

ORDINANCE NO. 3656

AN ORDINANCE to repeal Article C (DISPOSITION OF ILLEGALLY PARKED VEHICLES), Article D (DISPOSITION OF ABANDONED VEHICLES) and Article E (INOPERATIVE MOTOR VEHICLES), and to adopt a new Article C (DISPOSITION OF ABANDONED, UNATTENDED AND IMMOBILE MOTOR VEHICLES) and a new Article D (INOPERABLE MOTOR VEHICLES), all of Chapter 8 (PARKING AND TRAFFIC REGULATIONS), Title 5 (TRANSPORTATION AND ENVIRONMENTAL SERVICES) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article C, Article D and Article E of Chapter 8, Title 5 of The Code of The City of Alexandria, Virginia, 1981, as amended, be and the same hereby are repealed.

Section 2. That Chapter 8, Title 5 of The City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Article C and Article D, to read as follows:

Article C

Disposition of Abandoned, Unattended
and Immobile Motor Vehicles

Sec. 5-8-21 Definitions.

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

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

(2) "Abandoned motor vehicle" means a motor vehicle that:

(a) is inoperable and has been left unattended on public property for a period of more than 48 hours; or

(b) has remained illegally on public property for a period of more than 48 hours.

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

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

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

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

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

Whenever a motor vehicle:

- (a) becomes an abandoned motor vehicle;
- (b) is left unattended on a public street or public property and constitutes a hazard to traffic;
- (c) is left unattended on a public street or public property in any manner as to be in violation of law;
- (d) is left unattended for more than 10 days upon public property without the permission of the city;
- (e) is left unattended for more than 72 consecutive hours on private property without the permission of the property owner (provided, that in the case of private property normally open to the public for parking, signs are posted on the property which provide reasonable notice that vehicles left on the property for more than 72 consecutive hours without permission will be removed at the vehicle owner's expense);
- (f) is left unattended on a public street or public property, or on private property, including a private street and road, but not including property which is owned or occupied as a single family residence, and there are three or more unpaid or otherwise unsettled parking violation notices pending against the vehicle;
- (g) is left unattended in a fire lane or within 15 feet of a fire hydrant or an entrance to a fire station; or
- (h) is immobilized while in a travel lane of a public street;

the vehicle may, at the direction of an authorized city official, be removed for safekeeping by city personnel, vehicles and equipment, or by a towing service under contract to the city, to the city impoundment yard or another impoundment facility; provided, that a vehicle may be removed from privately-owned property only pursuant to the written authorization of the property owner or, where applicable, an association of owners formed pursuant to chapter 4.1 of the Code of Virginia (1950), as amended.

Sec. 5-8-23 Report of removal to police chief.

It shall be the duty of the authorized city official directing the removal of any vehicle under this article to cause a report of the removal to be made and forwarded to the police chief or the chief's designee, stating, to the degree such information is available, the year, make and model of the vehicle removed, its registration number and license plate number, the location from which it was removed, and the reasons for the removal.

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

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

(b) If the records of the department of motor vehicles contain no address for the owner of an impounded vehicle or no address for any person shown by the department's records to have a security interest in the vehicle, and if such addresses cannot otherwise be determined with reasonable certainty, it shall be the responsibility of the authorized city official who directed the removal of the vehicle, a designee of the official or another city employee designated by the city manager to cause a notice to be published once in a newspaper of general circulation in the city. Such notice shall be published within the time limit set out in, and shall have the same contents required under, subsection (a) for a notice by mail. The failure of the owner and the person having a security interest in an impounded vehicle to reclaim the vehicle following notice by publication shall have the same consequences as those following a failure to reclaim after notice by mail. Any notice by publication may contain multiple listings of impounded motor vehicles.

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

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

- (1) payment of the towing charge;
- (2) payment of the storage charge of \$20 per day;
- (3) payment of the costs incurred by the city in learning the identity of the vehicle owner and the holders of a security interest in the vehicle and in conducting the sale; and
- (4) in the case of vehicles identified in section 5-8-(22)(f), payment of the outstanding parking violation notices for which the vehicle was removed.

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

Sec. 5-8-26 Record of impounded vehicles.

The police chief or his designee shall keep a record of all vehicles impounded pursuant to this article.

Sec. 5-8-27 Sale of unrepossessed vehicles; proceeds of sale.

(a) If a motor vehicle impounded under this article is not repossessed, the city shall sell it at public auction; provided, that if three disinterested qualified persons determine that less than \$150 would be received for the vehicle following advertising and public sale, the vehicle may be junked at any time after the 40th day following its impoundment. The purchaser of an impounded vehicle at public auction shall take title to the vehicle free of all liens and claims of ownership of others, shall receive a sales receipt, and shall be entitled to apply to and receive from the department of motor vehicles a certificate of title and a registration card for the vehicle. The sales receipt from the sale shall be sufficient evidence of title only for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling and, in that case, no further titling of the vehicle shall be necessary.

(b) The proceeds from the sale of an impounded motor vehicle shall be forwarded to the director of finance who shall pay from the proceeds the towing charge, storage charge and any costs incurred by the city in learning the identity of the vehicle owner and the holders of a security interest in the vehicle and

in conducting the sale. The balance of the proceeds shall be held by the director of finance for the owner and paid to the owner upon satisfactory proof of ownership; provided, that the owner makes application for such proceeds within 90 days from the date of sale. If the owner fails to make timely application, the balance of the proceeds shall become the property of the city, and shall be deposited in the city general fund. Any personal property found in an impounded motor vehicle may be sold along with the sale of the vehicle.

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

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

Sec. 5-8-29 Surrender of certificate of title, etc., where motor vehicle acquired for demolition; records to be kept by demolisher.

(a) No demolisher who purchases or otherwise acquires a motor vehicle pursuant to section 5-8-28 for wrecking, dismantling or demolition shall be required to obtain a certificate of title for the motor vehicle in the demolisher's own name. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender to the department of motor vehicles, for cancellation, the certificate of title or the sales receipt for the vehicle.

(b) A demolisher shall keep an accurate and complete record of all motor vehicles purchased or received in the course of business. These records shall contain the name and address of the person from whom each motor vehicle was purchased or received and the date when the purchase or receipt occurred. These records shall be open for inspection by the department of motor vehicles at any time during normal business hours.

Sec. 5-8-30 Delegation of law enforcement authority.

Pursuant to section 27.34.2:1 of the Code of Virginia, 1950, as amended, the fire marshal and the deputy fire marshals are delegated, and shall possess, the law enforcement powers that are necessary to enforce this article and article D of this chapter.

Secs. 5-8-31 through 5-8-60 reserved.

Article D

Inoperable Motor Vehicles

Sec. 5-8-61 Definitions.

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

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

(2) "Inoperable motor vehicle" means any motor vehicle which:

(i) is not in operating condition. A vehicle which has been partially disassembled, as evidenced by the removal of its wheels and tires, the engine or one or more other components that are essential to the operation of the vehicle shall be considered not in operating condition;

(ii) does not display any state license plates;

(iii) displays state license plates that have been expired for more than 60 days;

(iv) does not display any state motor vehicle inspection decal; or

(v) displays a state motor vehicle inspection decal that has been expired for more than 60 days.

(3) "Shielded or screened from view" means hidden from sight, from any ground level location, by plantings or fences.

Sec. 5-8-62 Declared nuisance.

The keeping by any person, firm or corporation, except within a fully enclosed building or structure or otherwise shielded or screened from view, of any inoperable motor vehicle on any property zoned for residential or commercial purposes is detrimental to the public health, safety and welfare, and is hereby declared to constitute a public nuisance.

Sec. 5-8-63 Unlawful to keep; exceptions.

It shall be unlawful for any person, firm or corporation to keep on any property zoned for residential or commercial purposes an inoperable motor vehicle unless it is located within a fully enclosed building or structure or is otherwise shielded or screened from view. It shall also be unlawful for any person, firm corporation to keep on property zoned for residential purposes more than one inoperable motor vehicle located outside

of a fully enclosed building or structure which is shielded or screened from view. However, the provisions of this article shall not apply to a licensed business which is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor. Nor shall the provisions of this article apply to any antique motor vehicle, as defined in section 46.2-100, Code of Virginia (1950), as amended, so long as a bona fide effort is being made to repair or restore the vehicle and it is shielded in a manner to protect it from the weather and to make it unsuitable for rodent harborage.

Sec. 5-8-64 Removal of inoperable vehicle; remedies for failure to remove; costs.

(a) The occupant of property zoned for residential or commercial purposes on which an inoperable motor vehicle is being kept in violation of this article shall be provided a written notice of said violation. The notice shall be provided by the fire marshal or the fire marshal's designee, or another city employee designated by the city manager, and shall be posted both on the inoperable vehicle and in a conspicuous place on the property. The notice shall identify the inoperable vehicle, describe the conditions of the vehicle which render it inoperable and in violation of this article, and shall state that, unless the conditions are remedied by a specified date, which date shall be at least 15 days following the date on which the notice is posted, the vehicle will be removed by the city to an impoundment facility. In the event that the inoperable vehicle remains on the property after the date specified in the notice, the fire marshal or the fire marshal's designee, or another city employee designated by the city manager, may remove the vehicle and place it in the city's impoundment yard or another impoundment facility.

(b) Within five days of any removal under subsection (a), the fire marshal or the fire marshal's designee shall provide a written notice to the owner of the property from which the inoperable motor vehicle was removed and, if different, to the owner of record of the impounded vehicle. The notice shall be sent by registered or certified mail, return receipt requested, and shall state the following: (i) the year, make, model and serial number of the impounded vehicle; (ii) the location of the impoundment yard where it is being held; (iii) that the owner of the vehicle and any person having a security interest in the vehicle may reclaim the vehicle within 15 days from the date of the notice, after the payment of all removal and storage costs resulting from the removal and storage of the vehicle, and after providing an assurance that the vehicle will be brought into compliance with this article; and (iv) that the failure of the vehicle owner to reclaim the vehicle within the time provided shall constitute both a waiver by the owner of all right, title and interest in the vehicle, and the owner's consent to the disposition of the vehicle by the city. If the inoperable

vehicle is not reclaimed within the time specified in the notice, the city may dispose of the vehicle.

(c) The costs incurred by the city in removing, storing and disposing of an inoperable motor vehicle in excess of any proceeds derived from the sale of the vehicle shall be assessable against the owner of the property from which the vehicle was removed and against the owner of the vehicle, and may be collected as taxes and levies are collected. The costs assessed against the owner of the property from which the vehicle was removed shall constitute a lien against such property, and the lien shall continue until actual payment of the costs have been made.

Article E and Secs. 5-7-65 through 5-8-70 reserved.

Section 3. That this ordinance shall become effective at the time and upon the date of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: September 18, 1993