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HEARING BEFORE MAGISTRATE FOR PERSONS WHOSE VEHICLES HAVE BEEN TOWED

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Ch. 1239 (H 1645) allows certain persons whose motor vehicles have been towed to have a quick hearing before a magistrate to determine if the towing was proper. If the towing is not proper the county or state rather than the owner of the vehicle must pay the towing charges. The bill was passed as a result of a concern that allowing motor vehicles to be towed without the oppurtunity for a quick hearing would be an unconstitutional taking of property without due process of law. (Maryland and California towing ordinances have been held unconstitutional--Heummer v. Ocean City, 632 F.2d 371 (1980) and Stypmann v. San Francisco, 557 F.2d 1338 (1977)).

The new law leaves many procedural questions unanswered. This memorandum will attempt to explain the new law and suggest procedures for implementing it. A step-by-step suggested procedure is set out at the end as Appendix A.

TO WHOM LAW APPLIES

The new G.S. 20-161.2 grants the right to a hearing to the registered owner, lienholder, or person entitled to claim possession of a vehicle that has been removed, towed, or stored. The law applies to motor vehicles towed pursuant to G.S. Ch. 20 or those towed under G.S. 115C-46(d) (towing from public school grounds); G.S. 116-44.4 (towing from one of UNC constituent universities); or G.S. 143-340(19) (towing from a state parking lot). The law was not intended to cover motor vehicles towed pursuant to G.S. 160A-303 which authorizes cities to adopt ordinances authorizing city law enforcement officers to have moved (1) motor vehicles left on a street in violation of a law or ordinance pro-

hibiting parking or (2) motor vehicles left on city-owned property or on private property or to motor vehicles towed pursuant to G.S. 153A-132, which authorizes counties to adopt ordinances to have moved motor vehicles parked on county-owned property or private property.[1] Also the law does not cover towing from community colleges under G.S. Ch. 115D (apparently by virtue of an unintended omission).

PROBABLE CAUSE HEARING PROCEDURE

After a motor vehicle has been towed, stored, or removed, an owner or other claimant who contests the towing may request in writing a hearing before a magistrate in the county where the vehicle was removed, stored, or towed. The Administrative Office of the Courts has issued a form that may be used for the request. A slightly modified copy of that form is found as Appendix B at the end of this memorandum. Magistrates should ask their clerks to duplicate the attached form so copies are available to persons who wish to contest a towing. The law does not specify whether a request for a hearing is filed with the clerk who then sets up the hearing before a magistrate as in all other civil matters or whether the request is made directly to a magistrate. The simplest and best procedure to follow (particularly with the statutory time constraints) would be for the request to be given directly to a magistrate. The law specifies that a magistrate must hold a hearing as soon as practical but in no event more than 24 hours from the request. It provides that an affidavit by the person authorizing the removal stating the circumstances surrounding the removal, towing, or storage is admissible into evidence, and the person who authorized the removal need not personally appear and testify. However, the new law does not require notice of the hearing to be given to the person who ordered the vehicle to be towed, removed, or stored. Highway patrolmen have been instructed to fill out an affidavit and file it with the magistrate's office every time they authorize the towing or removal of a motor vehicle. Magistrates should set up a file in their offices to receive these affidavits. Then, when a person makes a written request for a hearing, the magistrate on duty can check the file to see if an affidavit from the highway patrolman is available. Probably the best way to file the affidavits is by vehicle license number.

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1. G.S. 20-161.2 does not limit its provisions to towing under Ch. 20; it provides that upon request of the owner of any vehicle towed or removed, the magistrate shall conduct a hearing. An argument can be made therefore that the statute applies to all towing under any statute or ordinance. However, an assistant Attorney General has advised that, if asked, he will rule that because the towing hearing provision is found in Ch. 20, it applies only to towing pursuant to Chapter 20. The towing provision also applies to towing under G.S. Chapters 115C, 116, and 143 because those towing statutes were specifically amended to require the hearing.

Problems with keeping a file system may arise in counties with more than one location for magistrates' offices. In those counties, some system will have to be devised so that when a person files a written request for a hearing at magistrates' office A, the magistrate will know that an affidavit has been filed by the law enforcement officer in magistrates' office B. One possible procedure is to require law enforcement officers to file all affidavits at one office in the county--usually that would be the office at the county seat. Then if a person comes to another office and requests a hearing, the hearing could be set up at the office where the affidavits are kept at a time definite within the next 24 hours. For example, Orange County has two magistrates' offices--one in Hillsborough and one in Chapel Hill. Officers could be asked to file all affidavits in Hillsborough. If at noon on Thursday, a car owner files a written request for a hearing at the Chapel Hill magistrates' office, the magistrate in the Chapel Hill office can tell him to appear before the Hillsborough magistrate at 11 a.m. Friday (or any time earlier, if practical) for a hearing. Another possibility would be for the magistrate in the outlying office to check the central office to see if an affidavit has been filed. If one has been filed, the magistrate would set a hearing in the central office as provided in the example above. If no affidavit had been filed, then the magistrate might want to proceed to hear the matter in his office rather than setting a hearing at the central office. Another possibility is to have officers file affidavits in the office closest to the place to which the vehicle was towed or closest to the place from which the vehicle was towed. Either of these procedures would require more checking to determine if a law enforcement officer had filed an affidavit about the towing. Perhaps the best solution would be for counties with multiple magistrates' offices to require all requests for a towing hearing be made and all affidavits by law enforcement officers be filed in one central magistrates' office.

Another problem is what should the magistrate do when the vehicle was towed by an officer other than a highway patrolman. Sheriffs tow vehicles pursuant to G.S. Ch. 20, and they may not have been instructed to file affidavits every time they authorize towing. The Attorney General's office (through a memo from David Crump) has recommended that sheriff's offices may want to require deputies to file affidavits whenever they authorize towing and has sent copies of a model affidavit form to each sheriff. Magistrates should check with their sheriff's department to determine what procedure will be followed. If the department will not automatically be filing affidavits and if the vehicle was towed pursuant to a statute covered by this new law, then the question becomes should the magistrate try to get in touch with the officer to have him submit an affidavit or appear at the hearing to testify? One possible solution, and the one recommended by the Administrative Office of the Courts, is that a copy of all requests for a hearing where the vehicle was towed by a deputy sheriff be forwarded by the magistrate to the duty captain in

sheriff's office. (The modified AOC request for a hearing form includes information about who authorized the towing of the vehicle.) The sheriff's office would then be able to determine whether they wanted to present evidence at the hearing. (If that procedure is followed, the magistrate should set the hearing time 24 hours after the request was filed to give the department time to prepare for the hearing.)

If the vehicle was towed by a city policeman, the car owner would not be entitled to a hearing except where a city policeman authorizes towing from a city school, university, or state parking lot pursuant to G.S. 115C, 116 or 143A. In any other case when a city policeman tows a vehicle, he is probably towing under a city ordinance authorized by G.S. Ch. 160A, and the magistrate should inform the car owner that the law does not provide him with an opportunity for a hearing. It is possible for a policeman to tow pursuant to G.S. Ch. 20 rather than a city ordinance and if the car owner shows that the towing was under G.S. Ch. 20 rather than a local ordinance, he is entitled to a hearing. For example, if the city has no ordinance prohibiting improper parking in handicapped spaces and a police officer authorizes a car to be towed from such a space, he is acting pursuant to G.S. 20-37.6 and the car owner would be entitled to a hearing.

Setting the Hearing

The magistrate has several options in determining when to set the hearing. First, if the vehicle was authorized to be towed by a highway patrolman and the county has one office at which officer's affidavits are to be filed and at which requests for hearings are made, the magistrate can hold the hearing immediately on request. Since patrolmen are required to file affidavits with the magistrate when they have a car towed, the magistrate can pull the affidavit out of the file and immediately hold the hearing. If no affidavit has been filed, the magistrate may hear the case without any evidence from the officer, assuming that if no affidavit is filed, none will be. A magistrate's office following this procedure may want to allow an immediate hearing without a highway patrolman's affidavit only if a sufficient amount of time has elapsed between the towing and the request for the hearing to allow the patrolman to file his affidavit.

If the vehicle was towed at the request of a sheriff (when the department does not have a policy of filing affidavits after each towing) or pursuant to G.S. Chapter 115C, 116, or 143, the magistrate could follow a policy of setting a hearing 24 hours after the request was made, sending a copy of the request for the hearing to the agency authorizing the towing so an officer from that agency can appear and testify at the hearing or submit an affidavit about the towing. The magistrate should note on the copy going to the law enforcement agency the time of the hearing.

Another possible procedure is for all hearings to be set 24 hours after a request for a hearing is made.

Legal Issue at Hearing

The issue for the magistrate at the hearing is whether probable cause existed for the towing, removal, or storage of the vehicle. The usual provision under which highway patrolmen or sheriffs tow vehicles from the side of a highway or street is G.S. 20-161. If the vehicle was towed by a highway patrolman or a sheriff pursuant to G.S. 20-161, the magistrate must find probable cause to believe that:

(1) (a) the vehicle was parked or left stading in violation of the law and (b) that it was interfering with the regular flow of traffic or otherwise constituted a hazard, or
(2) that the vehicle had been parked or left standing upon the right-of-way of a public highway for a period of 48 hours or more.

If the vehicle was towed from a handicapped space or for blocking a curb ramp (outside the city limits, or not covered by a city ordinance), it was towed pursuant to G.S. 20-37.6. For a violation of G.S. 20-37.6(e)(1) magistrate must find probable cause to believe that (1) the vehicle was parked in a space designated for handicapped or visually impaired persons; (2) the vehicle did not display the required distinguishing license plate or placard; and (3) that the space was marked by the use of an upright sign marked reserved parking with a handicapped symbol on it. For violation of G.S. 20-37.6(e)(3) the magistrate must find probable cause to believe that the vehicle was parked so as to obstruct a curb ramp or curb cut for handicapped persons as provided for by the Building Code or as designated in G.S. 136-44.14. If the vehicle was towed from a fire lane (outside the city limits or not covered by a city ordinance), it was towed pursuant to G.S. 20-162(b). The magistrate must find probable cause to believe that the vehicle was parked upon a public vehicular area, street, highway or roadway in any area disignated as a fire lane.

If the vehicle was towed off a state university campus, the magistrate must find that probable cause to believe the vehicle was parked in violation of an ordinance adopted by the board of trustees of the university involved and that the ordinance provided that illegally parked vehicles could be removed. The universities covered by G.S. 116-44.4 are UNC at Chapel Hill, N.C. State University, UNC at Greensboro, UNC at Charlotte, UNC at Asheville, UNC at Wilmington, Appalachian State University, East Carolina University, Elizabeth City State University, Fayetteville State University, N.C. A & T University, N.C. Central University, N.C. School of the Arts, Western Carolina University, and Winston-Salem State University. Magistrates in counties in which these

schools are located should get a copy of the parking regulations for their university to be kept in the magistrates' office.

If the vehicle was towed from a local public school grounds pursuant to G.S. 115C-46, the magistrate must find probable cause to believe (1) that the motor vehicle was parked in a parking lot on school grounds, (2) that the lot was clearly designated as a parking lot by a sign no smaller than 24 inches by 24 inches at the entrance, and (3) that the parking was in violation of the rules and regulations adopted by the local board of education or that the motor vehicle was otherwise parked on school grounds in violation of the rules and regulations adopted by the local school board. Magistrates should ask all school boards in their county that have vehicles towed to supply one copy of the rules and regulations governing parking to the magistrates' office.

If the vehicle was towed from a state parking lot (pursuant to G.S. 143-340(19)), the magistrate must find probable cause to believe that (1) the lot was clearly designated a state-owned parking lot by a sign no smaller than 24 inches by 24 inches at the entrance and (2) that the car was parked in violation of the "Rules and Regulations Governing State-Owned Parking Lots."

If the vehicle was towed by a city policeman pursuant to a local city ordinance authorized by G.S. 160A-303 or by a sheriff pursuant to county ordinance authorized by G.S. 153A-132 regulating parking on county property or public grounds (only a few counties even have such ordinances), under the interpretation of the Attorney General, the owner of the vehicle is not entitled to any probable cause hearing by the magistrate, and the magistrate should refuse to hear the case. Similarly, if the vehicle is towed from a community college or technical college campus pursuant to G.S. Chapter 115D, the owner of the vehicle is not entitled to a hearing, and the magistrate should not conduct a hearing.

As mentioned previously Ch. 1239 provides that an affidavit setting forth the reasons for and circumstances surrounding the removal, towing or storage is admissible as evidence for the person authorizing the towing. Other witnesses (the car owner and garageman) must actually appear and testify if they want to be heard.

One of the uses of towing under G.S. 20-161 occurs when a highway patrolman or sheriff arrests a person for driving under the influence of alcoholic beverages, and the officer has the driver's car towed. The officer's authority to tow the vehicle must come either from G.S. 20-161 or consent of the driver.[2]

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2. An argument can be made that a law enforcement officer has the inherent power to tow the vehicle of a person he has arrested. Basically, the argument is that the officer becomes a bailee of the driver of the vehicle and has some responsibility for safekeeping the vehicle of a person under his custody. If that argument is accepted, then following the Attorney General's argument that the towing hearing provision only applies to towing pursuant to Chapter 20, the person towed under the bailment theory would not be entitled to a hearing. However, since the assistant Attorney General representing the highway patrol does not accept this argument and is the person who will issue opinions interpreting this statute, it is best to assume that the officer must tow under G.S. Ch. 20 or with owner's consent.

Assume the following fact situation: Officer Smith arrests Mr. Jones for DUI, Officer Smith has Mr. Jones' car towed, and then brings Mr. Jones down to the courthouse for an initial appearance before a magistrate; the magistrate finds no probable cause on the DUI; Mr. Jones goes to pick up his car and finds out it has been towed and the garageman won't give it back unless Mr. Jones pays him $50; Mr. Jones returns to the magistrate's office and makes a written request for a hearing on the towing. The sole question for the magistrate at the towing hearing is whether the officer has the authority to tow the car (e.g., was the vehicle parked in violation of law and constituting a hazard or interfering with the regular flow of traffic). The fact that no probable cause was found in the DUI case has no bearing on the towing hearing.

The magistrate must enter an order setting out his findings in the probable cause hearing. The Administrative Office of the Courts has issued a form for this purpose, a copy of which is attached at the end of this memorandum as Appendix C. If the magistrate finds no probable cause for the towing, he must order the vehicle released to the vehicle owner or claimant immediately and the person who towed, stored, or removed the vehicle would have no lien in it. The law provides that "every agency whose law enforcement officers act pursuant to this statute shall, by contract or regulations, provide compensation to the person who removed, towed or stored the vehicle if the court finds the removal, towing, storage was without probable cause" (G.S. 20-161.2(e)). Thus, if a highway patrolman authorizes removal of a vehicle and the magistrate finds no probable cause for its removal, the State of North Carolina must pay for the removal. If a sheriff authorizes removal of the vehicle, the county is responsible for paying the removal fees. The new law specifically provides that the law enforcement officer himself may not be held liable for the costs of removal, towing, or storage.

Appeal

The new law sets out no provision for appealing a magistrate's finding of no probable cause. Because of the significnce of such a finding--the state or county is held liable for costs of removal of the vehicle--chief district court judges might want to consider setting up a procedure allowing an appeal to the chief district court judge (or any district court judge) upon a finding of no probable cause. Appeal from a finding of probable cause would not be necessary because the vehicle owner has ways to proceed to contest the lien, which are discussed below.

After the hearing the magistrate's order on the probable cause hearing, the claimant's request for a hearing, and the officer's affidavit, if any, should be sent by the magistrate to the clerk of superior court. The clerk should file the papers as a miscellaneous filing and should purge the records every ninety days.

CAR OWNER'S OPTIONS AFTER PROBABLE CAUSE HEARING

If the magistrate finds probable cause to believe the towing, removal, or storage of the vehicle was proper under the law, the garageman may then proceed to enforce his lien under G.S. Chapter 44A. The vehicle owner or other person entitled to claim possession has three basic options on how to proceed at this point. First, he can pay the costs of removal, towing or storage to the garageman, get his vehicle back and consider the matter closed.

Second, he can post a bond with the clerk of court and then file a lawsuit against the garageman and person authorizing the towing to contest the towing. G.S. 20-161.2 provides that the bond must be conditioned upon the return of the vehicle to the court at the time of the trial and upon the filing of an action to determine the lawfulness of the removal, towing, or storage. The amount of the bond is the amount of the storage, removal, or towing fees. Upon the filing of the bond by the vehicle owner or other claimant, the clerk must order the garageman to turn the vehicle over to the owner. The owner must then file a lawsuit within 30 days after posting the bond. The statute provides that if the owner does not file a lawsuit within 30 days after posting the bond, the clerk "shall pay the bond to the person that actually removed, towed, or stored the vehicle." Presumably, if the bond is a surety, and not cash, bond, the clerk must order the bond forfeited and order the surety to pay the money to the person who removed, towed, or stored the vehicle. If the owner of the vehicle does file a lawsuit, the new law requires that it be filed as a small claim and in the county where the vehicle was towed, removed, or stored. The complaint must ask for money--the amount of the removal, towing, storage fees--and must list as defendants both the garageman and the person who authorized the removal, towing or storage of the vehicle. The statute provides that:

> if, at trial, the court finds that the vehicle was lawfully removed, it shall enter judgment against the party claiming the vehicle for the amount of the removal, towing or storage fees. The court shall further order possession of the vehicle restored to the person who removed, towed, or stored the motor vehicle and further declare a valid and enforceable mechanics lien upon the vehicle in favor of said person . . . for the amount of the removal, towing, or storage fees. If the court finds the removal, towing, or storage was in violation of law, it shall order the immediate release of the motor vehicle and any bond remitted to the claimant.

The problem with this statute is that it requires the plaintiff (vehicle owner or claimant) to sue for money, but if he wins (i.e., proves by the greater weight of the evidence that the garageman did not have a valid lien), he doesn't get a judgment for the relief he prayed for in his complaint--money. Rather, the magistrate is supposed to render a judgment ordering the defendant

garageman to return the vehicle to the plaintiff and ordering the clerk to remit the bond to the plaintiff. If the plaintiff loses at the trial, rather than dismiss the case, this statute would have the magistrate find for the defendant. Essentially, without having to file a counterclaim, the statute provides that if the plaintiff fails to prove by the greater weight of the evidence that the towing was improper, then the magistrate would find that the defendant proved by the greater weight of the evidence that he had an enforceable lien. In my opinion, the magistrate should not follow the statute as written. He should require the garageman defendant to prove by the greater weight of the evidence that he is entitled to enforce his lien before issuing a judgment enforcing the lien. The garageman must prove that (1) he tows or stores motor vehicles in the ordinary course of his business, (2) he stored or towed this vehicle pursuant to an express or implied contract with an owner or legal possessor of the motor vehicle and (3) the lien he claims is based on reasonable charges for the towing or storing. To prove element (2) the garageman will have to prove that the law enforcement officer who authorized the towing was a legal possessor, i.e., was entitled to possession by operation of law. Chapter VII of the Manual for Magistrates fully discusses what the garageman needs to prove to be entitled to enforce his lien. If the vehicle owner after posting a bond and filing a lawsuit fails to appear at trial, the magistrate should enter an order of dismissal, order the bond forfeited and the proceeds to be distributed to the person who removed, towed, or stored the vehicle. If a judgment is given authorizing the lienor to enforce his lien, the garageman must send a copy of that judgment to the Division of Motor Vehicles along with a notice of intent to enforce a lien to get authority from DMV to sell the vehicle. (Chapter VII of the Manual for Magistrates contains a full discussion of the garagemen's procedure to enforce his lien.)

The third option of the car owner or claimant is to leave the vehicle with the garageman and assert his defense in a judicial hearing by the garageman when he tries to enforce his lien. Under G.S. Ch. 44A, the garageman must notify DMV of his intent to sell the vehicle. DMV then notifies the car owner that he may request a judicial hearing. If the car owner requests a judicial hearing the garageman must file a lawsuit to enforce his lien, and the car owner can come into and defend that lawsuit on the grounds that since the towing was not proper under the law, the person who authorized the towing was not a legal possessor, and therefore the garageman was not entitled to a lien.

SHERIFFS' DUTIES UNDER CH. 1239

Obviously, since the county may be held liable for a towing by the sheriff that is without probable cause, the sheriff's office will want to be particularly careful in making sure vehicles are towed or removed pursuant to law.

A deputy sheriff should not tow or remove a vehicle found abandoned on the highway unless he is confident he can satisfy a magistrate either that the vehicle had been left there for 48 hours or more or that the vehicle was left parked or standing in violation of law and was interfering with the regular flow of traffic or otherwise constituted a hazard.

If a deputy arrests a person for some traffic violation or other crime, and the vehicle is pulled on the shoulder of a highway, it is not in violation of law and under G.S. 20-161 may not be towed until it has been left there for at least 48 hours. A deputy might ask the person arrested if he would rather have his vehicle towed and stored at the owner's expense or left on the shoulder of the highway. If the vehicle owner chooses to have the vehicle towed, he is consenting to the towing, and the deputy sheriff should make it clear to the person towing the vehicle that it is the vehicle owner and not the officer who is authorizing the towing. There is one situation where the deputy sheriff should be very careful in relying on the arrested vehicle owner's consent to towing--where the owner is being arrested for driving under the influence of alcoholic beverages or drugs. In those cases, the owner may later argue that he could not give valid consent because he was drunk. Probably the best standard for the deputy to use is to determine whether the person arrested is too intoxicated to be able to understand and to waive his Miranda rights. If he could not waive his Miranda rights, he probably cannot consent to have his vehicle towed, and the deputy should leave it parked on the shoulder of the highway.

In towing from a handicapped parking space, the deputy should make sure the space is marked by an upright sign.

Each sheriff's department needs to develop a policy on how they will respond to towing hearings. Several options are available. First, as recommended by the Attorney General's Office the sheriff could require any deputy who authorizes a vehicle to be towed or stored to complete an affidavit setting out the circumstances and file the affidavit with the magistrates' office, thus following the same procedure the highway patrol is using.

A second option would be to ask deputies to make their own notes whenever they authorize towing of a vehicle and do nothing else unless and until the department is notified that car owner has requested a hearing before the magistrate. After being notified of the hearing, the deputy authorizing the hearing may either appear at the hearing as a witness or submit an affidavit. The problem with this latter procedure is that the car owner is entitled to a hearing within 24 hours after request. The hearing request may be made when the deputy is off duty or out of town, and in some cases, the department might not be able to get in touch with the deputy in time to produce evidence at the hearing, thus possibly resulting in the county being held liable for the towing charges.

APPENDIX A
Step-by-Step Suggested Procedure
For Holding Towing Hearings

1. Designate one magistrate's office in county to receive affidavits from officers towing vehicles and to receive requests for hearings.

2. Set up file in magistrate's office for affidavits by officers.

3. On receipt of affidavit, file by license plate number in affidavit file.

4. On receipt of a written request for a hearing, check affidavit file to see if officer has filed affidavit.

5A. If affidavit has been filed, you may hold probable cause hearing immediately.

5B. (1) If no affidavit has been filed, set hearing 24 hours from time request made and tell person requesting hearing to return at that time.

(2) Note on request for hearing time at which hearing to be held and send copy of request to law enforcement agency authorizing hearing. (If highway patrol authorized towing, you might call local office and tell them when hearing will be held. If sheriff's office authorized towing, you might carry a copy over to the duty officer, if you are in the same building.)

6. Hold hearing and determine whether there was probable cause for the officer to have authorized the towing, removal or storage of the vehicle.

7. Issue written order.

8. Send written request for hearing, order and officer's affidavit, if any, to clerk of superior court.

9. If finding was that there was no probable cause for the towing, you might also send a copy of the finding to the garageman who towed or removed the vehicle and the law enforcement officer that authorized the removal of the vehicle.

10. On receipt the clerk should file the documents as a miscellaneous filing.

11. If the district court judge has established a procedure for an appeal of a no probable cause finding, follow that procedure if an appeal is entered.

12. The clerk may purge the file of orders and accompanying documents more than 90 days old.

APPENDIX B

In the General Court of Justice
District Court Division
Before the Magistrate

STATE OF NORTH CAROLINA

County of _____

REQUEST OF OWNER, LIENHOLDER, OR PERSON ENTITLED TO CLAIM POSSESSION FOR HEARING ON PROBABLE CAUSE TO REMOVE, TOW OR STORE MOTOR VEHICLES.

TO THE HONORABLE MAGISTRATE OF _____ COUNTY:

I hereby declare that I am the *(registered owner)(lienholder)(person entitled to claim possession)* of the _____ _____ _____ motor vehicle, serial number _____ license plate state and number _____ which has been *(removed)(towed)(stored)* in this county. The vehicle was *(removed)(towed)* from the following place: _____ _____. The *(removal)(towing)(storage)* was authorized by a law enforcement officer from the _____ department.

(YEAR) (MAKE) (MODEL)

I request that a magistrate, as soon as may be practical, conduct a hearing to determine whether probably cause existed for the removal, towing, or storage of the vehicle.

This _____ day of _____, 19_____.

_____
Signature of (Owner)(Lienholder)(Person entitled to claim possession)

(NOTE: Strike out inapplicable words.)

APPENDIX C

STATE OF NORTH CAROLINA
County of _____

ORDER

This cause being heard before me, and the *(registered owner)(lienholder)(person entitled to claim possession)* having presented evidence, and the person authorizing the removal, towing or storage of the motor vehicle described having

☐ presented evidence by affidavit

☐ testified in person

☐ not presented any evidence at the hearing

It is Ordered that

☐ there was probable cause for the removal, towing or storage of the motor vehicle.

☐ there was no probable cause for the removal, towing or storage of the motor vehicle, and the vehicle shall be immediately released to the claimant.

This the _____ day of _____, 19 _____.

_____
MAGISTRATE

(NOTE: Strike out inapplicable words.)