



# MEMORANDUM

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**To:** Mayor and City Councilors

**From:** Rich Olson, City Manager  
Angela Cole, Assistant to the City Manager

**Date:** November 9, 2015

**Re:** **CONSIDERATION** – Ordinance to amend Sections 42-45, 42-46, 42-50, and 42-59; and create 42-62 of the City Code relating to Abandoned, Nuisance and Junked Motor Vehicles

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***BACKGROUND:***

Code Enforcement Officers support and enhance quality of life, while working to keep aging buildings, homes and properties from becoming "eyesores". Ridding the city of health and sanitation hazards is one of the primary ways that Code Enforcement Officers impact communities.

On October 26, 2015 at its Regular Meeting, City Council held a public hearing to receive comment from the public concerning amendment to sections of the City Code relating to Abandoned, Nuisance and Junked Motor Vehicles. At the conclusion of the public hearing City Council realized that the proposed amendment did not lend opportunity for vehicle restoration enthusiasts with limited means to storing vehicles in a permanent enclosed structure to initiate or resume their hobby without undue hardship. The attached Ordinance has been updated to include language addressing special interest vehicle restoration.

***ANALYSIS:***

Conventionally, abandoned, nuisance and junked vehicles have comprised over a third of all code violations in our community. When cited for an abandoned, nuisance, or junked motor vehicle oftentimes the vehicle or property owner will simply relocate the vehicle to another portion of the same lot or a few feet down the street. As a result, code enforcement officers will have to cite and re-cite a vehicle or property owner multiple times for the same vehicle without the violation being rightfully abated voluntarily. Code Enforcement officers deem this partial compliance as a would-be chronic violator despite the owner's technical correction of the violation. The City of Elizabeth City Code of Ordinances should

be revised to most-effectively close the loophole on owner compliance with abandoned, nuisance and junked vehicle regulation. Staff has revised Section 42-50 in order to address this issue.

Additionally, staff has noticed that Section 42-45 of the Code charges the inspections department with administering the removal and disposition of motor vehicles located on private property. The activities of code enforcement are no longer executed by the inspections department, but instead the Code Enforcement Division of City Administration.

Section 42-46 of the Code has been updated to include definitions of a special interest restoration vehicle and a parts vehicle. The special interest restoration vehicle is the automobile that is being refurbished and/or reconditioned. The parts vehicle will serve as indicated – a source for elements, components, etc. need to re-establish the hobby vehicle. These two vehicles must be of similar make and model.

Section 42-59 simply creates the opportunity for exception for the special interest restoration vehicle, whereas Section 42-63 explains the special interest restoration vehicle allowances. As proposed, a person will be able to maintain one special interest restoration vehicle and one parts vehicle in an outdoor storage location provided there is no hazard to health and is screened from view. The parts vehicle must be stored on the same lot as the restoration vehicle. The maximum time to maintain the vehicles is one year – an initial six months and then one additional six-month renewal. Progress on the restoration vehicle will be measured before an extension is granted. At time of permit expiration, the vehicle must be operational, holding current plates and decal, removed, or placed inside a fully enclosed building. All permitted special interest restoration vehicles will maintain a decal issued by the City. If the person working on the vehicle restoration is not the owner of the property where the vehicle(s) is situated, said property owner must authorize the permit application.

Staff proposes a twenty-five dollar permit fee, and that the application and permitting process be administered by the Police Department, similar to the Taxicab Franchise process. However and in accordance with Rule 5 Subsection 7 Public Hearings for Ordinance/Fee Schedule Changes (Council Rules of Procedure), in order to adopt the suggested permit fee, City Council must hold a separate public hearing.

***STAFF RECOMMENDATIONS:***

1. By motion, adopt the Ordinance amending Article II Abandoned, Nuisance and Junked Motor Vehicles, Sections 42-45, 42-46, 42-50, and 42-59; and creating 42-62 as provided.
2. Further, by motion, call for a Public Hearing to be held on Monday, November 23, 2015 at 7:30 p.m. in Council Chambers of the Municipal Administration Building, 306 E. Colonial Avenue to gather citizen input for

the amendment of the City of Elizabeth City Fee Schedule to include a permit fee for the Special Interest Restoration Vehicle Permit.



## **CITY OF ELIZABETH CITY SPECIAL INTEREST RESTORATION VEHICLE REGISTRATION & PERMIT**

*Improving the safety, health and welfare of Elizabeth City*

The City Council finds that constructive leisure pursuits by Elizabeth City citizens is important, and encourages responsible participation in the hobby of preserving, restoring and maintaining motor vehicles of historic and special interest, which contributes to the enjoyment of citizens. In order to facilitate vehicle restoration on private property within the city limits, the City of Elizabeth City will allow, by permit, a person the opportunity to maintain one restoration vehicle and one parts vehicle as defined in Section 42-46, whether operable or inoperable, in outdoor storage on private property, if both such vehicles are registered with the city and the outdoor storage area is maintained in such manner as not to constitute a health hazard and is located away from public view, or screened from ordinary public view, by means of an 80% opaque fence, maintained vegetation, or other appropriate means.

In order to obtain a Special Interest Restoration Vehicle Permit, persons storing a special interest restoration vehicle for more than 10 days outside a fully enclosed permanent structure or garage for the purpose of restoration shall acknowledge and agree to the following in order to obtain a Vehicle Restoration Permit from the City:

- (a) The permit shall allow for one special interest restoration vehicle and up to one parts vehicle that must be compatible to the vehicle being restored.
- (b) The parts vehicle must be stored on the same lot as the special interest restoration vehicle.
- (c) The permit allows for outdoor storage of the vehicle(s) for a period of up to six (6) months.
- (d) A maximum of two (2) six (6) month extensions for the life of the project may be granted upon request, provided substantial progress can be proven in the restoration of the vehicle at each extension interval.
- (e) Progress shall be measured by receipts for the purchase of parts or services or visible reconstruction or deconstruction.
- (f) At no time shall the vehicle(s) become a public health nuisance by collecting water to breed mosquitoes, losing fluid to contaminate the soil or becoming a harborage for vermin.

- (g) Upon permit expiration date, the vehicle shall be removed or placed inside a fully enclosed building as required by this Ordinance.
- (h) The permit shall be placed in the vehicle in a location viewable from the outside of the vehicle.

**ACKNOWLEDGEMENT & SIGNATURES**

I, the undersigned, have read and understand the requirements of this permit.		
Vehicle Owner's Name:		
Signature:	Date:	
Property (Land) Owner's Name:		
Signature:	Date:	
<b>OFFICIAL USE ONLY</b>		
Date Application Filed/Received:		
Permit Fee Paid (Circle One):	YES	NO
Vehicle Identification Number (VIN) of Vehicle Being Restored:		
Permit No.:		
Permit Expiration Date:		

ORDINANCE #2015-11-\_\_\_\_\_

TO AMEND CHAPTER 42 HEALTH AND SANITATION,  
ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES  
SECTIONS 42-45, 42-46, 42-50 42-59 AND 42-62  
IN THE CITY OF ELIZABETH CITY CODE OF ORDINANCES

*WHEREAS*, the City Council finds that from time to time would-be chronic violators of the City of Elizabeth City Code of Ordinances regulation involving abandoned, nuisance, and junked vehicles circumvent correction of the violation by relocating the vehicle from one section of a property to another (within the same lot) and/or from one section of the right-of-way to another (on the same named roadway); and

*WHEREAS*, the intent of the Ordinance by way of Code Enforcement is to improve the safety, health and welfare of all citizens within the city's jurisdiction; and

*WHEREAS*, the City of Elizabeth City Code of Ordinances should be revised to most-effectively close the loophole on owner compliance with abandoned, nuisance and junked vehicle regulation; and

*WHEREAS*, the activities of code enforcement are no longer executed by the inspections department; and

*WHEREAS*, the City Council finds that constructive leisure pursuits by Elizabeth City citizens is important, and encourages responsible participation in the hobby of preserving, restoring and maintaining motor vehicles of historic and special interest, which contributes to the enjoyment of citizens; and

*WHEREAS*, the City Council hereby adopts revisions as noted by deletion and addition in the following Chapter 42 Health and Sanitation, Article II Abandoned, Nuisance and Junked Motor Vehicles of the City of Elizabeth City Code of Ordinances:

**SECTION I.** ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES  
SECTION 42-45

**Sec. 42-45. Administration.**

(a) The city manager of the city shall be responsible for the administration and enforcement of this article. The police department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the city, and on property owned by the city. The ~~inspections department~~ **code enforcement officer** shall be responsible for administering the removal and disposition of "abandoned," "nuisance," or "junked," "special interest restoration," or "parts car" motor vehicles located on private property.

**SECTION II. ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES**  
**SECTION 42-46**

**Sec. 42-46. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

*Abandoned vehicle* means a motor vehicle, as authorized and defined in G.S. 160A-303, and one that:

- (1) Is left upon the right-of-way of a public street or highway in violation of a law or ordinance prohibiting parking;
- (2) Is left on the right-of-way of a public street or highway for longer than seven days;
- (3) Is left on property owned or operated by the city for longer than 24 hours; or
- (4) Is left on private property without the written consent of the owner/occupant or lessee thereof, for longer than two hours.

*Junked motor vehicle* means a vehicle that does not display a current license plate lawfully upon that vehicle, as authorized and defined in G.S. 160A-303.2, and that:

- (1) Is partially dismantled or wrecked;
- (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 \$100.00.

*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 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 as evidenced by odor;
- (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;
- (6) So situated or located that there is a danger of it falling or turning over;
- (7) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrefied matter of any kind;
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or
- (9) Any other vehicle specifically declared a health and safety hazard by the city council.

*Open places* means areas of properties or portions thereof that are open to the exterior, including building openings, such as carports, or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards.

*Parts vehicle* means a motor vehicle that is owned by a person to furnish parts for restoration of a special interest vehicle, thus enabling a person to preserve, restore, and maintain a special interest

restoration vehicle.

*Special interest restoration vehicle* means a vehicle of an age that is unaltered from the manufacturer's original specifications and, because of its significance, including but not limited to, an out-of-production vehicle, is collected, preserved, restored, or maintained by hobbyist as a leisure pursuit.

**SECTION III. ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES**  
SECTION 42-50

**Sec. 42-50. Pre-towing notice requirements for removal of abandoned, nuisance or junked motor vehicles.**

(a) Except as set forth in section 42-51, an abandoned, nuisance or junked vehicle that is to be removed shall be towed only after notice to the registered owner ~~or and~~ any person entitled to possession of the vehicle **that can reasonably be identified**. Notice shall be given by affixing a notice on the windshield or some other conspicuous place on the vehicle. The notice shall state that the vehicle will be removed by the city on a specified date, no sooner than 15 days after the notice is affixed or mailed, unless the vehicle is moved **to a garage or other appropriate enclosed storage place or depository** by the owner or legal possessor prior to that time. In the case of a nuisance vehicle or a junked motor vehicle, if the names and mailing addresses of the registered owner or person entitled to the 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 given by first class mail **to both the owner of the vehicle and the land owner where the vehicle is located, in the event that can reasonably be ascertained**. The person who mails the notice shall retain a written record to show the name and address to which **the notice was** mailed and the date mailed.

(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked motor vehicles ~~to regarding~~ which notice is required to be **for which notice has been** given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of ~~removing~~ **retaining** the vehicle outweigh the burdens of **removal**, such appeal shall be made to the board of zoning adjustments in writing prior to the applicable date of abatement and heard at the **earliest next** regularly scheduled meeting of the board of zoning adjustments. Any further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided. (Code 1993, § 10-61; Ord. of 5-3-1999, § 4; Ord. No. 02071, 7-15-2002)

(c) **It shall be unlawful for the registered owner and or any persons entitled to possession of a motor vehicle that can reasonably be identified, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to just relocate the abandoned, nuisance or junked motor vehicle to another portion of the same property, another real property location in the city, or section**

of right-of-way. The owner or persons entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located shall correct the abandoned, nuisance or junked vehicle violation by, 1) obtaining the written consent of the owner/occupant or lessee thereof to keep the vehicle at the location, if the vehicle is classified as abandoned; 2) correcting the health and safety hazards as defined in Section 42-46 if classified as a nuisance vehicle; or 3) permanently relocating the vehicle to an enclosed building or an appropriate storage place or depository maintained in a lawful place and manner (i.e. automobile junkyard).

**SECTION IV.** ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES  
SECTION 42-59

**Sec. 42-59. Exceptions.**

Nothing in this article shall apply to any vehicle which:

- (1) Is located in a bona fide "automobile graveyard" or "junkyard" as defined in G.S.136.143, in accordance with the "Junkyard Control Act," G.S. 136-1141 et seq.;
- (2) Is in an enclosed building;
- (3) 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; or
- (4) Is in an appropriate storage place or depository maintained in a lawful place and manner by the city.
- (5) Is determined to be and registered with the city as a *special interest vehicle* or *parts vehicle*, as defined in Section 42-63.

(Code 1993, § 10-70; Ord. of 5-3-1999, § 4)

**SECTION V.** ARTICLE II. ABANDONED, NUISANCE AND JUNKED MOTOR VEHICLES  
SECTION 42-63

**Sec. 42-63. Special interest restoration vehicle.**

Except as otherwise provided by state statute, a person may maintain one special interest restoration vehicle and up to one parts vehicle as defined in Section 42-46, whether operable or inoperable, in outdoor storage on private property, if both such vehicles are registered with the city and the outdoor storage area is maintained in such manner as not to constitute a health hazard and is located away from public view, or screened from ordinary public view, by means of an 80% opaque fence, maintained vegetation, or other appropriate means.

Persons storing a special interest restoration vehicle for more than 10 days outside a fully enclosed permanent structure or garage for the purpose of restoration shall obtain a Vehicle Restoration Permit from the Elizabeth City Police Department:

- (a) The permit shall allow for one special interest restoration vehicle and up to one parts vehicle that must be compatible to the vehicle being restored.
- (b) The parts vehicle must be stored on the same lot as the special interest restoration vehicle.
- (c) The permit allows for outdoor storage of the vehicle(s) for a period of up to six (6) months.
- (d) A maximum of two (2) six (6) month extensions for the life of the project may be granted upon request, provided substantial progress can be proven in the restoration of the vehicle at each extension interval.
- (e) Progress shall be measured by receipts for the purchase of parts or services or visible reconstruction or deconstruction.
- (f) At no time shall the vehicle(s) become a public health nuisance by collecting water to breed mosquitoes, losing fluid to contaminate the soil or becoming a harborage for vermin.
- (g) Upon permit expiration date, the vehicle shall be removed or placed inside a fully enclosed building as required by this Ordinance.
- (h) The permit shall be placed in the vehicle in a location viewable from the outside of the vehicle
- (i) The owner of the property where the vehicle(s) is located, if different from the owner of the vehicle, shall authorize the permit application.

The Special Interest Restoration Permit shall be subject to a fee established by the City Council, which may be amended from time to time.

**SECTION VI. EFFECTIVE DATE:** This Ordinance, as revised herein, shall take effect on November 23, 2015 upon adoption of the fee established by the City Council for the Special Interest Restoration Permit.

**SECTION VII. CODIFICATION.** The provisions of this Ordinance shall be published as appropriate in the City of Elizabeth City Code of Ordinances as soon as practicable after its adoption.

**SECTION VIII. SEVERABILITY CLAUSE.** If any section, or part of provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the City Council of the City of Elizabeth City in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

**SECTION IX.** All ordinances and sections of the Elizabeth City Code, and parts thereof, inconsistent herewith be and the same hereby are repealed to the extent of such inconsistencies.

**READ, CONSIDERED, AND ADOPTED** at a regular meeting of the City Council of the City of Elizabeth City, North Carolina, during which a quorum was present, held on the 9<sup>th</sup> day of November, 2015.

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Joseph W. Peel  
Mayor

*Attest:*

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Vivian D. White, CMC/NCCMC  
City Clerk