. For purposes of this ordinance, a garage or building structure means either a lawful, nonconforming use or 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. A carport shall not be treated as an acceptable garage or enclosure under this ordinance.
- (b) It shall be unlawful for the registered owner, or person entitled to the possession of a junked motor vehicle, to place, store, leave or allow a vehicle to remain on any property in violation of this ordinance or to allow a vehicle to remain on any property after the vehicle has been ordered removed from that property.
- (c) It shall be unlawful 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 in violation of this ordinance after the vehicle has been ordered removed.

Sec. 10. Enforcement provisions.

The planning director shall enforce this ordinance. He may call upon other agencies as necessary to assist in the enforcement of this ordinance.

- (a) Whenever the planning director receives a complaint alleging a violation of this ordinance, he shall investigate the complaint and take whatever action is warranted.
- (b) The owner, tenant, or occupant of any building or land or part thereof and agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this

ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

- (c) The following procedure shall apply upon discovery of a violation:
- (1) If the planning director finds that any provision of the ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days within which the violation shall be corrected.
 - (2) Notwithstanding the foregoing, in cases that pose an immediate danger to the public's health, safety, or general welfare, the planning director may seek enforcement without proper written notice by invoking any of the penalties or remedies authorized in this section.
- (d) The county may assess civil and criminal penalties as follows:
- (1) A violation shall subject the violator to a civil penalty in the amount of \$50.00. Each day that any violation continues after notification, shall be considered a separate offense.
 - (2) A violation of this article shall be a criminal misdemeanor, punishable by a fine of up to \$500.00 or a maximum 30 days imprisonment as provided in G.S. 14-3 (3) and G.S. 14-4. Each day that any violation continues after notification by the planning director shall be considered a separate offense.
 - (3) In addition to the foregoing enforcement provisions, this article may be enforced by any remedy provided in G.S. 153A-123, including, but not limited to, all appropriate equitable remedies provided in G.S. 153A-123 (d) and particularly the remedy of injunction and order of abatement as allowed in G.S. 153A-123(e).

Sec. 11. No liability.

The county may not, nor any person acting on behalf of the county in the enforcement of this article, be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost or stolen vehicle for the enforcement of this ordinance.

Sec. 12. Exceptions.

This article does not apply to any motor vehicle that is located:

- (a) In an enclosed building.

- (b) On the premises of a business enterprise being legally maintained and operated primarily for the purpose of making repairs to motor vehicles or wholesale or retail sales of items or parts routinely used in motor vehicles, in a lawful place and manner if the vehicle is necessary to the operation of the business.
- (c) 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 needed in the operation of a bona-fide farm.
- (d) In an appropriate storage place or depository maintained by the county.

Sec. 13. Grandfathering

For purposes of this ordinance there is no provision for grandfathering of existing abandoned or junked motor vehicles.

Sec. 14. Changes in state law.

Should G.S 153A and G.S. 153A-132.2 or any other section of the general statutes incorporated herein by reference or otherwise referred to herein be changed or amended, or should such statutes require or mandate a different procedure or change or impose new, different or additional requirements, then, in that event, this ordinance shall be deemed to have been amended without further action to have complied with such new, additional or amended requirements.

Sec. 15. Reserved

/s/ Herbert Greene, Chair
Caldwell County Board of Commissioners

ADOPTED 04/19/04