

**AN ORDINANCE PROHIBITING THE ABANDONMENT OF MOTOR  
VEHICLES AND JUNK MOTOR VEHICLES WITHIN THE COUNTY OF  
MCDOWELL AND FOR THE DISPOSTION OF SAME**

Be it ordained by the Board of Commissioners of McDowell County:

**Section 1. Unlawful to Abandon or Discard any Vehicle within the County**

It shall be unlawful for any person to abandon, with the following definitions, any vehicle within the County of McDowell, and it shall be unlawful for any persons to leave or allow to remain any partially dismantled, non-operating, junked or otherwise discarded vehicle on property under his control.

**Section 2. Disposition of Abandoned Motor Vehicles**

A. Duty of the Owner of Vehicle to Remove

If a motor vehicle is abandoned on the public streets, roads or public grounds, it shall be the duty and responsibility of the owner of such motor vehicle to cause the removal of such vehicle immediately and pay all costs incident to such removal.

B. Removal

Whenever any motor vehicle is abandoned on the public streets, roads or public grounds, or is abandoned upon privately owned property, any such vehicle may be removed by or under the direction of a law enforcement officer or the County Manager or his duly appointed agents to a storage or garage; provided that no such vehicle shall be removed from privately owned premises without the written request of the owner, lessee or occupant of the premises unless the same has been declared by this Board to be a health or safety hazard. When such vehicle is removed from privately owned property, the person at whose request such vehicle is removed shall indemnify the County of McDowell for any expense incurred by reason of the removal, storage or sale thereof. Written notice by mail of such removal shall promptly be given to the registered owner of the vehicle if the identity of the owner can be ascertained. The owner of such vehicle, before obtaining possession thereof, shall pay to the County all reasonable costs incident to the removal, storage and locating the owner of the vehicle.

C. Sale of Abandoned Motor Vehicles

Should such owner of a motor vehicle fail or refuse to pay the costs above stated or should the identity or whereabouts of such owner be unknown and unascertainable after a diligent search has been made by a law

enforcement officer or the County Manager or his duly appointed agents and after notice to him at his last known address and to the holder of any lien of record in the office of the Department of Motor Vehicles against the vehicle, a designated law enforcement officer of the Sheriff's Department or the County Manager or his designated agent may, after holding the vehicle for thirty (30) days and after having the value of such vehicle determined by three (3) disinterested automobile dealers or garage men, dispose of the same by public or private sale, or in the event of an appraised value of less than fifty dollars (\$50.00) said vehicle may be destroyed or otherwise disposed of in the discretion of said law enforcement officer or the County Manager or his duly appointed agents, and the proceeds from the sale shall be forwarded to the County Auditor. Provided that twenty (20) days notice shall be given to the Department of Motor Vehicles before the date of sale giving all information, which can be reasonably ascertained to identify the vehicle. The County Auditor shall pay from the proceeds of the sale the costs of removal, storage, investigation as to ownership and sale, and liens in that order.

If, after the sale, the ownership of any vehicle at the time of its removal is established satisfactorily by the person claiming such ownership, he shall be paid so much of the proceeds from the sale of such vehicle as remains after paying the costs of removal, storage, investigation as to ownership and sale, and any liens, as hereinafter required. However, if the owner cannot be ascertained, any remaining proceeds shall be deposited to the general fund of the County.

Upon receipt of the County's bill of sale form a purchaser or other person entitled to receive any vehicle disposed of as hereinbefore provided, the Department of Motor Vehicles shall issue a certificate of title to said person if a certificate of title for such vehicle is required by law.

Whenever any such vehicle shall remain unsold for a period of sixty (60) days from and including the day when the same shall have been delivered under the direction of any County Officer charged with the keeping or sale of the same, any such vehicle may be destroyed, removed or otherwise disposed of by such officer.

#### D. Abandoned Vehicle Defined; Motor Vehicle or Vehicle Defined; Immunity

A vehicle shall be deemed to have been abandoned for the purposes of the foregoing subsections in the following circumstances:

1. It has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
2. The vehicle fails to display a current license plate; or

3. It is partially dismantled or wrecked; or
4. It is incapable of self-propulsion or being moved in the manner for which it was originally intended; or
5. It is left on property owned or operated by the County for a period of not less than twenty-four (24) hours; or
6. It is left on private property without the consent of the owner, occupant or lessee thereof for a period of not less than two hours; or
7. It is left on any public street or highway of the County for a period of not less than seven (7) days.

The term “motor vehicle” or Vehicle as used here in is hereby defined to include all machines designed to be self-propelled or pulled and intended to travel along the ground by means of wheels, treads, runners or slid. 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 vehicle, or for disposing of such vehicle as contemplated herein. Nothing herein shall be construed to apply to any vehicle in an enclosed building or vehicle on the premises of a business enterprise being operated in a lawful place and manner and the vehicle being necessary to the operation of such business enterprise, or to a vehicle in the appropriate storage place or depository maintained in a lawful place and manner by the County.

### **Section 3. Disposition of Abandoned Junk Motor Vehicle**

#### **A. Abandoned Junk Motor Vehicle Defined**

Whenever a vehicle is found to be an abandoned motor vehicle as defined in Section 2 (D) and, in addition, is found to be inoperable, dismantled or damaged, five (5) years old or older, and worth less than fifty dollars (\$50.00) it shall be deemed to be an abandoned junk motor vehicle.

#### **B. Removal**

Whenever any junk motor vehicle is abandoned on the public streets, roads or public grounds, or is abandoned upon privately owned property, any such vehicle may be removed by or under the direction of a law enforcement officer or the County Manager, or his duly appointed agents, to a storage area or garage; provided that no such vehicle shall be removed from privately owned premises without the written request or permission of the owner, lessee or occupant thereof unless the same has been declared to be a health, safety or fire hazard by this Board. When such vehicle is removed from privately

owned property, the person at whose request such vehicle is removed may be required to pay or otherwise indemnify the County for any expenses incurred by the reason of its removal and storage.

C. Procedure Subsequent to Removal

Any junk motor vehicle so removed shall be held for a period of at least fifteen (15) days. The owner of any such vehicle may reclaim his vehicle during the fifteen (15) days retention period by exhibiting proof of ownership to a law enforcement officer or the County Manager or his duly appointed agents, and after paying all reasonable costs incident to the removal and storage of the vehicle and administrative expenses. If, after holding the vehicle fifteen (15) days, it remains unclaimed, said vehicle may be destroyed or otherwise disposed of by private or public sale. Any proceeds derived from the disposition of junk motor vehicles shall be retained by the County for deposit in the general fund. Within fifteen (15) days after final disposition, written notice thereof shall be given to the Department of Motor Vehicles stating that such vehicle has been deemed to be an abandoned junk motor vehicle, the manner of final disposition, and as full and accurate a description of the vehicle as can be reasonably be determined.

D. Disposition with Owner's Consent

A law enforcement officer or the County Manager and his duly appointed agents may, with the written consent of the owner of a vehicle, remove and dispose of any motor vehicle as a junk motor vehicle regardless of the value, condition or age of such vehicle and without waiting the aforesaid fifteen (15) day period.

E. Immunity from Civil and Criminal Action

No person shall be held to answer in any civil or criminal action to any owner, lien holder or other person legally entitled to the possession of any abandoned, lost or stolen junk motor vehicle for disposing of such vehicle as contemplated herein.

**Section 4.**

This ordinance shall not apply to the territory included within the corporate limits of any incorporated City or Town.

**Section 5.**

That this ordinance shall be in full force and effect fifteen (15) days after date of publication.

**Section 6.**

That all ordinances and clauses or ordinances in conflict here with be the same are hereby repealed.

I move the adoption of the foregoing ordinance, this 6<sup>th</sup> day of April, 1970.

Read; approved and adopted, this 6<sup>th</sup> day of April 1970, to become effective the 10<sup>th</sup> day of May, 1970.

s/O.D. Rowe, D.D.S.  
Chairman to the Board of  
Commissioners of  
McDowell County, NC

s/Billy F. Truett  
Clerk to the Board of  
Commissioners  
McDowell County, NC