STATE OF SOUTH CAROLINA)
) ORDINANCE NO. 2021- 1720
COUNTY OF LANCASTER)

AN ORDINANCE

TO AMEND CHAPTER 21 OF THE LANCASTER COUNTY CODE OF ORDINANCES ENTITLED, "MOTOR VEHICLES AND TRAFFIC," TO PROVIDE NECESSARY UPDATES TO THE CHAPTER GOVERNING THE DISPOSITION OF DERELICT OR ABANDONED VEHICLES ON PUBLIC OR PRIVATE PROPERTY.

WHEREAS, South Carolina Code Ann. § 4-9-25 confers upon counties the authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of the State of South Carolina, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them; and

WHEREAS, South Carolina Code Ann. § 56-5-5820 provides, "Abandoned and derelict vehicles constitute a hazard to the health and welfare of the people in the State 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 vehicles be eliminated, and that the future abandonment of such vehicles be prevented."; and

WHEREAS, Lancaster County Council wishes to provide for the public health and safety by regulating abandoned and derelict vehicles;

NOW, THEREFORE, by the power and authority granted to the Lancaster County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, it is ordained and enacted that:

Section 1. Chapter 21, of the Lancaster County Code of Ordinances is amended as follows:

~~Indicates Matter Stricken~~

Indicates New Matter

ARTICLE I. - IN GENERAL

Sec. 21-1. - Authority.

This chapter is enacted pursuant to South Carolina Code of Laws 1976, Section ~~56-5-5610~~ 56-5-5820, relevant to declaration as public nuisances all abandoned or derelict motor vehicles which provides for the enactment of ordinance for the implementation and enforcement of the powers of the county in regards to public health, safety and welfare, and sanitation. This chapter is enacted to promote the general health, safety, and welfare of the citizens of the county.

(Ord. No. 284, 6-24-96)

Sec. 21-2. - Declaration of public interest.

The accumulation and storage of abandoned and derelict motor vehicles is hereby declared to constitute an undue and unnecessary hazard to the health and welfare of the citizens of the county in that such motor vehicles, when on public streets or thoroughfares, create traffic hazards and, when on private property, tend to reduce property values, invite plundering, fire hazards, harbor noxious diseases, furnish shelter for vermin, present physical dangers to minors and other citizens and constitute an unattractive nuisance. It is, therefore, in the public interest that the accumulation and storage of abandoned and derelict motor vehicles on public streets or thoroughfares or on private property be eliminated and prevented by declaring such a public nuisance, which may be adopted as such, which remedy shall be cumulative and in addition to any other remedies provided by law.

(Ord. No. 284, 6-24-96)

Sec. 21-3. - Exemptions

(a) The provisions of this article shall not apply to authorized auto salvage yards duly operated and regulated under other county ordinances.

(b) The provisions of this article shall not apply to vehicles which bear a current "Antique" vehicle license as issued by the South Carolina Department of ~~Highways and Public~~ Motor Vehicles.

(c) Motor vehicles which are in relatively good condition and capable of being moved under their own power ~~and able to pass a vehicle safety inspection~~, yet do not present current license plates due to ~~owners~~ owner's illness or other reasonable verifiable causes as determined by the ~~building and~~ county zoning official or his designated agent.

(d) Motor vehicles properly stored within an enclosed building as not to be visible or no more than five (5) motor vehicles properly stored behind an opaque fence or enclosure, as not to

be visible from any road, street, thoroughfare, or nearby occupied residence and situated a minimum of one hundred (100) feet back from any street or road right-of-way and maintained free of any unsafe, unsanitary, or unsightly conditions, as determined by the ~~building~~ county zoning official or his designated agent.

(e) No more than two (2) motor vehicles that are not enclosed within an opaque fence or enclosure, provided those vehicles are not visible from any road, street, thoroughfare, or nearby occupied residence and situated a minimum of one hundred (100) feet back from any street or road right-of-way and maintained free of any unsafe, unsanitary, or unsightly conditions, as determined by the county zoning official or his designated agent.

~~(f) Where an authorization has been attained from the building and county zoning department for vehicles for sale, when vehicle is operable yet does not bear a current license plate and not to exceed one hundred twenty (120) days.~~

(f) Authentic and verifiable stock race cars, dirt track race cars, drag race cars or other relevant race cars which are being used on a regular basis and able to move under their own power as determined by the ~~building and~~ county zoning official or his designated agent as a true race car.

(Ord. No. 284, 6-24-96)

ARTICLE II. - OFFENSES

Sec. 21-4. - Parking or storage on public streets, thoroughfares or private property – Prohibited.

No person or property owner, or occupant shall park, store or leave, or permit the parking, storage or leaving of any abandoned or derelict motor vehicle(s) as defined in section 21-10, Definitions, upon public or private streets or thoroughfares within the county for a period in excess of forty-eight (48) hours, or on any private property within the county for a period in excess of seven (7) days unless such vehicle(s) located on private property is properly stored pursuant to the requirements set forth in Sec. 21-3(d).~~is located in such a manner as not to be visible from any road, street, thoroughfare, or nearby occupied residence and situated a minimum of one hundred (100) feet back from any street or road right-of-way and maintained free of any unsafe conditions.~~ No derelict or abandoned vehicles may be stored or placed for any length of time on nonresidential properties unless derelict or abandoned vehicles are considered customarily accessory to the use of such property. In addition, no derelict or abandoned vehicles may be stored or placed for any length of time on any vacant lots of land, property zoned as a manufactured home park, or a multifamily district.

(Ord. No. 284, 6-24-96)

ARTICLE III. - ENFORCEMENT

Sec. 21-5. - Notices, removals and disposal of vehicles.

Lancaster County may contract with any federal, other state, county, or municipal authority or private enterprise for tagging, collection, storage, transportation, disposal, or any other services necessary to prepare derelict or abandoned vehicles for recycling or other means of disposal.

Whenever it shall appear any motor vehicle(s) is abandoned or derelict upon any public street, road or thoroughfare, or private property in violation of the provisions of this chapter, the county ~~building and~~ zoning official, officers of the county sheriff's ~~department~~ office or designated agent of the ~~building~~ county zoning official shall cause a colored tag to be placed on the motor vehicle(s) in violation, and also posted on a structure located on the property, which shall be proper and legal notice to said owner, person in possession of motor vehicle or any lien holder that such motor vehicle in violation is subject to forfeiture to the county. The colored tag shall serve as the only legal notice that if the vehicle is not removed within forty-eight (48) hours from the date and time of the tag when located upon any public or private street, road, or thoroughfare and within seven (7) days from the date and time of the tag when located on private property, it shall become the property of the county, and it will be removed to a designated place to be sold.

(1) ~~If said motor vehicle(s) is determined to be valued at less than one hundred dollars ($100.00), the colored tag shall so state and serve as the only legal notice required that unless motor vehicle(s) is removed within the time period required, it shall become property of the county, shall be removed and sold for recycling purposes and all proceeds derived from sale deposited into a fund account established for the purpose of administering the provisions of this chapter.~~ Upon the expiration of the appropriate time period as outlined above, the county zoning official, officers of the county sheriff's office, or designated agent of the county zoning official shall cause the vehicle to be towed and stored by a private enterprise.

(2) ~~If said motor vehicle(s) is valued more than one hundred dollars ($100.00), the colored tag shall so state and serve as the only legal notice that if said motor vehicle is not removed within the time period required that it will be removed to a designated place to be sold.~~ Within ten (10) days following the towing of the vehicle, the proprietor, owner, or operator of any towing company, storage facility, garage, or repair shop must provide to the county zoning official, officers of the county sheriff's office, or designated agent of the county zoning official a list describing the vehicles remaining in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop. A person who fails to provide the county zoning official, officers of the county sheriff's office, or designated agent of the zoning official with this list forfeits recovery of any storage fees that have accrued from the date of towing until the day after the mailing of the notification to the owner and all lienholders of record by certified or registered mail, return receipt requested, pursuant to S.C. Code 1976, § 29-15-10.

(3) Within ten (10) days of receipt of this list, the county zoning official, officers of the county sheriff's office, or designated agent of the zoning official will provide to the towing company or storage facility the current owner's name, address, and a record of all lienholders along with the make, model, and identification number or a description of the vehicle at no cost to the proprietor, owner, or operator of the towing company, storage

facility, garage, or repair shop. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop having towed or received the vehicle must notify by registered or certified mail, return receipt requested, the last known registered owner and all lienholders of record that the vehicle has been taken into custody and provide a summary of any fees owed for the towing and storage of the vehicle.

(4) The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop that has towed and stored a vehicle has a lien against the vehicle and may have the vehicle sold at public auction pursuant to S.C. Code 1976, § 29-15-10. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may hold the license tag of any vehicle until all towing and storage costs have been paid, or if the vehicle is not reclaimed, until it is declared abandoned and sold. Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the vehicle. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must occur within five (5) days after receiving the owner's and lienholders' identities from the appropriate law enforcement agency. If the notice is not mailed within this period, storage costs after the five-day period must not be charged until the notice is mailed. If the vehicle is not reclaimed within thirty (30) days after the day the notice is mailed, return receipt requested, the vehicle is considered abandoned and may be sold by the magistrate pursuant to the procedures set forth in S.C. Code 1976, § 29-15-10.

(5) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lienholders, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must provide notice by one (1) publication in one (1) newspaper of general circulation in the Lancaster County area which is sufficient to meet all requirements of notice pursuant to this article. The notice by publication may contain multiple listings of abandoned vehicles.

(6) Before a vehicle is sold, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must apply to the appropriate titling facility including, but not limited to, the South Carolina Department of Motor Vehicles or the South Carolina Department of Natural Resources for the name and address of any owner or lienholder. For non-titled vehicles, where the owner's name is known, a search must be conducted through the Secretary of State's office to determine any lienholders. The application must be on prescribed forms as required by the appropriate titling facility or the Secretary of State. If the vehicle has an out-of-state registration, an application must be made to that state's appropriate titling facility. When the vehicle is not titled in this state and does not have a registration from another state, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may apply to an officer of the sheriff's office for determination of the state where the vehicle is registered. The sheriff's office shall conduct a records search. This search must include, but is not limited to, a search on the National Crime Information Center and any other appropriate search that may be conducted with the vehicle's identification number. The sheriff's office must

supply, at no cost to the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the name of the state in which the vehicle is titled.

(7) After the vehicle is in the possession of the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop, the owner of the vehicle as demonstrated by providing a certificate of registration has one (1) opportunity to remove from the vehicle any personal property not attached to the vehicle. The proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop must release any personal property that does not belong to the owner of the vehicle to the owner of the personal property.

(8) If an abandoned vehicle has not been reclaimed as provided for in S.C. Code 1976, § 56-5-5630, the proprietor, owner, or operator of the towing company, storage facility, garage, or repair shop may have the abandoned vehicle sold at a public auction pursuant to the provisions set forth in S.C. Code 1976, § 29-15-10. The purchaser of the vehicle shall take title to it free and clear of all liens and claims of ownership, shall receive a magistrate's order of sale, and is entitled to register the purchased vehicle and receive a certificate of title. The order of sale given at the sale must be sufficient title for purposes of transferring the vehicle to a demolisher for demolition, wrecking, or dismantling, and in this case no further titling of the vehicle is necessary. The expenses of the auction, the costs of towing, preserving, and storing the vehicle which resulted from placing the vehicle in custody, and all notice and publication costs incurred pursuant to the provisions of S.C. Code 1976, § 29-15-10, must be reimbursed up to the amount of the auction sale price from the sale proceeds of the vehicle. Any remainder of the sale proceeds must be held for the owner of the vehicle or entitled lienholder for ninety (90) days. The magistrate must notify the owner and all lienholders by certified or registered mail, return receipt requested, that the vehicle owner or lienholder has ninety (90) days to claim the proceeds from the sale of the vehicle. If the vehicle proceeds are not collected within ninety (90) days from the day after the notice to the owner and all lienholders is mailed, then the vehicle proceeds must be deposited in the general fund of the county.

~~a. Once the motor vehicle is removed, the building official, agent or sheriff's department officer shall notify in writing, by registered or certified mail, return receipt requested, any lien holder of record or person in whose name the motor vehicle was last registered at the last address reflected in the South Carolina highway department records, that the motor vehicle(s) is being held, designating the place or location where being held, and that if not redeemed within thirty (30) days from the date of the notice by paying all costs of removal and storage, it shall be disposed of for recycling purposes or for such other purposes as the county may deem advisable to insure the highest possible return from the sale or disposal of. Any and all proceeds shall be placed in a fund escrow established for the purpose of administering this chapter.~~

~~b. If the value of the motor vehicle is determined to be more than one hundred dollars ($100.00) and the owner cannot be determined or if registration contains no address of the owner, or if impossible to determine with reasonable certainty the~~

~~identification and address of any lien holders, notice by one (1) publication in a newspaper of general circulation in the area where the motor vehicle was located shall be sufficient to meet all requirements of notice pursuant to this article. The notice of publication may contain multiple listings of motor vehicles. Twenty (20) days after the publication date of the advertised notice, vehicle(s) may be sold or disposed of in a manner to retain highest possible return. Any and all proceeds from sale or disposal shall be placed in a fund escrow established for the primary purpose of administering this article.~~

~~c. Notices sent out by mail or any newspaper notice published shall contain the following if obtainable: year, make, model and said serial number of the abandoned or derelict motor vehicles.~~

~~d. All officers referred to in this article may appraise or determine the value of abandoned or derelict vehicle for the purpose of this article.~~

(Ord. No. 284, 6-24-96)

Sec. 21-6. - Right of entry upon public and private property to enforce chapter.

The county ~~building and~~ zoning official, his designated agent or representative, and officers of the county sheriff's ~~department~~ office, are hereby expressly authorized to enter upon public or private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder or refuse to allow the designated officer to enter upon private property for the purpose of enforcing the provisions of this chapter. None of the designated officers, persons or firms contracted for the removal of or disposal of any such motor vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provision of this chapter unless such parties are guilty of willfulness, wantonness or recklessness. In removing the abandoned or derelict motor vehicles, the enforcing parties or agent will do so without willfully harming or damaging the property on which said abandoned or derelict motor vehicle is situated.

(Ord. No. 284, 6-24-96)

Sec. 21-7. - Tampering with, removing or destroying ~~color~~ colored tags.

It shall be unlawful for any person to tamper with, remove or destroy any colored tag placed upon any motor vehicle not in compliance with this chapter. Any person found guilty of this provision shall, upon conviction, be subject to a fine not to exceed five hundred dollars ($500.00) ~~one hundred dollars ($100.00) nor less than fifty dollars ($50.00)~~.

(Ord. No. 284, 6-24-96)

Sec. 21-8. - Failure to comply: misdemeanor.

Any person who fails, neglects or refuses to comply with this chapter, or to abate such nuisance in accordance with the notice issued pursuant to the provisions of sections 21-4 and 21-5 shall be guilty of a misdemeanor, and upon conviction, shall be fined not more than five hundred dollars ($500.00), and shall pay all costs of having such abandoned vehicle removed, stored, and sold as provided in this chapter.

(Ord. No. 284, 6-24-96)

Sec. 21-9. - Penalty.

Any person(s) violating the provisions of this ~~article~~ chapter shall be punishable by a fine and/or imprisonment as provided for in section 1-10 of the Lancaster County Code of Ordinances and shall pay all cost of vehicle removal, storage, and disposal to the extent such cost has not been recovered by the county at the time of conviction and/or imprisonment not to exceed thirty (30) days. Each separate day of violation constitutes a separate offense.

(Ord. No. 284, 6-24-96; Ord. No. 846, 9-10-07)

Sec. 21-10. - Definition.

For the purpose of this chapter:

Motor vehicle means any device by which a person or property may be transported or drawn upon a highway by mechanical means.

Abandoned vehicle means a motor vehicle that is inoperable or left unattended upon public streets or thoroughfares within the county for a period in excess of forty-eight (48) hours, or a motor vehicle that has remained on private or public property (lots) for a period in excess of seven (7) days unless said vehicle(s) located in private property is located in such a manner as not to be visible from any road, street, thoroughfare, or nearby occupied residence and situated a minimum of one hundred (100) feet back of any street or road right-of-way and maintained free of any unsafe, unsanitary, or unsightly conditions.

Derelict vehicle means a motor vehicle:

(1) Whose certificate of registration has expired and the registration and legal owner no longer resides at the address listed on the last certificate of registration on record; or

(2) Whose major parts have been removed so as to render the motor vehicle inoperable and incapable of being moved under its own power; or

(3) Manufacturer serial plates, motor vehicle identification numbers, license number plates and/or any other means of identification have been removed so as to nullify efforts to locate or identify the registered and legal owner; or

(4) Whose registered and legal owner of record disclaims ownership or releases his rights thereto; or

(5) Which is more than seven (7) years old and does not bear a current license plate and incapable of being moved under its own power.

~~(6) *Colored tag* means any type of notice affixed to an abandoned or derelict motor vehicle advising the owner or person in possession of that it has been declared abandoned or derelict motor vehicle and will be treated as such.~~

Colored tag means any type of notice affixed to an abandoned or derelict motor vehicle advising the owner or person in possession of that it has been declared abandoned or derelict motor vehicle and will be treated as such.

(Ord. No. 284, 6-24-96)

Sec. 21-11. - Duties; regulations.

The county is vested with the power and is charged with duties of administering the provisions of this chapter. The county may adopt such rules and regulations as may be necessary to carry out the provisions of this chapter.

Section 2. Severability.

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

Section 3. Conflicting Provisions.

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, the provisions contained in this ordinance, to the extent to of the conflict, supersede all other provisions and this ordinance is controlling.

Section 4. Effective Date.

This ordinance is effective upon Third Reading.

AND IT IS SO ORDAINED

Dated this _____ day of _____, 2021.

LANCASTER COUNTY, SOUTH CAROLINA

_____
Steve Harper, Chair, County Council

_____
Billy Mosteller, Secretary, County Council

ATTEST:

_____
Sherrie Simpson, Clerk to Council

First Reading: June 14, 2021
Second Reading: August 9, 2021
Public Hearing: June 28, 2021
Third Reading: August 23, 2021

Approved as to form:

_____
John DuBose, County Attorney