

# STATE OF NORTH CAROLINA

File No.

\_\_\_\_\_ County

In The General Court Of Justice

District  Superior Court Division

Name Of Defendant			<b>LIENHOLDER'S PETITION FOR RELEASE OF SEIZED MOTOR VEHICLE NOTICE OF HEARING/WAIVER AND ORDER - IMPAIRED DRIVING</b>	
Defendant's Drivers License No.		State		
Vehicle Identification No.				
Vehicle License No.		State		
Vehicle Type	Make	Year		

G.S. 20-28.2(d), 20-28.2(f), 20-28.3(e3)

## I. PETITION

The motor vehicle described above was seized on the date shown above pursuant to G.S. 20-28.3(a). The undersigned petitions for:

(Check one or both, as applicable)

- pretrial release of the motor vehicle pursuant to G.S. 20-28.3(e3), after a hearing on this Petition to be held upon ten (10) days prior notice to all interested parties.
- post-trial release of the motor vehicle pursuant to G.S. 20-28.2(f), after the hearing on the forfeiture of the vehicle.

The undersigned states:

1. The petitioner is:
  - a. an individual.
  - b. a firm or corporation acting through the undersigned agent.
2. The petitioner holds a security interest in the motor vehicle that had been perfected at the time of the seizure and that appears on the title to the vehicle.
3. Default on the obligation secured by the motor vehicle has occurred and the vehicle owner is in default under the terms of the security instrument evidencing the petitioner's interest in the vehicle.
 

**NOTE:** *The court may require petitioner to present documentation that supports the allegation that the vehicle owner is in default.*
4. As a consequence of the default, the petitioner is entitled to possession of the motor vehicle.
5. The petitioner agrees to sell the motor vehicle in accordance with the terms of the security agreement and pursuant to the provisions of Part 6 of Article 9 of Chapter 25 of the General Statutes, and pay to the Clerk of Superior Court the proceeds from the sale, less the amount of the lien and less the towing and storage costs paid by the petitioner.
6. The petitioner agrees not to sell, give or otherwise transfer possession of the motor vehicle to the defendant, to the motor vehicle owner or to any person acting on behalf of the defendant or the motor vehicle owner. **NOTE:** *A lienholder who refuses to sell, give or transfer possession of the motor vehicle to the defendant, the motor vehicle owner or any person acting on behalf of the defendant or the motor vehicle owner shall not be liable for damages arising out of such refusal. G.S. 20-28.2(f); G.S. 20-28.3(e3).*
7. The motor vehicle has not previously been released to the petitioner.

Name, Address And Telephone No. Of Petitioner (Type Or Print)		Date	
		Signature Of Petitioner	
		Drivers License No. (Individual Petitioner Only)	Date

## II. NOTICE OF HEARING (FOR PRETRIAL RELEASE PETITION)

**To each registered owner and titled owner of the motor vehicle described above, to the attorney for the board of education of the county named above, and to the District Attorney for the prosecutorial district that includes the county named above:**

A hearing on the above petition will be held on the date and at the time and location shown below.

Date Of Hearing	Time Of Hearing	<input type="checkbox"/> AM <input type="checkbox"/> PM	Location Of Hearing
Date	Name Of Petitioner		Signature Of Petitioner

**NOTE TO PETITIONER SEEKING PRETRIAL RELEASE:** *If, when this petition is filed, all parties have not signed the "Waiver Of Hearing And Consent To Release" on Side Two, you must obtain a date, time and location for a hearing on this petition in accordance with any calendaring practices in effect in this district. You must insert that information in the "Notice Of Hearing" on Side One, date and sign the "Notice Of Hearing," and serve a copy of the Petition and Notice of Hearing on all interested parties. You must then file a certificate of service in this case, showing who was served and by what means. Service may be made by delivering a copy to the person to be served or mailing a copy to that person at the person's last known address.*

(Over)

**III. WAIVER OF HEARING AND CONSENT TO RELEASE  
(FOR PRETRIAL RELEASE PETITION)**

Each undersigned party waives a hearing on the above Petition and consents to the release of the motor vehicle described above to the petitioner pursuant to G.S. 20-28.3(e3).

Party	Name	Date	Signature
Registered Owner			
Titled Owner			
District Attorney			
School Board Attorney			

**IV. CLERK'S ORDER RELEASING MOTOR VEHICLE ON PARTIES' CONSENT  
(FOR PRETRIAL RELEASE PETITION)**

On the petition of the lienholder named on the reverse side for release of the motor vehicle described on the reverse side, the undersigned finds:

- All interested parties have waived notice and a hearing on the petition and have consented to the release of the motor vehicle to the petitioner, as evidenced by their signatures above.
- The petitioner holds a security interest in the motor vehicle that had been perfected at the time of the seizure and appears on the title to the vehicle.
- The petitioner has agreed not to sell, give, or transfer possession of the motor vehicle to the defendant named on the reverse side, to the motor vehicle owner or to any person acting on behalf of the defendant or the motor vehicle owner.

Therefore, it is **ORDERED** that the motor vehicle described on the reverse side be released to the petitioner upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of that vehicle, and the Clerk of Superior Court shall disburse to the lienholder any funds being held by the Clerk representing proceeds of insurance for damage to the motor vehicle. The petitioner shall not sell, give or otherwise transfer possession of the motor vehicle to the defendant, to the motor vehicle owner or to any person acting on behalf of the defendant or the motor vehicle owner.

**NOTE:** Violation of this condition shall be punishable by civil or criminal contempt. G.S. 20-28.3(e3). In addition, see the NOTICE TO PARTY OBTAINING RELEASE below.

Date	Signature	<input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
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**V. JUDGE'S ORDER ON PETITION AFTER HEARING**

This matter is before the Court on the petition of the lienholder named on the reverse side for release of the motor vehicle described on the reverse side. A hearing was held before the Court on this date. If this is a petition for pretrial release, a copy of the petition and a notice of the hearing were served by the petitioner on all interested parties at least ten (10) days prior to the hearing, as evidenced by the petitioner's certificate of service on file in this case.

On the basis of the evidence presented and the entire record in this case, the Court finds by the greater weight of the evidence that:

- The petitioner holds a security interest in the motor vehicle that had been perfected at the time of the seizure and that appears on the title to the vehicle.
- Default on the obligation secured by the motor vehicle has occurred and the motor vehicle owner is in default under the terms of the security instrument evidencing the petitioner's interest in the vehicle.
- As a consequence of the default, the petitioner is entitled to possession of the motor vehicle.
- The petitioner has agreed to sell the motor vehicle in accordance with the terms of the security agreement and pursuant to the provisions of Part 6 of Article 9 of Chapter 25 of the General Statutes, and pay to the Clerk of Superior Court the proceeds from the sale, less the amount of the lien and less the towing and storage costs paid by the petitioner.
- The petitioner has agreed not to sell, give or otherwise transfer possession of the motor vehicle to the defendant, to the motor vehicle owner or to any person acting on behalf of the defendant or the motor vehicle owner.
- The motor vehicle has not previously been released to the petitioner.

It is **ORDERED** that:

1. The motor vehicle described on the reverse side be released to the petitioner upon payment of all towing and storage charges incurred as a result of the seizure and impoundment of that vehicle, and the Clerk of Superior Court shall disburse to the lienholder any funds being held by the Clerk representing proceeds of insurance for damage to the motor vehicle. The petitioner shall not sell, give or otherwise transfer possession of the motor vehicle to the defendant, to the motor vehicle owner or to any person acting on behalf of the defendant or the motor vehicle owner. **NOTE:** Violation of this condition shall be punishable by civil or criminal contempt. G.S. 20-28.3(e3).
2. The petition is denied. The motor vehicle shall remain impounded pending further orders of the Court.

Date	Name Of Presiding Judge (Type Or Print)	Signature Of Presiding Judge
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**NOTICE TO PARTY OBTAINING RELEASE:** "[W]ithin 30 days of the date of the court's [release] order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to [the] Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics' lien on the motor vehicle for towing and storage costs." G.S. 20-28.4.

**CERTIFICATION**

The foregoing is a true and correct copy of the original on file in this office.

Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Assistant CSC
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**NOTE TO CLERK:** The Clerk shall report to DMV by electronic means (STARS) the entry of an order of release. G.S. 20-28.8. The Clerk also may send a copy of the order of release to the county school board attorney and District Attorney.