

Ordinance No. 2015-26

**An Ordinance amending Chapter 2, Article VI, Sec. 22-99, and Chapter 25,
Sec. 25-54 of the City of Hopewell Code of Ordinances**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HOPEWELL, that Chapter 2, Article VI, Sec. 22-99, and Chapter 25, Sec. 25-54 of the City of Hopewell Code of Ordinances are hereby amended, and re-enacted as follows:

Sec. 22-99. Parking inoperable motor vehicle more than forty-eight hours.

(a) It shall be unlawful for any person to leave or cause to be left any inoperable motor vehicle for more than 48 hours in any public street or city-owned parking lot. As used in this section, "inoperable motor vehicle" means any motor vehicle, trailer, or semitrailer which is not in operating condition; or does not display a valid license plate or an inspection decal that is valid or does display an inspection decal that has been expired for more than 60 days. If the person fails to remove or cause to be removed the vehicle within 24 hours after any police officer notifies or attempts to notify the person to do so, the vehicle shall be deemed abandoned. Notice pursuant to this subsection shall first be attempted in person to the owner of the vehicle. After giving or attempting to give in-person notice, the officer shall post in a conspicuous place on the vehicle a decal (1) indicating that the vehicle is in violation of this section 22-99 and (2) stating that failure to comply with this section may result in the removal and disposal of the vehicle, at its owner's expense. After 24 hours of posting the notice:

(1) The city or its agent may remove the vehicle;

(2) In the event the city or its agent removes the vehicle, the city or its agent may dispose of the vehicle after giving additional notice, of disposal of the vehicle, to the vehicle's owner of record;

(3) The cost of removal and disposal shall be chargeable to the owner of the vehicle and may be collected by the city as taxes and levies are collected.

(b) When the city or its agent removes a vehicle under this section, the city or its agent shall, within 10 business days, by registered or certified United States mail, return receipt requested, notify the owner of record of the vehicle and all persons of record having security interests in the vehicle, that it has been removed. The notice shall (1) state the year, make, model, and serial number of the vehicle; (2) set forth the location of the facility where it is being held; (3) inform the owner and any persons of record having security interests of their right to reclaim it within 10 days after the date of the notice, after payment of all towing, preservation, and storage charges, resulting from removing the vehicle; and (4) state that the failure of the owner or persons of record having security interests to reclaim the vehicle within the time provided shall constitute (a) a waiver of all right, title, and interest in the vehicle, and (b) consent to the sale of the vehicle.

(c) If records of the department of motor vehicles 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 any persons having security interests cannot be determined with reasonable certainty, notice by publication once in a newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice pursuant to this section. Notice by publication may contain multiple listings of abandoned vehicles. Notice by publication shall be within the time, and shall have the same contents, required by this section for notice by mail.

(d) If a vehicle is not reclaimed as provided above, the city or its agent shall, notwithstanding the provisions of Virginia Code § 46.2-617 (Sale of vehicle without certificate of title), sell it or cause it to be sold. The purchaser of the vehicle shall take title 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 registration card for the vehicle. The sales receipt shall be sufficient title only for purposes of transferring the vehicle to a third party for demolition, wrecking, or dismantling, and in that case no further titling of the vehicle shall be necessary. From the proceeds of the sale, the city or its agent shall reimburse itself for the expenses of the sale, the cost of towing, preserving, and storing the vehicle which resulted from removing the vehicle, and all notice and publication costs incurred pursuant to this section. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or any person having a security interest in it, for 90 days, and then be deposited with the treasurer of, and become the property of, the city.

Sec. 25-54. Open storage of inoperable motor vehicles in residential or commercial districts.

(a) It shall be unlawful for any person, firm, or corporation to keep, except within a fully-enclosed building or structure, or otherwise shielded or screened from view, on any property zoned for residential or commercial purposes any motor vehicle, trailer, or semitrailer, as such are defined in Virginia Code § 46.2-100, which is inoperable. Notwithstanding the foregoing, a property owner may keep up to two inoperable motor vehicles outside of a fully-enclosed building or structure, provided that each vehicle is shielded or screened from view, as such terms are defined below. This section 25-54 shall not apply to a licensed business regularly engaged in business as an automobile dealer, salvage dealer, auto repair shop, service station, or scrap processor.

(1) As used in this section, "inoperable motor vehicle" means any motor vehicle, trailer, or semitrailer which is not in operating condition; or does not display a valid license plate or an inspection decal that is valid or does display an inspection decal that has been expired for more than 60 days.

(2) As used in this section, "shielded or screened from view" means not visible by someone standing at ground level from outside of the property on which the subject vehicle is located. Placing an inoperable motor vehicle within an area completely enclosed by either a solid, rigid, opaque fence composed of standard fencing materials or a landscaped arrangement of non-deciduous trees, sufficient in height, spacing, density,

and circumference to ensure precluding visibility of the vehicle by someone standing at ground level from outside of the property on which the vehicle is located shall constitute shielding or screening from view the inoperable vehicle in compliance with the requirements of this section. The placing, draping, or securing of a tarpaulin or other non-rigid cover over or around an inoperable motor vehicle shall not be sufficient to comply with the requirements of this section.

(b) It is further provided that:

(1) The owners of property zoned for residential or commercial purposes shall within 10 days of notice from the city or its agent, remove therefrom any inoperable motor vehicles that are not kept within a fully-enclosed building or structure or otherwise shielded or screened from view;

(2) Notice pursuant to this subsection shall first be attempted in person to the owner of the premises upon which the vehicle is located and, if different, to the owner of the vehicle. After giving or attempting to give in-person notice, the city or its agent shall post in a conspicuous place on the vehicle and in a conspicuous place elsewhere on the premises a decal (a) indicating that the vehicle is in violation of this section 25-54, (b) reasonably describing the vehicle, and (c) stating that failure to comply with the requirements of this section may result in the removal and disposal of the vehicle, at the expense of the owner of the vehicle and, if different, the owner of the premises;

(3) The city or its agent may remove inoperable motor vehicles, whenever the owner of the premises or of the vehicle, after the above notice, has failed to remove or cause to be removed any such vehicle;

(4) In the event the city or its agent removes an inoperable motor vehicle after notice of removal as set forth above, the city or its agent may dispose of the vehicle after giving additional notice to the owner of the premises upon which the vehicle was located and, if different, the owner of record of the vehicle, through registered or certified United States mail, return receipt requested, no more than 10 business days after the removal of the vehicle. The notice shall (a) describe the year, make, model, and serial number of the vehicle, (b) set forth the location of the facility where the vehicle is being held, (c) inform the owner of the owner's right to reclaim the vehicle within 10 days after the date of such notice upon payment of the cost of removal, (d) state that the failure of the owner to exercise the owner's right to reclaim the vehicle within the time provided may result in its disposal, and (e) state that the owner of the vehicle and, if different, the owner of the premises, may be liable for the cost of removal and disposal of the vehicle;

(5) Whenever any inoperable motor vehicle is not reclaimed by its owner by payment of the cost of removal within the time specified in the above-described notice, the vehicle may be disposed of;

(6) If an inoperable motor vehicle is not reclaimed as provided above, the city or its agent shall sell the vehicle or cause it to be sold. From the proceeds of the sale, the city or its

agent shall reimburse itself for the expenses of sale, and the cost of towing, preserving, and storing which resulted from removing the vehicle. Any remainder from the sale proceeds shall be held for the owner of the vehicle or any persons having security interests in it, for 90 days, and then be deposited with the treasurer of, and become property of, the city;

(7) The cost of any such removal and disposal shall be chargeable to the owner of the vehicle and, if different, of the premises from which the vehicle was removed, and may be collected by the city as taxes and levies are collected;

(8) Every cost authorized by this section with which the owner of the premises from which the vehicle was removed shall have been assessed shall constitute a lien against the real property, which lien shall continue until actual payment of such cost shall have been made to the city; and

(9) Any person aggrieved by a decision of the city in connection with the enforcement of this section may appeal by filing a written notice of appeal with the city manager within seven calendar days of the decision. The notice of appeal shall state the reason for the appeal. The city manager shall designate as appeal officer a person who did not participate in the decision. The appeal officer shall conduct an informal hearing within 10 business days after the filing of the notice of appeal. The appeal officer may affirm, modify, or reverse the original decision. The appeal officer's decision shall be announced within five business days after the hearing. The aggrieved person and the appeal officer may agree to extend the 10-day and five-day periods in this subsection. An appeal under this subsection shall stay enforcement of the original decision until the appeal officer's decision has been announced.

(c) Any person, firm, or corporation violating any provision of this section may be issued a summons and shall upon conviction thereof be punished by a civil penalty not exceeding \$200.00 for the first violation and \$500.00 for additional violations. Each day that a violation of this section continues shall be a separate offense. The total amount of the civil penalties and the frequency of the offenses shall not, however, exceed the limitations set forth in Virginia Code § 15.2-2209 (Civil penalties for violations of zoning ordinance).

(d) In the event that three civil penalties are imposed on the same defendant for the same or similar violation, not arising from the same sets of operative facts, within a 24-month period, each subsequent violation shall be a Class 3 misdemeanor.

This ordinance amendment shall become effective upon the date of its adoption by the City Council.