

MONTREAT CODE OF GENERAL ORDINANCES

CHAPTER G - HEALTH PROTECTION AND DISEASE PREVENTION

ARTICLE IV: DERELICT VEHICLE ORDINANCE

Section 1. Purpose. Abandoned and Junked 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 present accumulation of Abandoned and Derelict Motor Vehicles be eliminated and that future abandonment of such Vehicles be prevented.

Section 2. Removal of Abandoned Motor Vehicles. The Town may remove to a storage garage or area an Abandoned Motor Vehicle from Town or public property.

The Town may remove an Abandoned Motor Vehicle from private property only with the written approval of the owner, lessee, or occupant of the property.

When an Abandoned Motor Vehicle is removed as provided for in Subsection 2.1, the Town shall promptly give written notice of the removal to the registered owner at his/her address according to the latest registration certificate of title on file with the appropriate state Division of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that may be made of the Vehicle under this Ordinance. The owner may regain possession of the Vehicle by paying to the Town all reasonable costs incidental to the removal and storage of the Vehicle. If the Vehicle does not display a current license plate and Vehicle identification numbers have been removed or defaced so as to be illegible, the Town need not give notice to the Vehicle's registered owner.

Section 3. Disposal of Abandoned Motor Vehicles. After holding an Abandoned Motor Vehicle for thirty (30) days after the day the Vehicle is removed, the Town may sell or dispose of it as provided in this Section.

If the Vehicle appears to be worth less than one hundred dollars (\$100), the Town may dispose of it as a Junked Motor Vehicle as provided by Section 4 of this Ordinance. If the Vehicle appears to be worth one hundred (\$100) dollars or more, it shall be sold at public auction. The Town shall give twenty (20) days written notice of the sale to the registered owner at his/her last known address, to each holder of a lien of record of the Vehicle and to the 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 Town Clerk, who shall pay 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 Town for sixty (60) days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within sixty (60) days after the day of sale, the funds shall be deposited in the Town's general fund and owner's rights to the Vehicle are extinguished.

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Section 4. Removal of Junked Motor Vehicles. The Town may remove from Town or public property to a storage garage or area a Junked Motor Vehicle.

The Town may remove to a storage garage or area a Junked Motor Vehicle that is left for longer than two (2) hours on private property without the written consent of the owner, lessee, or occupant of the premises. The Town may remove a Junked Motor Vehicle to a storage garage or area without the consent of the owner, lessee, or occupant of the property when the Vehicle is a health or safety hazard. A Junked or other Motor Vehicle may be declared a health or safety hazard when it is found to be:

- 1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pest; or
- 2) A point of collection for pools or ponds or water; or
- 3) A point of concentration of gasoline, oil, or other flammable or explosive materials; or
- 4) So located that there is a danger of a Vehicle falling or turning over; or
- 5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass or other rigid materials.

Appropriate Town Officers and Employers have a right, upon presentation of proper credentials, to enter on any premises within the Town's jurisdiction if any Vehicles are health or safety hazard.

When a Junked or other Motor Vehicle is found to be a health or safety hazard, the Town Authority responsible for the removal of such Vehicle shall notify the owner of the property upon which the Vehicle is located at the address as shown by the records of the Buncombe County Tax Office that the Vehicle is a health or safety hazard and will be removed after fifteen (15) days from the posting of the notice and disposed of as provided for in Section 5. Notice shall be made by registered mail and by affixing a notice to the motor Vehicle in such a way that it will be conspicuous, within the fifteen (15) day period the owner, occupant or lessee of the property may appeal the finding that the Vehicle is a health or safety hazard to the Board. The filing of an appeal shall stay removal proceedings until the Board acts on the appeal.

Section 5. Disposal of Junked Motor Vehicles. After holding a Junked Motor Vehicle for fifteen (15) days (or fifteen (15) days after the Town has served notice of its intention to remove and dispose of the Vehicle as provided for in Subsection 4.5, the Town may destroy (or remove and destroy) a Junked Motor Vehicle or sell it at a private sale as junk. Within fifteen (15) days after final disposition of a Junked Motor Vehicle, the Town shall notify the Division of

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Motor Vehicles that the Vehicle has been determined to be a Junked Motor Vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the Vehicle as can be reasonable determined. The proceeds of the sale of a Junked Motor Vehicle shall be paid to the Town Clerk 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 Town for thirty (30) days after the Vehicle is disposed of, the funds shall be deposited in the Town's general fund and the owner's rights in the Vehicle are extinguished. 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 Town may dispose of it under this Section. The Town may destroy the Vehicle or sell it at private sale (without regard to value), after having held the Vehicle for forty-eight (48) hours. The proceeds shall be placed in the Town's general fund.

Section 6. No Liability. No Person nor any town or county may 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 motor Vehicle for disposing of the Vehicle as provided in this Ordinance.

Section 7. Exceptions. This Ordinance 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 Town.

Section 8. Severability. If any provision of this Ordinance or its application to any Person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application. The provisions of this Ordinance are declared to be severable.