

1978 WL 34985 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 17, 1978

*1 John W. Bledsoe
Chief
New Ellenton Police Department
P. O. Drawer 479
New Ellenton, S. C. 29809

Dear Mr. Bledsoe:

In your letter of June 21, 1978 to this Office you asked for an opinion as to the legality of an ordinance pertaining to junk automobiles, a copy of which you forwarded with your letter. Please be advised that [Section 5-7-80, Code of Laws of South Carolina](#), 1976 authorizes municipalities to adopt ordinances relating to upkeep of property within a municipality. This section specifically states.

(1) Any municipality is authorized to provide by ordinance that the owner of any lot or property in the municipality shall keep such lot or property clean and free of rubbish, debris and other unhealthy and unsightly material or conditions which constitute a public nuisance.

(2) The municipality may provide by ordinance for notification to the owner of conditions needing correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions and may provide that the cost of such shall become a lien upon the real estate and shall be collectable in the same manner as municipal taxes.

Therefore, it would appear that the ordinance relating to junked automobiles could be authorized by such section. Arguably, a junked automobile could come within the definition of 'rubbish, debris, and other unhealthy and unsightly material or conditions which constitute a public nuisance.' Presumably if the ordinance was properly adopted, you could enforce it. However, I would suggest that you contact your city attorney in this regard.

As to the question of what constitutes a junk automobile, your letter indicates that the following guidelines were proposed by your city attorney to be used in determining whether an automobile comes within the definition of junked automobile:

1. Vehicle idle and not being worked on
2. Vehicle not in running condition
3. Vehicle has no current inspection sticker
4. Vehicle has been stationary long enough to become a health hazard

The only definition I have found as to what constitutes junked automobiles is ' . . . such automobiles as have outlined their usefulness as automobiles and have entered the state of waste or discarded material.' [Words and Phrases](#), Vol. 23A, p. 112, Junked Automobile. For purposes of determining what is a junked automobile, I would suggest you refer to the above guidelines suggested by your attorney and make a determination based on your observations of such vehicles. No firm definition can be provided.

As to your question concerning a junk vehicle which is enclosed behind a chain-link fence but is still visible, in my opinion your ordinance as drafted does not deal with whether a vehicle is visible per se but instead is designed to prohibit abandoned or junked automobiles from remaining on property within your jurisdiction. You may wish to refer to [Section 57-27-10, Code of Laws of South Carolina](#), 1976, which constitutes the Junkyard Control Act, which is directed against the maintenance of a junkyard within one thousand feet of the nearest edge of the right of way of any interstate or Federal aid primary highway in this State.

*2 With best wishes, I am

Very truly yours,

Charles H. Richardson
Assistant Attorney General

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