

City of Alexandria, Virginia

16  
12-8-09

MEMORANDUM

DATE: DECEMBER 2, 2009

TO: THE HONORABLE MAYOR  
AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: ORDINANCE TO AMEND ARTICLE C (DISPOSITION OF ABANDONED,  
UNATTENDED AND IMMOBILE MOTOR VEHICLES), OF CHAPTER 8,  
TITLE 5 OF THE CITY CODE

**ISSUE:** Consideration of an ordinance to amend and reordain City Code Sections 5-8-21, 5-8-22, 5-8-24, 5-8-25, 5-8-27, 5-8-28, 5-8-29 and 5-8-30 of the City Code to reflect recent changes to the Virginia Code.

**RECOMMENDATION:** That City Council pass the proposed ordinance (Attachment 1) on first reading on December 8, 2009 and schedule it for public hearing, second reading and final passage on December 12, 2009.

**DISCUSSION:** Under the City Code, the City auctions unrepossessed abandoned motor vehicles after the City (1) conducts a records search for the owner(s) and/or lienholder(s) of the motor vehicle through the Virginia Department of Motor Vehicles (“DMV”) system and (2) mails notice to the record owner(s) and/or lienholder(s) or if there is no record owner(s) and/or lienholder(s) the City publishes notice of its possession of the motor vehicle in a local newspaper. The Virginia Code was recently amended to require that the City now request that the DMV conduct the records search and provide the notice previously provided by the City. Subsequently, if the motor vehicle is not repossessed, the Virginia Code now requires that the City post notice of its intent to auction an abandoned motor vehicle with the DMV for 21 days. However, it is still the City’s responsibility to provide notice to record owner(s) and/or lienholder(s) for all non-abandoned motor vehicles that are impounded. Then if those motor vehicles are not repossessed they are considered abandoned and subject to the new requirements set out above. Additionally, the City Code needs to be amended to reflect the Virginia Code changes to the definition of an abandoned motor vehicle and the deletion of the term “inoperable abandoned motor vehicle.” Finally, the City Code needs to be amended to include, along with demolishers, scrap metal processors related to those who can acquire vehicles for demolition and add new requirements to demolishers’ and scrap metal processors’ processes and recordkeeping.

**ATTACHMENT:** Proposed Ordinance

**STAFF:**  
Christina Zechman Brown, Assistant City Attorney  
Bob Garbacz, Division Chief, Transportation and Environmental Services

1	Introduction and first reading:	12/08/09
2	Public hearing:	12/08/09
3	Second reading and enactment:	12/12/09

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend and reordain Section 5-8-21 (DEFINITIONS), Section 5-8-22. (ABANDONED, UNATTENDED AND IMMOBILE VEHICLES TO BE REMOVED), Section 5-8-24 (NOTICE THAT VEHICLE HAS BEEN IMPOUNDED), Section 5-8-25 (REPOSSESSION OF IMPOUNDED VEHICLES; TOWING AND STORAGE CHARGES), Section 5-8-27 (SALE OF UNREPOSSESSED VEHICLES; PROCEEDS OF SALE), Section 5-8-28 (DISPOSITION OF INOPERABLE ABANDONED VEHICLES), Section 5-8-29 (SURRENDER OF CERTIFICATE OF TITLE, ETC., WHERE MOTOR VEHICLE ACQUIRED FOR DEMOLITION; RECORDS TO BE KEPT BY DEMOLISHER) and Section 5-8-30 (DELEGATION OF LAW ENFORCEMENT AUTHORITY) of Article C (DISPOSITION OF ABANDONED, UNATTENDED AND IMMOBILE MOTOR VEHICLES) of Chapter 8 (PARKING AND TRAFFIC REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of The City of Alexandria, Virginia, 1981, as amended.

Summary

To amend the City Code to reflect recent changes to the Virginia Code related to the City's process for providing notice of motor vehicle impoundment and auctioning abandoned motor vehicles, updating the City Code to reflect changes to the definitions of abandoned and inoperable abandoned motor vehicles, and adding scrap metal processors to the list of those permitted to demolish motor vehicles and adding new process and recordkeeping requirements for demolishers and scrap metal processors.

Sponsor

Bob Garbacz, Division Chief, Transportation and Environmental Services

Staff

Bob Garbacz, Division Chief, Transportation and Environmental Services  
Christina Zechman Brown, Assistant City Attorney

Authority

§§ 46.2-1200, -1202, -1202.1, -1206 of the Virginia Code

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

ORDINANCE \_\_\_\_\_

1  
2  
3 AN ORDINANCE to amend and reordain Section 5-8-21 (DEFINITIONS), Section 5-8-22  
4 (ABANDONED, UNATTENDED AND IMMOBILE VEHICLES TO BE REMOVED),  
5 Section 5-8-24 (NOTICE THAT VEHICLE HAS BEEN IMPOUNDED), Section 5-8-25  
6 (REPOSSESSION OF IMPOUNDED VEHICLES; TOWING AND STORAGE  
7 CHARGES), Section 5-8-27 (SALE OF UNREPOSSESSED VEHICLES; PROCEEDS OF  
8 SALE), Section 5-8-28 (DISPOSITION OF INOPERABLE ABANDONED VEHICLES),  
9 Section 5-8-29 (SURRENDER OF CERTIFICATE OF TITLE, ETC., WHERE MOTOR  
10 VEHICLE ACQUIRED FOR DEMOLITION; RECORDS TO BE KEPT BY  
11 DEMOLISHER) and Section 5-8-30 (DELEGATION OF LAW ENFORCEMENT  
12 AUTHORITY) of Article C (DISPOSITION OF ABANDONED, UNATTENDED AND  
13 IMMOBILE MOTOR VEHICLES) of Chapter 8 (PARKING AND TRAFFIC  
14 REGULATIONS) of Title 5 (TRANSPORTATION AND ENVIRONMENTAL  
15 SERVICES) of The Code of The City of Alexandria, Virginia, 1981, as amended.  
16

17 THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:  
18

19 Section 1. That Section 5-8-21 of the Code of the City of Alexandria, Virginia,  
20 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:  
21

22 Sec. 5-8-21 Definitions.  
23

24 The following terms shall, for purposes of this article, have the meanings set forth below.  
25

26 (1) Motor vehicle or vehicle means any motor vehicle, trailer or semitrailer, or any part  
27 thereof, as defined in section 46.2-100, Code of Virginia (1950), as amended.  
28

29 (2) Abandoned motor vehicle means a motor vehicle that:  
30

31 (a) ~~is inoperable and has been~~ left unattended on public property for a period of more  
32 than 48 hours in violation of the Code of Virginia (1950), as amended, or this code; or  
33

34 (b) ~~has remained illegally on public property for a period of more than 48 hours; is left~~  
35 unattended on the shoulder of a primary highway.  
36

37 (3) ~~Inoperable abandoned motor vehicle means a motor vehicle that is inoperable and~~  
38 ~~whose fair market value, as determined by the director of finance, is less than the cost of its~~  
39 ~~restoration to an operable condition.~~  
40

41 (34) Demolisher means any person or entity whose business is to convert motor vehicles  
42 into processed scrap or scrap metal or otherwise to wreck or dismantle such vehicles.  
43

44 (45) Authorized city official means any of the following persons: the chief of police; any  
45 sworn member of the police department; the fire marshal; and any deputy fire marshal.  
46

1 (5) Parking violation notice means a citation issued for the violation of a law relating to  
2 the parking of motor vehicles or of any other law relating to motor vehicles for which a parking  
3 citation may be issued.

4  
5 (6) Scrap metal processor means any person who is engaged in the business of  
6 processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes  
7 machinery and equipment for processing and manufacturing ferrous and nonferrous metallic  
8 scrap into prepared grades, and whose principal product is metallic scrap.

9  
10 (7) Vehicle removal certificate means a transferable document issued by the Virginia  
11 Department of Motor Vehicles for any abandoned motor vehicle that authorizes the removal and  
12 destruction of the vehicle.

13  
14 (8) Department means the Virginia Department of Motor Vehicles.

15  
16 (9) Commissioner means the Commissioner of the Virginia Department of Motor  
17 Vehicles.

18  
19 Section 2. That Section 5-8-22 of the Code of the City of Alexandria, Virginia,  
20 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

21  
22 Sec. 5-8-22 Abandoned, unattended and immobile vehicles to be removed.

23  
24 Whenever a motor vehicle:

25  
26 (a) becomes an abandoned motor vehicle;

27  
28 (b) is left unattended on a public street or public property and constitutes a hazard to  
29 traffic;

30  
31 ~~(c) is left unattended on a public street or public property in any manner as to be in~~  
32 ~~violation of law;~~

33  
34 ~~(d) is left unattended for more than 10 days upon public property without the permission~~  
35 ~~of the city;~~

36  
37 ~~(de) is left unattended for more than 72 consecutive hours on private property without~~  
38 ~~the permission of the property owner (provided, that in the case of private property normally~~  
39 ~~open to the public for parking, signs are posted on the property which provide reasonable notice~~  
40 ~~that vehicles left on the property for more than 72 consecutive hours without permission will be~~  
41 ~~removed at the vehicle owner's expense);~~

42  
43 ~~(ef) is left unattended on a public street or public property, or on private property,~~  
44 ~~including a private street and road, but not including property which is owned or occupied as a~~

1 single family residence, and there are three or more unpaid or otherwise unsettled parking  
2 violation notices pending against the vehicle;

3  
4 (fg) is left unattended in a fire lane or within 15 feet of a fire hydrant or an entrance to a  
5 fire station; or

6  
7 (gh) is immobilized while in a travel lane of a public street by weather conditions or  
8 other emergency situation; the vehicle may, at the direction of an authorized city official, be  
9 removed for safekeeping by city personnel, vehicles and equipment, or by a towing service under  
10 contract to the city, to the city impoundment yard or another impoundment facility; provided,  
11 that a vehicle may be removed from privately-owned property only pursuant to the written  
12 authorization of the property owner or, where applicable, an association of owners formed  
13 pursuant to chapter 4.1 of title 55 of the Code of Virginia (1950), as amended.

14  
15 Section 3. That Section 5-8-24 of the Code of the City of Alexandria, Virginia,  
16 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:

17  
18 Sec. 5-8-24 Notice that vehicle has been impounded.

19  
20 (a) The following notice must be provided for impounded abandoned motor vehicles:

21  
22 (1) The authorized city official, a designee of the official or another city employee  
23 designated by the city manager, directing the removal of any vehicle under this article shall  
24 initiate with the Department, in a manner prescribed by the Commissioner, a search for the  
25 owner and/or lienholder of record of the motor vehicle, requesting the name and address of the  
26 owner of record of the motor vehicle and all persons having security interests in the motor  
27 vehicle on record with the Department. The Department shall check: (i) its own records, (ii) the  
28 records of a nationally recognized crime database, and (iii) records of a nationally recognized  
29 motor vehicle title database for owner and lienholder information.

30  
31 a. If a vehicle has been reported as stolen, the Department shall notify the appropriate  
32 law-enforcement agency of that fact.

33  
34 b. If a vehicle has been found to have been titled in another jurisdiction, the Department  
35 shall notify the city of that jurisdiction. In cases of motor vehicles titled in other jurisdictions,  
36 the Commissioner shall issue certificates of title on proof satisfactory to the Commissioner that  
37 the persons required to be notified by registered or certified mail have received actual notice  
38 fully containing the information required by this section.

39  
40 c. If the Department confirms owner or lienholder information, the Department shall  
41 notify the owner, at the last known address of record, and lienholder, at the last known address of  
42 record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and  
43 advise them to reclaim and remove the vehicle within 15 days, or, if the vehicle is a  
44 manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent

1 in accordance with these requirements, shall be sufficient regardless of whether or not it was ever  
2 received. Following the notice required in this subsection, if the motor vehicle remains  
3 unclaimed, the owner and all persons having security interests in the motor vehicle shall have  
4 waived all right, title, and interest in the motor vehicle.

5  
6 d. Whenever a vehicle is shown by the Department's records to be owned by a person  
7 who has indicated that he is on active military duty or service, the Department shall notify the  
8 city of such information. Any person having an interest in such vehicle under the provisions of  
9 this article shall comply with the provisions of the federal Service members Civil Relief Act (50  
10 U.S.C. app. 501 et seq.).

11  
12 e. If records of the Department contain no address for the owner or no address of any  
13 person shown by the Department's records to have a security interest, or if the identity and  
14 addresses of the owner and all persons having security interests cannot be determined with  
15 reasonable certainty, the city shall obtain from the Department, in a manner prescribed by the  
16 Commissioner, a Vehicle Removal Certificate. The vehicle may then be sold to a licensee or  
17 scrap metal processor as defined in Virginia Code § 46.2-1600 (1950), as amended.

18  
19 (b) The following notice must be provided for all other impounded motor vehicles:

20  
21 ~~(1)a~~ The authorized city official, ~~directing the removal of any vehicle under this article, a~~  
22 ~~designee of the official or another city employee designated by the city manager, directing the~~  
23 ~~removal of any vehicle under this article, shall, within 15 days of the impoundment of the motor~~  
24 ~~vehicle, by registered or certified mail, return receipt requested, provide notice to the owner of~~  
25 ~~record of the impounded vehicle and to any person holding a security interest of record against~~  
26 ~~the vehicle, as shown in records maintained by the Department of motor vehicles; provided, that~~  
27 ~~the vehicle has not already been released from the impoundment facility. The notice shall state~~  
28 ~~the following: (i) the year, make, model and registration number of the motor vehicle; (ii) the~~  
29 ~~address where the vehicle is being held; and (iii) that the owner and any person having a security~~  
30 ~~interest in the vehicle may reclaim the vehicle within 15 days from the date of the notice, after~~  
31 ~~payment of all towing and storage charges resulting from the removal and storage of the vehicle;~~  
32 ~~and (iv) that the failure of the owner and the persons having a security interest in the vehicle to~~  
33 ~~reclaim the vehicle within the provided time period shall constitute both a waiver by the owner~~  
34 ~~and such persons of all right, title and interest in the vehicle, and the consent by each of them to~~  
35 ~~the sale of the vehicle at a public auction.~~

36  
37 ~~(2)b~~ If the records of the department of motor vehicles contain no address for the owner  
38 ~~of an impounded vehicle or no address for any person shown by the department's records to have~~  
39 ~~a security interest in the vehicle, and if such addresses cannot otherwise be determined with~~  
40 ~~reasonable certainty, it shall be the responsibility of the authorized city official who directed the~~  
41 ~~removal of the vehicle, a designee of the official or another city employee designated by the city~~  
42 ~~manager to cause a notice to be published once in a newspaper of general circulation in the city.~~  
43 ~~Such notice shall be published within the time limit set out in, and shall have the same contents~~  
44 ~~required under, subsection (a) for a notice by mail. The failure of the owner and the person~~

1 ~~having a security interest in an impounded vehicle to reclaim the vehicle following notice by~~  
2 ~~publication shall have the same consequences as those following a failure to reclaim after notice~~  
3 ~~by mail. Any notice by publication may contain multiple listings of impounded motor vehicles~~If  
4 the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and  
5 unascertainable after a diligent search has been made, and after notice to him at his last known  
6 address and to the holder of any lien of record with the Department against the motor vehicle, the  
7 vehicle shall be considered an abandoned motor vehicle and the provisions of subsection (a)  
8 apply.  
9

10 Section 4. That Section 5-8-25 of the Code of the City of Alexandria, Virginia,  
11 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:  
12

13 Sec. 5-8-25 Repossession of impounded vehicles; towing and storage charges.  
14

15 (a) The owner of any vehicle impounded under this article, a person duly authorized by  
16 the owner and any person possessing a security interest in the vehicle shall be permitted to  
17 repossess the vehicle up to the time of its sale by:  
18

19 (1) payment of a towing charge of \$100;

20 (2) payment of a storage charge of \$30 per day;

21 (3) payment of a charge of \$70 to cover the administrative costs incurred by the city in  
22 impounding the vehicle, in learning the identity of the vehicle owner and the holders of a  
23 security interest in the vehicle and in conducting the sale; and  
24

25 (4) in the case of vehicles identified in section 5-8-22(~~fe~~), payment of the outstanding  
26 parking violation notices for which the vehicle was removed.  
27

28 (b) Payment of the charges and costs identified in subsection (a) shall not operate to  
29 relieve the owner of the impounded vehicle or the owner's agent from liability for any fine or  
30 penalty.  
31

32 Section 5. That Section 5-8-27 of the Code of the City of Alexandria, Virginia,  
33 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:  
34

35 Sec. 5-8-27 ~~Sale~~ Disposition of unrepossessed vehicles; proceeds of sale.  
36

37 (a) If a motor vehicle impounded under this article is not repossessed; ~~the city shall sell it~~  
38 ~~at public auction; provided, that if three disinterested qualified persons determine that~~  
39 ~~less than \$150 would be received for the vehicle following advertising and public~~  
40 ~~sale, the vehicle may be junked at any time after the 40<sup>th</sup> day following is~~  
41 ~~impoundment. The purchaser of an impounded vehicle at public auction shall take~~  
42 ~~title to the vehicle free of all liens and claims of ownership of others, shall receive a~~  
43  
44

1 sales receipt, and shall be entitled to apply to and receive from the department of  
2 motor vehicles a certificate of title and a registration card for the vehicle. The sales  
3 receipt from the sale shall be sufficient evidence of title only for purposes of  
4 transferring the vehicle to a demolisher for demolition, wrecking or dismantling and,  
5 in that case, no further titling of the vehicle shall be necessary.  
6

7 (1) the city shall obtain from the Department a Vehicle Removal Certificate in a manner  
8 prescribed by the Commissioner;  
9

10 (2) the vehicle may then be sold or transferred to a licensee or a scrap metal processor, as  
11 defined in Virginia Code § 46.2-1600 (1950) as amended; or  
12

13 (3) if the city desires to sell the vehicle at public auction, the city shall post notice for at  
14 least 21 days of its intent to auction the motor vehicle with the Department.  
15

16 a. Postings of intent shall be in an electronic manner prescribed by the Commissioner  
17 who shall also ensure that written notice of intent is provided in public locations throughout the  
18 Commonwealth of Virginia.  
19

20 b. If the Department confirms a lien, the city shall notify the lienholder of record, by  
21 certified mail, at the address on the certificate of title of the time and place of the proposed sale  
22 10 days prior thereto.  
23

24 (b) The purchaser of an impounded vehicle at public auction shall take title to the vehicle  
25 free of all liens and claims of ownership of others, shall receive a sales receipt, an Abandoned  
26 Vehicle receipt and a completed Vehicle Removal Certificate, and shall be entitled to apply to  
27 and receive from the Department a certificate of title and a registration card for the vehicle. The  
28 sales receipt from the sale shall be sufficient evidence of title only for purposes of transferring  
29 the vehicle to a demolisher for demolition, wrecking or dismantling and, in that case, no further  
30 titling of the vehicle shall be necessary.  
31

32 (cb) The proceeds from the sale of an impounded motor vehicle shall be forwarded to the  
33 director of finance who shall pay from the proceeds the towing charge, storage charge and any  
34 costs incurred by the city in learning the identity of the vehicle owner and the holders of a  
35 security interest in the vehicle and in conducting the sale. The balance of the proceeds shall be  
36 held by the director of finance for the owner and paid to the owner upon satisfactory proof of  
37 ownership; provided, that the owner makes application for such proceeds within 90 days from  
38 the date of sale. If the owner fails to make timely application, the balance of the proceeds shall  
39 become the property of the city, and shall be deposited in the city general fund. Any personal  
40 property found in an impounded motor vehicle may be sold along with the sale of the vehicle.  
41

42 Section 6. That Section 5-8-28 of the Code of the City of Alexandria, Virginia,  
43 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:  
44



1 Sec. 5-8-28 Disposition of inoperable ~~abandoned~~ vehicles.

2  
3 Notwithstanding any other provisions of this article to the contrary, any inoperable  
4 ~~abandoned~~ motor vehicle which has been impounded pursuant to this article may be disposed of  
5 to a demolisher, for the sole purpose of having the vehicle wrecked, dismantled or demolished,  
6 without the title and the notification procedures otherwise required by this article. The  
7 demolisher, upon taking custody of such motor vehicle, shall notify the ~~D~~epartment of motor  
8 ~~vehicles~~ of this fact on forms provided by the ~~D~~epartment.  
9

10 Section 7. That Section 5-8-29 of the Code of the City of Alexandria, Virginia,  
11 1981, as amended, be, and the same is hereby, amended and reordained to read as follows:  
12

13 Sec. 5-8-29 Surrender of certificate of title, etc., where motor vehicle acquired for demolition or  
14 scrap metal processing; records to be kept by demolisher or scrap metal processor.  
15

16 (a) No demolisher or scrap metal processor who purchases or otherwise acquires a motor  
17 vehicle pursuant to section 5-8-28 for wrecking, dismantling or demolition shall be required to  
18 obtain a certificate of title for the motor vehicle in the demolisher's own name. After the motor  
19 vehicle has been demolished, processed, or changed so that it physically is no longer a motor  
20 vehicle, the demolisher or scrap metal processor shall surrender to the department of motor  
21 vehicles, for cancellation, the certificate of title, vehicle removal certificate, properly executed  
22 vehicle disposition history, or the sales receipt from a foreign jurisdiction for the vehicle.  
23

24 (b) A demolisher or scrap metal processor shall keep an accurate and complete record, in  
25 accordance with section 46.2-1608, Code of Virginia (1950), as amended, of all motor vehicles  
26 purchased or received in the course of business. ~~These records shall contain the name and~~  
27 ~~address of the person from whom each motor vehicle was purchased or received and the date~~  
28 ~~when the purchase or receipt occurred. These records shall be open for inspection by the~~  
29 ~~department of motor vehicles at any time during normal business hours. Demolishers and scrap~~  
30 metal processors shall also collect and verify: (i) the towing company's name and, if applicable,  
31 the license number issued to the towing company by the Virginia Board for Towing and  
32 Recovery Operators, (ii) one of the ownership or possession documents set out in this section  
33 following verification of its accuracy, and (iii) the driver's license of the person delivering the  
34 motor vehicle. If the delivering vehicle does not possess a license number issued by the Virginia  
35 Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered  
36 the motor vehicle or scrap shall also be collected and maintained.  
37

38 (1) In addition, a photocopy or electronic copy of the appropriate ownership document or  
39 a Vehicle Removal Certificate presented by the customer shall be maintained. Ownership  
40 documents shall consist of either a motor vehicle title or a sales receipt from a foreign  
41 jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent  
42 ledger in a manner acceptable to the Department at the place of business or at another readily  
43 accessible and secure location within the Commonwealth for at least five years.  
44

