

ORDINANCE NO. 5431

AN ORDINANCE to amend and reordain 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.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article C of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended by deleting the text shown in strikethrough and adding the text shown in underline as follows:

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) weighs at least 75 pounds; and
 - (b) is left unattended on public property for a period of more than 48 hours in violation of the Code of Virginia (1950), as amended, or this code; or
 - (~~b~~c) is left unattended on the shoulder of a primary highway.
- (3) *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~~ has the meaning ascribed to it in Section 46.2-1200 of the Code of Virginia (1950), as amended.
- (4) *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.
- (5) *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.
- (6) *Scrap metal processor* means any person who is engaged in the business of processing motor vehicles into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.
- (7) *Vehicle removal certificate* means a transferable document issued by the Virginia Department of Motor Vehicles for any abandoned motor vehicle that authorizes the removal and destruction of the vehicle.
- (8) *Department* means the Virginia Department of Motor Vehicles.
- (9) *Commissioner* means the Commissioner of the Virginia Department of Motor Vehicles.

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~~

chiefs city manager or 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 following notice must be provided for ~~impounded abandoned motor vehicles~~ impounded pursuant to this article:

(1) The authorized city official, a designee of the official or another city employee designated by the city manager, directing the removal of any vehicle under this article, shall, within 15 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, as shown in records maintained by the department; 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; and (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.

(~~2~~) The authorized city official, a designee of the official or another city employee designated by the city manager, directing the removal of any vehicle under this article shall initiate with the department, in a manner prescribed by the commissioner, a search for the owner and/or lienholder of record of the motor 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 with the department. The department shall check: (i) its own records, (ii) the records of a nationally recognized crime database, and (iii) records of a nationally recognized motor vehicle title database for owner and lienholder information.

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

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

c. If the ~~D~~department confirms owner or lienholder information, the department 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 and remove the vehicle within 15 days, or, if the vehicle is a manufactured home or a mobile home, 120 days, from the date of notice. Such notice, when sent in accordance with these requirements, shall be sufficient regardless of whether or not it was ever received. Following the notice required in this subsection, if the motor vehicle remains unclaimed, the owner and all persons having security interests in the motor vehicle shall have waived all right, title, and interest in the motor vehicle.

- d. Whenever a vehicle is shown by the department's records to be owned by a person who has indicated that he is on active military duty or service, the department shall notify the city of such information. ~~Any person having an interest in such vehicle under the provisions of this article shall comply with the provisions of the federal Service Members Civil Relief Act (50 U.S.C. app. 501 et seq.).~~ Any person disposing of a vehicle under the provisions of this article shall determine whether the provisions of the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.) (the Act) apply to the circumstances of such disposition. The presence on a vehicle record of an indicator that the owner is on active military duty or service shall be an indication that the Act may apply. However, should the person determine that the Act applies, the indicator on the vehicle record shall not satisfy any obligation under the Act to ascertain the owner's military status, nor shall the absence of an indicator suffice to establish that the owner is not on active military duty or service.
- e. 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 city shall obtain from the department, in a manner prescribed by the commissioner, a vehicle removal certificate. The vehicle may then be sold to a licensee or scrap metal processor as defined in Virginia Code § 46.2-1600 (1950), as amended.~~ after the department has contacted the jurisdiction in which the vehicle was last titled, the person in possession of the vehicle may proceed with the sale or disposal of the vehicle in accordance with this article. However, if a vehicle record exists in another jurisdiction that has refused to release the information to the department, the person in possession of the vehicle shall assume all liability for proceeding with such sale or disposal without written notice to the owner or lienholder of record.
- f. The department shall provide to the person in possession of the vehicle a receipt indicating that the search requested pursuant to this section has been completed.
- ~~(b) The following notice must be provided for all other impounded motor vehicles:~~
- ~~(1) The authorized city official, a designee of the official or another city employee designated by the city manager, directing the removal of any vehicle under this article, shall, within 15 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, as shown in records maintained by the department; 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; and (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.~~
- ~~(2) If the owner fails or refuses to pay the cost or if his identity or whereabouts is unknown and unascertainable after a diligent search has been made, and after notice to him at his last known address and to the holder of any lien of record with the department against the motor vehicle, the vehicle shall be considered an abandoned motor vehicle and the provisions of subsection (a) apply.~~

Editorial Note: This section is authorized pursuant to Code of Virginia §§ 46.2-1202, -1213, -1215, and -1216.

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

(a) If a motor vehicle impounded under this article is not ~~repossessed~~ reclaimed as provided for in section 5-8-24:

(1) the city shall obtain from the department a vehicle removal certificate in a manner prescribed by the commissioner;

(2) if the department finds no records for the vehicle, the vehicle may then be sold or transferred to a licensee or a scrap metal processor, as defined in Virginia Code § 46.2-1600 (1950) as amended. Upon such sale or transfer, the completed vehicle removal certificate and receipt produced pursuant to section 5-8-24 shall be given to the licensee or scrap metal processor; or

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

a. Postings of intent shall be in an electronic manner prescribed by the commissioner ~~who shall also ensure that written notice of intent is provided in public locations throughout the Commonwealth of Virginia and shall include the vehicle identification number and a description of each vehicle to be sold.~~

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

b. After the posting period has passed the vehicle may be sold at auction. 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, an abandoned vehicle receipt and a completed vehicle removal certificate, and shall be entitled to apply to and receive from the department a certificate of title and a registration card for the vehicle may apply for a title such vehicle upon payment of the applicable fees and taxes, and by supplying the department with the completed vehicle removal certificate and the receipt produced pursuant to section 5-8-24. If the vehicle does not sell at auction, the person in possession of the abandoned vehicle may apply for a title for such vehicle upon payment of the applicable fees and taxes, and by supplying the department with the completed vehicle removal certificate and the receipt produced pursuant to section 5-8-24, and a written statement that the vehicle did not sell at auction.

~~(e) 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.~~

Editorial Note: This section is authorized pursuant to Code of Virginia §§ 46.2-1200, -1213, -1215, and -1216.

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

Notwithstanding any other provisions of this article to the contrary, any inoperable 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. Such demolisher shall be properly licensed under the provisions of Section 46.2-1600 et seq. of the Code of Virginia (1950), as amended. The demolisher, upon taking custody of such motor vehicle, shall notify the department ~~of this fact on forms provided by the department and in the manner prescribed by the commissioner.~~ Notwithstanding any other provision of law, no other report or notice shall be required in this instance.

Editorial Note: This section is authorized pursuant to Code of Virginia § 46.2-1205.

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

- ~~(a) No demolisher or scrap metal processor 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 or scrap metal processor shall surrender to the department of motor vehicles, for cancellation, the certificate of title, vehicle removal certificate, properly executed vehicle disposition history, or the sales receipt from a foreign jurisdiction for the vehicle.~~
- ~~(b) A demolisher or scrap metal processor shall keep an accurate and complete record, in accordance with section 46.2-1608, Code of Virginia (1950), as amended, of all motor vehicles purchased or received in the course of business. Demolishers and scrap metal processors shall also collect and verify: (i) the towing company's name and, if applicable, the license number issued to the towing company by the Virginia Board for Towing and Recovery Operators, (ii) one of the ownership or possession documents set out in this section following verification of its accuracy, and (iii) the driver's license of the person delivering the motor vehicle. If the delivering vehicle does not possess a license number issued by the Virginia Board for Towing and Recovery Operators, the license plate number of the vehicle that delivered the motor vehicle or scrap shall also be collected and maintained.~~
- ~~(1) In addition, a photocopy or electronic copy of the appropriate ownership document or a vehicle removal certificate presented by the customer shall be maintained. Ownership documents shall consist of either a motor vehicle title or a sales receipt from a foreign jurisdiction or a vehicle disposition history. These records shall be maintained in a permanent ledger in a manner acceptable to the department at the place of business or~~

~~at another readily accessible and secure location within the commonwealth for at least five years.~~

- ~~(2) If requested by a law enforcement officer, a licensee shall make available, during regular business hours, a report of all the purchases of motor vehicles. Each report shall include the information set out in this article and be available electronically or in an agreed-upon format. Any person who violates any provision of this chapter or who falsifies any of the information required to be maintained by this article shall be guilty of a Class 3 misdemeanor for the first offense. Any licensee or scrap metal processor who is found guilty of second or subsequent violations shall be guilty of a Class 1 misdemeanor.~~
- ~~(3) If the vehicle identification number has been altered, is missing, or appears to have been otherwise tampered with, the demolisher or scrap metal processor shall take no further action with regard to the vehicle except to safeguard it in its then-existing condition and shall promptly notify the department. If the vehicle is a motorcycle, the demolisher or scrap metal processor shall cause to be noted on the title or salvage certificate, certifying on the face of the document, in addition to the above requirements, the frame number of the motorcycle and motor number, if available.~~

Pursuant to the authority granted by section 46.2-1206 of the Code of Virginia (1950), as amended, which relates to the surrender of certificates of title where motor vehicle acquired for demolition, is hereby adopted and incorporated in its entirety into this chapter as if it was fully set forth herein.

Section 2. That Article C as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria City Code.

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

JUSTIN M. WILSON
Mayor

Final Passage: May 14, 2022