

## **ORDINANCE O-22-03**

### **GRANT COUNTY JUNKED AND HAZARDOUS VEHICLE ORDINANCE**

#### **STATE LAW REFERENCES**

Counties; powers; ordinances — See NMSA 1978, § 4-37-1 et seq.  
Enforcing county ordinances; jurisdiction — See NMSA 1978, § 4-37-3.  
Nuisances and offenses; regulation or prohibition — See NMSA 1978, § 3-18-17.  
Motor vehicle definitions — See NMSA 1978, § 66-1-4.8C.  
Abatement of a public nuisance — See NMSA 1978, 30-8-8.  
Notification forms; copies; resale of salvaged vehicle or motor vehicle — See NMSA 1978, § 66-3-115.  
Disposal of abandoned vehicle or motor vehicle — See NMSA 1978, § 66-3-121.  
Licensing of dealers and wreckers — See NMSA 1978, § 66-4-1 et seq.  
Storage provisions for historical or special interest vehicles — See NMSA 1978, § 66-11-3.

#### **GENERAL PROVISIONS**

##### **SECTION I. TITLE**

This Ordinance and any amendment hereto shall be known and may be cited as the Grant County Junked and Hazardous Vehicle Ordinance.

##### **SECTION II. APPLICABILITY**

This chapter applies to all residents, businesses, visitors and transients within Grant County, New Mexico, and does not exclude any individual, group, organization, agency, business, visitor, transient or other person not residing within the County who may be in violation of this chapter within the County.

##### **SECTION III. STATUTORY AUTHORITY**

This Ordinance is hereby enacted pursuant NMSA 1978, § 4-37-1 et seq., and § 3-18-17A, and applies to the unincorporated areas of Grant County.

##### **SECTION IV. INTERPRETATION.**

(A) The provisions of this Ordinance shall be held to be minimum requirements.

(B) Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, the more restrictive or that imposing the higher standards shall govern.



## DEFINITIONS AND WORD USAGE

For the purpose of this chapter, the following terms, phrases, words, and their derivation shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

### SECTION V. DEFINITIONS.

For the purpose of this Ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PUBLIC NUISANCE.** A nuisance shall include any nuisance as defined in this Ordinance.

**ABANDONED VEHICLE.** A vehicle or motor vehicle that has been determined by a New Mexico law enforcement agency:

- A. To have been left unattended on either public or private property for at least 30 days;
- B. Not to have been reported stolen;
- C. Not to have been claimed by any person asserting ownership; and
- D. Not to have been shown by normal record checking procedures to be owned by any person.

**COLLECTOR.** An individual, association, corporation, partnership or other legal entity which buys or otherwise acquires, maintains, shows, restores, sells, dismantles, or otherwise disposes of antique or special interest vehicles for the purpose of maintaining one or more antique and/or special interest vehicles for reasons of historical interest, provided that such collector has registered as such with the Grant County Manager's office and the Grant County Sheriff's Office.

**HISTORICAL OR SPECIAL INTEREST VEHICLE.** A vehicle of any age that, because of its significance, is being collected, preserved, restored or maintained by a collector as a leisure pursuit.

**JUNKED VEHICLE.** Any motor vehicle, other than an historical or special interest vehicle, as defined in NMSA 1978, § 66-1-4.8C, which:

- A. Is dilapidated or has been abandoned;
- B. Is inoperative;
- C. Has been continuously inoperative for a least 120 days or has been wrecked, dismantled, or partially dismantled;
- D. Does not bear a valid, unexpired license plate; and/or
- E. Does not meet minimum safety standards for operation on the public streets and highways of the State of New Mexico.

**OCCUPANT.** The individual, association, corporation, partnership, or other legal entity legally in possession of the premises where a junked vehicle is located.

**SHERIFF.** The Grant County Sheriff or his or her authorized deputy.

**COUNTY.** Grant County government.

**COUNTY Clerk.** The Grant County Clerk.

**COUNTY OFFICIAL.** The county officer, or official, or inspector or other designated authority charged with the administration and enforcement of any Code or the county's authorized representative.

**DAYS.** All reference to DAYS shall refer to calendar days.

**MANAGER.** Grant County Manager.

**OWNER.** The property owner, whether or not residing in the premises.

**PERSON.** Any natural person or any firm, partnership, association, corporation, company or organization of any kind and as identified in § V(D) herein.

**PREMISES.** An improved or unimproved structure, designed for private or commercial use.

### GENERAL NOTICES, ENFORCEMENT AND REMOVAL

#### **SECTION VI. PUBLIC NUISANCE.**

A. Pursuant to NMSA 1978, § 4-37-1 et seq., and § 3-18-17A, the Board of County Commissioners of Grant County finds and declares that junked vehicles located within the County which are plainly visible from any public place, including, but not limited to, public rights-of-way, parks, public buildings and their grounds, and private businesses or commercial properties open to the public are detrimental to the safety and welfare of the general public. Such junked vehicles reduce the value of private property, invite vandalism, constitute fire hazards, and are attractive nuisances, posing a threat to the health and safety of the public, including children. Junked vehicles are detrimental to the economic welfare of the County by producing urban blight which is adverse to the continuing economic development of the County.

B. In view of these findings and determinations, the Grant County Board of County Commissioners hereby declares the above-described junked vehicles to be public nuisances and further declares that it shall be unlawful to store, keep or maintain any junked vehicle in Grant County.



## SECTION VII. NOTICE.

Upon receiving a report of the existence of a junked vehicle, the Sheriff's Office and/or Code Enforcement officer may serve a citation to the owner or occupant of the premises upon which the junked vehicle rests. The citation shall be on the form approved for use in traffic violations within the County. The citation shall command the occupant to appear in Magistrate Court to plead to the charge of violation of this chapter. Any party who makes a complaint in Magistrate Court must appear in that court to testify regarding the complaint he has filed. Failure to appear is grounds for dismissal of the complaint. The Magistrate shall have, in addition to sentencing authority for petty misdemeanors in the State of New Mexico, the authority to require:

- A. The occupant to reimburse the County for the costs to remove the junked vehicle.
- B. That failure by the occupant to remove the junked vehicle, within 20 days of the appearance in Court, may subject the owner or occupant to a civil fine not to exceed \$300.

## SECTION VIII. REMOVAL BY OWNER.

If, within 20 days of the appearance in Court, the owner or occupant removes, or causes to be removed, the junked vehicle(s), the Sheriff shall dismiss any criminal and/or civil complaint against the owner or occupant arising from the presence of the junked vehicle(s).

## SECTION IX. REMOVAL BY COUNTY, WITH CONSENT.

If, within 20 days of the appearance in Court, the owner or occupant gives his written permission for the County to remove the junked vehicle(s), the County shall remove the junked vehicle(s). The owner or occupant shall be liable to the County for the costs incurred by the County for the removal and disposition of the junked vehicle(s).

## SECTION X. REMOVAL BY COUNTY, WITHOUT CONSENT.

If the owner or occupant does not consent to removal of the junked vehicle(s), the County may:

- A. File a criminal complaint in the Magistrate Court pursuant to this chapter. Upon conviction of the defendant, the Magistrate Judge may impose sentence as herein provided and may defer or suspend such sentence on the condition that the defendant removes the junked vehicle(s) and pays court costs and attorneys' fees incurred by the County, together with such fines and/or corrections fees, as are otherwise provided for by law; or
- B. File suit in District Court seeking a court order allowing the County to remove the junked vehicle(s) and dispose of them as provided in this chapter and pursuant to NMSA 1978, § 30-8-8. The County Attorney may seek a judgment against the defendant for costs of

- removal, disposition, court costs and reasonable attorneys' fees.
- C. The party complaining to the Sheriff's office of the existence of a junked or abandoned vehicle may, if dissatisfied with the determination of the Sheriff, bring an action in the Magistrate Court of Grant County to enforce this chapter and thereby independently seek removal of the junked or abandoned vehicle. The complaining party must own property or reside at a location that is within one mile of the location about which the complaint is being filed. Such actions shall be at the sole cost and expense of the person filing such action.
  - D. Any party who files a complaint in Magistrate Court must appear in that court to testify regarding the complaint he has filed. Failure to appear is grounds for dismissal of the complaint.

#### SECTION XI. DISPOSAL.

The Sheriff shall dispose of junked vehicle(s) which come into his possession pursuant to this chapter and/or as otherwise provided by law. A licensed dismantler receiving any junked vehicle(s) shall notify the Motor Vehicle Division as required by NMSA 1978, § 66-3-115. In no event shall a junked vehicle be reconstructed or rendered operable following removal, except as provided by NMSA 1978, § 66-3-121.

#### SECTION XII. ADMINISTRATION.

This chapter shall be administered by the Sheriff's Office and/or Code Enforcement of Grant County and/or regularly salaried, full-time deputies of the Grant County Sheriff, except that the removal of vehicles or parts thereof from the property may be made by any person duly licensed under NMSA 1978, § 66-4-1 et seq.

#### SECTION XIII. OBSTRUCTION TO TRAFFIC.

Nothing contained in this chapter shall affect or be construed to prohibit the immediate removal of a vehicle left without authorization on any public or private property or which constitutes a danger or obstruction to traffic.

#### SECTION XIV. ENFORCEMENT.

The Sheriff's Office and/or Code Enforcement or his agent may examine vehicles or parts thereof, in connection with their investigation, to obtain information as to the ownership or identity of vehicles or owners or occupants, and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter.



Owners of vehicles may be subject to state and federal regulations regarding the appropriate maintenance and disposition of vehicles, parts, fluids, and other materials related to the ownership and maintenance of vehicles. The County may report or suggest that the public report perceived violations to appropriate state and federal agencies depending on the circumstances.

#### SECTION XV. EXCEPTIONS.

This chapter shall not apply to the following vehicles:

- A. A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from a street or other public or private property;
- B. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer, automobile mechanic and/or repair and/or body shop, dismantler, wrecker, or junkyard. Provided, however, that such businesses must have a valid business license from Grant County to operate. Further, such businesses must be in compliance with all federal and state statutes regulating their operations;
- C. An unlicensed, operable or inoperable historical or special interest vehicle stored by a collector on his property, provided that such vehicle and the outdoor storage area(s) are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a solid fence, trees, shrubbery or other appropriate means. Such storage areas shall be kept free of weeds, trash and other objectionable items (NMSA 1978, § 66-11-3);
- D. Any operable motor vehicle specifically adapted or constructed for racing or operation on privately owned drag strips or raceways; or
- E. Any motor vehicle stored on the property of a member of the Armed Forces of the United States who is on active duty assignment outside of the County.

#### SECTION XVI. VIOLATIONS AND PENALTIES.

Any person violating the provisions of this chapter shall be deemed to be guilty of a misdemeanor and shall be punished as provided for in NMSA 1978, § 4-37-3.

#### SECTION XVII. EFFECTIVE DATE.

This Ordinance shall take effect thirty days after the recording date.

APPROVED, ADOPTED AND PASSED THIS 23<sup>rd</sup> DAY OF June, 2022.

BOARD OF COUNTY COMMISSIONERS  
GRANT COUNTY, NEW MEXICO:

[SEAL]

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Chris M Ponce, Chair

  
\_\_\_\_\_  
Harry Browne, Vice Chair

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Javier Salas, Member

  
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Gerald W. Billings, Jr., Member

  
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Alicia Edwards, Member

  
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Marisa Castrillo, Clerk

