

TRAFFIC AND VEHICLES

Sec. 34-1—34-3. Reserved.

Sec. 34-4. Inoperable and abandoned vehicles on public streets and public or private property.

(a) Pursuant to §46.2-1200 of the Code of Virginia, no person shall cause any motor vehicle to become an inoperable abandoned motor vehicle or abandoned motor vehicle as defined herein. The town manager or his designee may remove and take into custody inoperable motor vehicles, as defined in Section 34-5 (b) below, and abandoned motor vehicles, left on public or private property, including on any public street, after serving written notice to the owner of the vehicle at least ten (10) days prior to such removal. For the purposes of this section, “abandoned motor vehicle” means a motor vehicle, trailer or semitrailer that: (1) is left unattended on public property for more than 48 hours in violation of this section, including any public street right-of-way; (2) has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the property with the consent of the owner or person in control of the private property; or (3) is left unattended on the shoulder of a primary highway. Upon removal by the Town, the owner of any such vehicle, before obtaining possession thereof, shall pay to the parties entitled thereto all reasonable costs incident to the removal and storage of the motor vehicle. If such owner fails or refuses to pay such costs against the motor vehicle, the vehicle may be sold or disposed of by the Town in accordance with subsections (b) and (c) below. The person at whose request any such motor vehicle is removed from private property shall indemnify the Town against any loss or expense incurred by reason of the removal, storage or sale thereof. In such connection, the town manager or his designee may employ his or her own personnel, equipment and facilities or hire persons, equipment and facilities, or firms or corporations who may be independent contractors, for the purpose of removing, storing or selling such abandoned motor vehicles.

(b) If an abandoned vehicle which has been removed has not been reclaimed within seven (7) days after its removal, the town manager or his designee, as agent of the town council, shall initiate a search for the owner and/or lienor of record of the vehicle, requesting the name and address of the owner of record of the motor vehicle and all persons having security interests in the motor vehicle on record in the office of the Department of Motor Vehicles, describing, if ascertainable, the motor vehicle by year, make, model, and vehicle identification number, in accordance with §46.2-1202 of the Code of Virginia. If records of the Department contain no address for the owner or no address of any person shown by the Department's records to have a security interest, or if the identity and addresses of the owner and all persons having security interests cannot be determined with reasonable certainty, the town manager or his designee shall obtain from the Department a Vehicle Removal Certificate in accordance with §46.2-1200 et al. If, however, the Department confirms owner or lienholder information, the Department, town manager or his designee shall notify the owner, at the last known address of record, and

lienholder, at the last known address of record, of the notice of interest in their vehicle, by certified mail, return receipt requested, and advise them to reclaim the vehicle within fifteen (15) days,

(c) Upon obtaining a Vehicle Removal Certificate, or if the owner or lienholder fails to reclaim the vehicle within fifteen (15) days following mailing of the original notice pursuant to paragraph (b) of this section, the town manager or his designee shall give notice to the owner of the property, the vehicle and the lienor, if any, that the vehicle will be considered abandoned within, and will be sold at public auction not fewer than, ten (10) days following the mailing of the notice. Notice of the sale shall also be published in a local newspaper not fewer than seven (7) days prior to the sale. At any time prior to the sale of a vehicle under this section, the owner of the vehicle or lienor of same may recover possession by payment of all costs and expenses in connection with the removal, storing and sale of the vehicle.

(d) At any time prior to the sale of a vehicle under this section, the owner of the vehicle or lienor of same may recover possession by payment of all costs and expenses in connection with the removal, storing and sale of the vehicle. The proceeds of the sale of a vehicle under this section shall be applied first to the costs of the removal, storage and sale of the vehicle, and the balance, if any, shall be deposited to the general fund of the town. The owner of the vehicle or lienor may file a claim for such funds within three years after the date of the sale, and upon satisfactory proof of ownership or lien, the net proceeds shall be paid to the owner or lienor without interest. No claim shall be made or action filed to recover such funds more than three years after the date of the sale.

(e) For abandoned vehicles removed from private property, the costs of the removal, storage and sale of a vehicle under this section shall be chargeable to the owner of the vehicle or the premises, jointly and severally, and may be collected by the town as taxes and levies are collected. Such costs of the removal, storage and sale shall constitute a lien against the real estate from which the vehicle is removed.

(f) Notwithstanding subsections (a) through (e) of this section, any person convicted of a violation of the prohibition of subsection (a) shall be subject to a civil penalty of \$500. A summons for a violation of this section shall be executed by mailing a copy of the summons by first-class mail to the address of the owner of the vehicle as shown on the records of the Department of Motor Vehicles.

Sec. 34-5. Open storage of inoperable vehicles.

(a) Pursuant to §15.2-904 of the Code of Virginia, it shall be unlawful for any person to keep, except within a fully enclosed building or structure or otherwise shielded from public view on any property within the town zoned CRA-1, R-1, R-2, R-3, R-C, PIDD, C-1, C-2, or TC, any motor vehicle, trailer or semitrailer, as such are defined in the Code of Virginia, § 46.2-100, which is inoperable; however, one such vehicle may be kept outside a fully enclosed building or structure, provided that it is shielded or screened from view with a properly maintained vehicle cover. The placing, draping or securing of a tarpaulin over or around an inoperable motor vehicle shall not be sufficient to comply with the requirements of this section.

(b) For the purposes of this section, an "inoperable motor vehicle" is any motor vehicle which is not in operating condition; or which, for a period of 60 days or longer, has been partially or totally disassembled by the removal of tires and wheels, the engine or other essential parts required for operation of the vehicle; or for which there is no valid license plate or state inspection sticker, as applicable in accordance with Title 46.2 of the Code of Virginia et al, except that motor vehicles used for agricultural or horticultural purposes which are not required to obtain a registration certificate, license plates, or decals pursuant to §46.2-665 of the Code of Virginia shall not be considered inoperable solely for a failure to obtain such a certificate, license plates, or decals, provided that one or more of the exemptions established in Paragraph B. of §46.2-665 have been met.

(c) The provisions of this section shall not apply to a licensed business which is regularly engaged in business as an automobile dealer or light vehicle and automobile repair shop.

(d) It shall be unlawful for the owner of the property on which any motor vehicle, trailer or semitrailer is kept in violation of this section to fail to remove same after notice in compliance with the provisions of subsection (e) below, and each day that the failure continues shall constitute a separate offense.

(e) In accordance with the enforcement provisions of this section, the town manager or his designee may direct, by notice in writing to the owner of the property on which an inoperable motor vehicle, trailer or semitrailer is located in violation of this section, that the vehicle be removed from the property within fifteen days of the date of the notice. The notice shall be delivered to the owner of the property or mailed to him at his address shown on the town tax records, and if the identity of the owner of the vehicle can reasonably be determined and the vehicle is not owned by the owner of the property, a copy of the notice shall also be delivered or mailed to the owner of the vehicle. Any owner of such inoperable vehicle or any owner of property upon which such inoperable vehicle is located may appeal the decision that the vehicle is in violation of this section by filing a written notice of appeal with the Town Council within fifteen (15) days from the date of the notice pursuant to subsection (j) of this section. If the vehicle is not removed within fifteen days after the delivery of the notice, and if no appeal is filed or an appeal filed by a vehicle or property owner is not upheld by the Town Council at its next regular meeting following receipt of the written notice of appeal, the town manager or his designee, as agent of the town council, may remove or provide for the removal of the vehicle.

(f) If an inoperable vehicle which has been removed has not been claimed within 30 days after its removal, the town manager or his designee, as agent of the town council, shall give notice in the manner prescribed above to the owner of the property, the vehicle and the lienor, if any, that the vehicle will be considered abandoned and be sold at public auction not fewer than ten days following the mailing of the notice. Notice of the sale shall also be published in a local newspaper not fewer than seven days prior to the sale.

(g) At any time prior to the sale of a vehicle under this section, the owner of the vehicle or lienor of same may recover possession by payment of all costs and expenses in connection with the removal, storing and sale of the vehicle.

(h) The proceeds of the sale of a vehicle under this section shall first be applied to the costs of the removal, storing and sale of the vehicle, and the balance, if any, shall be deposited to the general fund of the town. The owner of the vehicle or lienor may file a claim for such funds within three years after the date of the sale, and upon satisfactory proof of ownership or lien, the net proceeds shall be paid to the owner or lienor without interest. No claim shall be made or action filed to recover such funds more than three years after the date of the sale.

(i) The costs of the removal, storing and sale of a vehicle under this section shall be chargeable to the owner of the vehicle or the premises, jointly and severally, and may be collected by the town as taxes and levies are collected. The costs of the removal, storing and sale shall constitute a lien against the real estate from which the vehicle is removed.

(j) Any owner of an inoperable vehicle or owner of property upon which such vehicle is located aggrieved by a decision made pursuant to this section may appeal such decision to the Town Council as set forth in subsection (e) above. The town manager or his designee shall schedule a hearing of such appeal at the next regular meeting of the Town Council after the filing of the appeal; provided, however, that such hearing may, at the discretion of the town manager or his designee, be rescheduled for good cause shown. Enforcement proceedings otherwise permitted under this section shall be stayed during the pendency of such appeal.