

**Chapter 21
Code of Ordinances
City of Burlington**

ARTICLE I. IN GENERAL

Secs. 21-1—21-15. Reserved

ARTICLE II. JUNKED MOTOR VEHICLES

DIVISION 1. GENERALLY

Sec. 21-16. Definitions

For purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

1. Junked Motor Vehicle: A vehicle that does not display a current license plate and:
 - a. Is partially dismantled or wrecked; or
 - b. Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
 - c. Is more than five years old and appears to be worth less than \$100.00.

2. Abandoned Motor Vehicle: A vehicle that:
 - a. Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or
 - b. Is left on property owned or operated by the City for longer than 24 hours; or
 - c. Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or
 - d. Is left on any public street for longer than seven days.

3. Hazardous Motor Vehicle: A vehicle declared to be a health or safety hazard by City Code Enforcement staff or the City Police Department.

4. Code Enforcement Officer: A duly sworn official charged with the enforcement of provisions of the City of Burlington Code of Ordinances.

Sec. 21-17. Immunity

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 section.

Sec. 21-18. Administration

1. The City Police Department and City Code Enforcement staff shall be responsible for the administration and enforcement of this article. The City Police Department shall be responsible for administering the removal of vehicles determined to be abandoned or hazardous on public property, including streets and highways within the City limits. City Code Enforcement staff shall be responsible for administering the removal of abandoned, junked and hazardous vehicles located on private property in the City.
2. The City may contract with private towing operators to remove, store and dispose of abandoned, junked and hazardous vehicles in compliance with all state and local laws. Nothing in this article shall be construed to limit the legal authority and powers of the City Police and Fire Department officers in enforcing other laws or in otherwise carrying out their duties.

Sec. 21-19. Abandoned vehicle unlawful; removal authorized.

1. 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.
2. Upon investigation, City Police Department or City Code Enforcement staff may determine that a vehicle is abandoned and order the vehicle removed.

Sec. 21-20. Hazardous vehicle unlawful; removal authorized.

1. 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 hazardous vehicle.
2. Upon investigation, City Police Department or City Code Enforcement staff may determine and declare that a vehicle is hazardous and order the vehicle removed.

Sec. 21-21. Junked motor vehicle unlawful; removal authorized.

1. It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or 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.
2. It shall be unlawful for any owner, 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 fail to comply with the location requirements or the concealment requirements of this article.
3. Subject to the provisions of **Section 21-22** below, upon investigation, the Code Enforcement Officer 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 factors shall be considered:
 - a. Protection of property values.
 - b. Promotion of tourism and other economic development opportunities.

- c. Indirect protection of public health and safety.
 - d. Preservation of the character and integrity of the community.
 - e. Promotion of the comfort, happiness and emotional stability of area residents.
4. In determining whether a vehicle constitutes a “junked motor vehicle,” City Police Department and City Code Enforcement staff, in applying the specific criteria in the definition of a “junked motor vehicle,” shall take into consideration, but not be limited to, whether the vehicle has a valid inspection decal as evidence of the stationary character of the vehicle; whether the tires, wheels and other essential parts of the vehicle are present for the operation of the vehicle; has flat tires; has removed parts; and that the condition of the exterior or any other specific evidence that would support a finding that the vehicle violates this section. If such a determination is made, City Police Department or City Code Enforcement staff shall state that basis in writing.
 5. The City may require any individual requesting removal of a junked motor vehicle from private property under their ownership or control, to indemnify and hold harmless the City against any loss, expenses or liability incurred because of the removal, storage or sale thereof.

Sec. 21-22. Permitted enclosure.

Junked motor vehicle(s) subject to this ordinance may 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 non-conforming use or garage or building structure erected pursuant to the lawful issuance of a building permit and that has been constructed in accordance with all zoning and building code regulations.

Sec. 21-23. Pre-towing notice required.

1. Except as set forth in Subsection 3. below, a junked, abandoned or hazardous vehicle that has been authorized for removal by the Code Enforcement Officer shall be towed only after notice has been given to the registered owner or to the person entitled to possession of the vehicle. In the case of a junked or hazardous vehicle, if the names and mailing addresses of the registered owner or person entitled to 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 sent by first class mail. If such information cannot be so ascertained or if the vehicle to be removed is abandoned, notice shall be affixed to the vehicle in a conspicuous place.
2. The notice required by Subsection 1. above shall state why the vehicle is subject to removal and that the vehicle will be removed within fourteen days after the postmarked date or date of affixation of the notice unless removed prior to that time.
3. The requirement that notice be given prior to the removal of an abandoned, junked or hazardous vehicle may, as determined by the Code Enforcement Officer or respective Police personnel, 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. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses or residences, vehicles parked in such a location or manner as to pose a traffic hazard and vehicles causing damage to public or private property.

Sec. 21-24. Removal of vehicles; post-towing notice.

1. The City may have vehicles removed under this article by private towing operators. Any abandoned, junked or hazardous vehicle that has been ordered removed may be removed to a storage area by the tow-truck operator or towing business contracting to perform such services for the City.
2. Private towing operators removing vehicles pursuant to this ordinance shall comply with post-towing notice procedures and all provisions of Chapter 20, Article 7A of the North Carolina General Statutes.

Sec. 21-25. Probable cause hearing prior to disposition.

1. After removal of an abandoned, junked or hazardous vehicle the owner or any other person entitled to possession may file a request with the Alamance or Guilford County magistrate for a hearing to determine if probable cause existed for removing the vehicle. The magistrate will set the hearing within 72 hours of the receipt of the request, and the hearing will be conducted in accordance with N.C.G.S. 20-219.11 as amended.
2. If the magistrate determines that the vehicle was towed in error, the City shall:
 - a. Notify the person in possession of the vehicle to release it, and when the vehicle is in the possession of a private towing operator, pay all charges if the hearing is held before the vehicle is reclaimed; or,
 - b. Reimburse the owner for all charges made by the private towing operator and for storage of the vehicle if the hearing is held after the vehicle is reclaimed.
3. Any aggrieved party may appeal the magistrate's decision to district court.

Sec. 21-26. Right to redeem.

At any stage in the proceedings, even before a probable cause hearing, the owner may obtain possession of the removed vehicle by paying all towing and storage fees accrued to date or by posting bond for double the amount of such fees to the towing operator or business having custody of the vehicle.

Sec. 21-27. Disposal of removed vehicles.

Any abandoned, junked or hazardous motor vehicle that is not claimed by the owner or other party entitled to possession may 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 accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

Sec. 21-28. Conditions on removal of vehicles from private property.

1. The City shall not remove a vehicle from private property if the owner, occupant or lessee could have the vehicle removed under applicable state law procedures.
2. Unless determined to be a hazardous or junked motor vehicle by the Code Enforcement Officer, no vehicle shall be ordered removed by the City without prior written request from the owner, occupant or lessee.
3. The City may require any person requesting the removal of a junked, abandoned or hazardous vehicle from private property to indemnify the City against any loss, expense or liability incurred because of the removal, storage or sale of such vehicle.

Sec. 21-29. Exceptions.

1. Nothing in this article shall apply to any vehicle:
 - a. That is located in a bona fide “automobile graveyard” or “junkyard” as defined in N.C.G.S. 136-143, in accordance with the “Junkyard Control Act.”
 - b. A vehicle that is in an enclosed building.
 - c. A vehicle that is 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.
 - d. A vehicle that is used regularly for personal use.
 - e. A vehicle that is in an appropriate storage place or depository maintained in a lawful place and manner by the City or private towing operator contracting with the City for removal of vehicles.

2. For purposes of this section, the term “lawful place and manner” shall include, but not be limited to, strict compliance with the City of Burlington Zoning Ordinance. A vehicle is “necessary to the operation of the enterprise” shall mean, but not be limited to, the clear, active use or involvement of the vehicle in the operation of the business enterprise. Mere storage or idle standing of a vehicle does not constitute “a vehicle necessary to the operation of the business.”