



**Amherst County Board of Supervisors
County Ordinance No. 2016-0006**

AN ORDINANCE, NO. 2016-0006

Adding Article VI, comprised of Divisions One through Four, containing Sections 9-150 through 9-159, (Division 1), Sections 9-160 through 9-169 (Division 2), Sections 9-170 through 9-179, (Division 3), and Sections 9-180 through 9-199 (Division 4) to Chapter 9 of the Amherst County Code, to modify the requirements governing motor vehicle graveyards and inoperable, abandoned, unattended, or trespassing vehicles. The changes conform County definitions with State law, provide for enforcement against abandoned motor vehicles in all districts in the County except the industrial district, eliminate the appeals process for decisions involving inoperable vehicles, and eliminate provisions relating to parking violations which the County is not now enforcing. The provisions governing *inoperable vehicles* will not apply (i) to a licensed business which as of June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor (ii) to farm related vehicles and equipment, or (iii) to parcels in the A-1 Agricultural Residential District containing three or fewer inoperative motor vehicles.

Article IV of Chapter 9 of the Amherst County Code is repealed.

Approved as to form and legality by the County Attorney

FIRST READING: Board of Supervisors, April 5, 2016

PUBLIC HEARING: Board of Supervisors, April 19, 2016

THE COUNTY OF AMHERST HEREBY ORDAINS:

§ 1. That Chapter 9 of the Amherst County Code be and hereby is amended by adding a new Article VI, consisting of Divisions 1 through 4, containing §§ 9-150 through 9-199, as follows:

Article VI. INOPERABLE, ABANDONED, AND UNATTENDED VEHICLES; PARKING VIOLATIONS

Division 1. IN GENERAL

Sec. 9-150. Definitions

“Abandoned motor vehicle” means a motor vehicle, trailer, or semi-trailer that (i) is left unattended on public property for more than 48 hours, (ii) 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 private

property with the consent of the owner or person in control of the private property, or (iii) is left unattended on the shoulder of a primary highway.

“Commissioner” means the Commissioner of the Revenue or her designee.

“Demolisher” means any person whose business is to crush, flatten, bale, shred, log, or otherwise reduce a motor vehicle to a state where it can no longer be considered a motor vehicle.

“Farm related vehicles and equipment” means all vehicles and equipment used in farm, agricultural, or horticultural service, including trailers used to transport farm, agricultural, or horticultural materials between a local place of storage or supply and the farm, when drawn or towed on a public highway.

“Federal-aid primary highway” means any highway within that portion of the primary state highway system as established and maintained under Article 2 (§ 33.2-310 et seq.) of Chapter 3 of Title 33.2 of the Virginia Code, including extensions of such system within municipalities that have been approved by the U.S. Secretary of Commerce pursuant to 23 U.S.C. § 103(b).

“Inoperable motor vehicle” means any motor vehicle, trailer or semi-trailer which is not in operating condition, does not display valid license plates, or does not display a valid inspection decal.

“Motor vehicle” means every vehicle as defined in Code of Virginia, § 46.2-100 that is self-propelled or designed for self-propulsion, except as otherwise provided in Title 46.2. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Any vehicle defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped is not a motor vehicle.

“Motor vehicle graveyard” means any lot or place lawfully established on or after April 5, 1968, that is exposed to the weather and containing more than five inoperable motor vehicles having fair market values, as determined by the Amherst County Commissioner of Revenue, which are less than the cost of restoration to an operable condition. The movement or rearrangement of vehicles within an existing lot or facility does not render this definition inapplicable.

“National Highway System” means the federal-aid highway system referenced in 23 U.S.C. § 103 and regulations adopted pursuant thereto, which includes those highways that are designated as such by congressional action or designation by the U.S. Secretary of Transportation. Prior to congressional approval or designation by the U.S. Secretary of Transportation, highways classified as National System of Interstate and Defense Highways, Dwight D. Eisenhower National System of Interstate and Defense Highways, Interstate System, or federal-aid primary highways as that system existed on June 1, 1991, shall be considered as the National Highway System.

“Primary highway” means any highway within the primary state highway system as established and maintained under Article 2 (§ 33.2-310 et seq.) of Chapter 3 of Title 33.2 of the Virginia Code, including extensions of such system within municipalities.

“Semi-trailer” means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some of its own weight and that of its own load rests on or is carried by another vehicle.

“Sheriff” means the Amherst County Sheriff or his designee.

“Shielded” or “screened from view” means hidden from sight, from any ground level location outside the property on which the vehicle is located, by vegetation or fences. The placing, draping or securing of a tarpaulin or other nonrigid cover over or around an inoperable motor vehicle does not render a vehicle “shielded” or “screened from view”.

“Trailer” means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

“Treasurer” means the Amherst County Treasurer.

“Truck business” means an operation where large trucks, such as tractor trailers, are used to haul and store goods; this includes maintenance and parking for the trucks.

“Vehicle” means every device, in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

“Visible” means capable of being seen without visual aid by a person of normal visual acuity.

“Zoning administrator” means the Amherst County zoning administrator or his designee.

Sec. 9-151. Declaration of intent.

It is hereby declared that the existence of inoperable motor vehicles, trailers and semi-trailers on property in Amherst County is a fire hazard and a hindrance in fighting fires, creates an unsanitary harborage for rodents and insects, constitutes an attractive nuisance to children, and poses other substantial health and safety hazards to Amherst County citizens; and that such conditions are detrimental to the welfare of Amherst County citizens, as the existence of such vehicles reduces property values, dissuades the relocation of families and businesses to the area, and discourages tourism.

Sec. 9-152. Severability.

If any portion of this Article shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of the Article in its entirety, or any of the remaining portions thereof.

Sec. 9-153. Administration and enforcement.

The Commissioner shall be responsible for enforcement of Sections 9-160 and 9-161 of Division 2 of this Article. The zoning administrator shall be responsible for the administration and enforcement of Section 9-162 of Division 2 of this Article. The Amherst County Sheriff shall be responsible for the administration and enforcement of Divisions 3 and 4 in this Article, and is hereby delegated the authority to make and enforce any additional regulations concerning parking that may be required, including, but not limited to, penalties for violations, deadlines for the payment of fines, and late payment penalties for fines not paid when due.

Sec. 9-154 through Sec. 9-159. Reserved

DIVISION 2. MOTOR VEHICLE GRAVEYARDS

Sec. 9-160. Annual License Taxes

For each year, beginning with January 1 of each year and ending December 31 following, the Commissioner shall levy annual license taxes on operators of motor vehicle graveyards as follows:

- (1) For places where up to 25 vehicles are stored\$50.00
- (2) For places where 25 to 50 vehicles are stored100.00
- (3) For places where 51 to 100 vehicles are stored150.00
- (4) For places where over 100 vehicles are stored250.00

Sec. 9-161. Assessment and payment of tax.

- A. The Commissioner shall assess the license taxes. The taxes shall be paid to the Treasurer on or before January 31 of each year.
- B. No refunds shall be made but the Commissioner may assess additional taxes where an inspection reveals that a motor vehicle graveyard contains more inoperable motor vehicles than the license allows.
- C. Failure to pay taxes on or before January 31 of each year shall subject the licensee to the penalties prescribed in Article VII of Chapter 14 of the Amherst County Code.

Sec. 9-162. Burning; screens; removal of motor vehicles.

- A. There shall be no burning operations on property containing a motor vehicle graveyard.
- B. If the property on which a motor vehicle graveyard is located is within one thousand (1,000) feet and visible from the nearest edge of the right-of-way of any National Highway System or primary highway, and not within an industrial area, the graveyard shall be screened or fenced so as to prevent its visibility from the highway.
- C. If the property on which the motor vehicle graveyard is located is within five hundred (500) feet and visible from the nearest edge of the right-of-way of any other highway and not within an industrial area, the graveyard shall be screened or fenced so as to prevent its visibility from the right of way.
- D. If the property on which the graveyard is located is within five hundred (500) feet and visible from any property zoned or used for residential purposes, the graveyard shall be screened or fenced so as to prevent visibility from such property.
- E. Operators shall make all reasonable efforts to remove unusable debris by crushing and shredding all motor vehicles after the removal of saleable parts.

Sec. 9-163 through Sec. 9-169. Reserved

DIVISION 3. – INOPERABLE MOTOR VEHICLES

Sec. 9-170. Restriction on keeping of inoperable motor vehicles.

- A. No person shall keep, except within a fully enclosed building or structure or otherwise shielded or screened from view, on any property zoned or used for residential or commercial or agricultural purposes, any inoperable motor vehicle, trailer or semi-trailer, except that one such vehicle may be kept outside a fully enclosed building or structure, provided that it is shielded or screened from view.
- B. The provisions of this division shall not apply: (i) to a licensed business which as of June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor, (ii) to farm related vehicles and equipment; or (iii) to parcels in the A-1 Agricultural Residential District containing three or fewer inoperative motor vehicles.

Sec. 9-171. Notice of violation.

- A. The owner of any property which contains an inoperable vehicle in violation of this division shall remove therefore, or otherwise bring such vehicle into compliance with the provisions of this division within seven (7) calendar days after receiving written notice of such violation.
- B. Notice given pursuant to this section shall:
 - (1) Describe the year, make, model and serial number of the inoperable motor vehicle;
 - (2) State that failure to comply with the requirements of this division may result in the removal and disposal of the vehicle; and
 - (3) State that such removal and disposal may be at the expense of the owner of such inoperable motor vehicle or the owner of the property upon which such vehicle is located.
- C. Notice given pursuant to this section shall:
 - (1) Be posted in a conspicuous place on the property upon which the inoperable motor vehicle is located; and
 - (2) Be (i) given to the property owner in person, in which case an affidavit shall be completed by the person who delivers such notice attesting to the time and place of the giving of such notice and to whom it was given, or (ii) mailed by United States Postal Service mail, postage prepaid, certified mail, return receipt requested, addressed to the owner as set forth in the records of the Treasurer.
- D. Notice shall be deemed to have been received when received in person or upon receipt of a certified letter.
- E. In the event that a notice cannot be delivered for any reason to the property owner in the manner set forth above, the Sheriff shall cause the notice to be published once in a newspaper of general circulation in the county. Notice shall be deemed to have been received the day of such publication.

Sec. 9-172. Removal and disposal of unclaimed inoperable motor vehicles.

- A. If a property owner fails to comply with the requirements of this division within the time specified in the notice, the Sheriff may have the inoperable vehicle taken to an impound lot for storage and disposal.
- B. Within five (5) business days after removal of an inoperable motor vehicle to an impound lot, the Sheriff shall give additional notice of such action to the owner of the subject property and, if different, the owner of record of the inoperable motor vehicle that has been taken into custody. The notice shall:
 - (1) Describe the year, make, model and serial number of the inoperable motor vehicle;

- (2) Set forth the location of the facility where the inoperable motor vehicle is being held;
 - (3) Inform the owner of the owner's right to reclaim the inoperable motor vehicle within fifteen (15) days after the date of such notice upon payment of the cost of removal;
 - (4) State that the failure of the owner to exercise the owner's right to reclaim the inoperable motor vehicle within the time provided may result in the disposal of the inoperable motor vehicle; and
 - (5) State that the owner of the inoperable motor vehicle, or the owner of the premises on which the inoperable motor vehicle was located at the time it was removed, may be liable for the costs of removal, storage, and disposal of the inoperable motor vehicle.
- C. The Sheriff may dispose of any inoperable vehicle if it is not reclaimed by its owner pursuant to the provisions of this division.
 - D. If the value of any inoperable motor vehicle removed under the provisions of this division be determined by three (3) disinterested dealers or to be less than the costs of advertising and public sale, it may be disposed of by private sale or junked.
 - E. If an inoperable motor vehicle is not reclaimed or disposed of as provided above, the Sheriff shall sell it or cause it to be sold at public auction. The expenses of any auction, the cost of towing, preserving and storing the inoperable vehicle may be reimbursed from the proceeds of the sale. Any remainder from the proceeds of sale shall be held for the owner of the inoperable motor vehicle or any person having security interests therein, as their interests may appear, for sixty (60) days, and shall thereafter be paid to the Treasurer.
 - E. The cost of the removal and disposal of an inoperable motor vehicle may be charged to the owner of such vehicle, or the owner of the property from which such vehicle was removed. The County may collect such costs in the same manner as taxes are collected.
 - F. Any such costs assessed against the property from which the vehicle was removed shall constitute a lien against the property which shall continue until actual payment of such costs has been made to the County.

Sec. 9-173. Penalty.

Any person violating this division shall be guilty of a Class 1 misdemeanor. A separate offense shall be deemed committed for each motor vehicle, trailer, semi-trailer that is in violation of this division.

Sec. 9-174 through 9-179. Reserved

DIVISION 4. - ABANDONED, IMMOBILIZED, AND UNATTENDED VEHICLES; PARKING

Sec. 9-180. Taking abandoned vehicles into custody; notice.

- A. The Amherst County Sheriff may take any abandoned motor vehicle into custody.
- B. Within fifteen (15) days of taking an abandoned motor vehicle into custody, the Sheriff shall, by registered or certified mail, return receipt requested, notify the owner of record of the motor vehicle and all persons having security interests of record in the vehicle, that it has been taken into custody.
- C. The notice shall
 - (1) State the year, make, model, and serial number of the abandoned motor vehicle;
 - (2) Set forth the location of the facility where it is being held;

- (3) Inform the owner and any persons having security interests of record that they may reclaim it within fifteen (15) days of the date of the notice after payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody; and
 - (4) State that the failure the owner or persons having security interests to reclaim the vehicle within the time provided shall constitute (i) a waiver by the owner and all persons having any security interests of all right, title, and interest in the vehicle and (ii) consent to the sale of the abandoned motor vehicle at a public auction.
- D. If records of the Virginia Department of Motor Vehicles contain no address for the owner or for any person having 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 Sheriff may publish notice otherwise consistent with the requirements of this section once in a newspaper of general circulation in the area where the motor vehicle was abandoned. Notice by publication may contain multiple listings of abandoned motor vehicles.

Sec. 9-181. Disposal of abandoned vehicle.

- A. If an abandoned motor vehicle is not reclaimed, the Sheriff may, notwithstanding the provisions of Code of Virginia § 46.2-617, sell the vehicle at public auction.
- B. The expenses of any auction, the cost of towing, preserving, and storing the inoperable vehicle may be reimbursed from the proceeds of the sale. Any remainder from the proceeds of sale shall be held for the owner of the inoperable motor vehicle or any person having security interests therein, as their interests may appear, for sixty (60) days, and shall thereafter be paid to the Treasurer.

Sec. 9-182. Disposal of inoperable abandoned vehicles.

- A. The Sheriff may dispose of any inoperable abandoned motor vehicle, trailer, semi-trailer, or part of a motor vehicle, trailer, or semi-trailer which it has taken into custody by delivering it to a demolisher, without the title and without the notification procedures. The demolisher, on taking custody of the inoperable abandoned motor vehicle shall notify the Virginia Department of Motor Vehicles on forms and in the manner prescribed by the Commissioner of the Virginia Department of Motor Vehicles.
- B. In order to qualify for the \$50.00 fee provided for in Virginia Code §46.2-1207, the Sheriff shall certify to the Commissioner of the Virginia Department of Motor Vehicles on forms provided by the Virginia Department of Motor Vehicles that an inoperable abandoned motor vehicle left on property within Amherst County has been disposed of as provided herein.

Sec. 9-183. Temporary removal and disposition of vehicles involved in accidents

Whenever a motor vehicle, trailer, or semi-trailer involved in an accident is so located as to impede the orderly flow of traffic, the Sheriff may (i) at no cost to the owner or operator, remove the motor vehicle, trailer, or semi-trailer to some point in the vicinity where it will not impede the flow of traffic, or (ii) have the vehicle removed to a storage area for safekeeping and shall report the removal to the Virginia Department of Motor Vehicles and to the owner of the vehicle as promptly as possible. If the vehicle is removed to a storage area under clause (ii), the owner shall pay all costs incidental to its removal and storage.

Sec. 9-184. Removal and disposition of unattended or immobile vehicles.

- A. The Sheriff may remove for safekeeping any motor vehicle, trailer, semi-trailer, or part thereof to a storage area if:
 - (1) It is left unattended on a public highway or other public property and constitutes a traffic hazard;
 - (2) It is illegally parked;
 - (3) It is left unattended for more than ten (10) days either on public property or on private property without the permission of the property owner, lessee, or occupant;
 - (4) It is immobilized on a public roadway by weather conditions or other emergency situation.
- B. Removal shall be carried out by or under the direction of a law enforcement officer. Motor vehicles, trailers, semi-trailers, and parts thereof shall not be removed from private property without the written request of the owner, lessee, or occupant of the premises. The person at whose request the motor vehicle, trailer, semi-trailer, or part of a motor vehicle, trailer, or semi-trailer is removed from private property shall indemnify Amherst County against any loss or expense incurred by reason of removal, storage, or sale thereof. It shall be presumed that such motor vehicle, trailer, semi-trailer, or part thereof is abandoned if it (i) lacks either a current license plate; or a valid state safety inspection certificate or sticker; and (ii) it has been in a specific location for four (4) days without being moved.
- C. Each removal shall be reported to the County Administrator and to the owner of the motor vehicle, trailer, or semi-trailer. Before obtaining possession of the motor vehicle, trailer, semi-trailer, or part thereof, the owner shall pay all costs incidental to its removal and storage, including costs associated with locating the owner. If the owner fails or refuses to pay the costs, or if his identity or whereabouts are 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 office of the Virginia Department of Motor Vehicles against the motor vehicle, trailer, semi-trailer, or part of a motor vehicle, trailer, or semi-trailer, the vehicle shall be treated as an abandoned vehicle under the provisions of §§ 9-180 through 9-182.

Sec. 9-185. Sale of personal property found in unattended or abandoned vehicles.

Any personal property found in any unattended or abandoned motor vehicle, trailer, or semi-trailer may be sold incident to the sale of the vehicle as authorized in this division.

Sec. 9-186. Permitted and prohibited parking; presumption as to violation.

- A. The parking of two (2) motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles shall not be prohibited.
- B. Parking within fifteen (15) feet of any fire hydrant, or in any way obstructing a fire hydrant or a fire zone is prohibited.
- C. Parking over top of a water meter or in any way obstructing a water meter is prohibited.
- D. In any prosecution charging a violation of this section or any regulation promulgated pursuant hereto, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of this section, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Code of Virginia Chapter 6 (§§ 46.2-600 et seq.) of title 46.2, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle is the person who committed the violation.

Sec. 9-187. Enforcement provisions.

- A. The Treasurer shall collect and account for uncontested payment of parking citation penalties.
- B. Contest by any person of any parking citation shall be certified on an appropriate form, to the Amherst County General District Court, by the Treasurer.
- C. The Sheriff shall cause complaints, summons, or warrants to be issued for delinquent parking citations.
- D. Every action to collect unpaid parking citation penalties imposed for violation of this division shall be commenced within three (3) years of the date upon which such penalty became delinquent.

Sec. 9-188. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator of parking or other lot or building; charges.

- (a) The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or area or any part of a parking lot or area, or of any other lot or building, including Amherst County, or authorized agent of the person having control of such premises may have any vehicle occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or authorized agent of the one having the control of the premises, removed by towing or otherwise to a licensed garage for storage until called for by the owner or his agent if there are posted at all entrances to the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the non-emergency telephone number of the Amherst County Sheriff's Office or the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from that location.
- (b) Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this action shall be given by the tow truck operator to the State Police or the Amherst County Sheriff's Office. It shall be unlawful to fail to report such tow as required by this section and violation of the reporting requirement of this section shall constitute a traffic infraction punishable by a fine of not more than one hundred dollars (\$100.00). Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.
- (c) All businesses engaged in towing vehicles without the consent of their owners shall prominently display (i) at their main place of business and (ii) at any other location where towed vehicles may be reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered, or stored without his consent.
- (d) Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed twenty-five dollars (\$25.00), in lieu of towing.
- (e) In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the vehicle or wheel.

The charge for the removal of any boot or device shall not exceed twenty-five dollars (\$25.00). In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be immobilized, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause to have the Amherst County Sheriff, or his designee, issue, on the premises, a notice of the violation of a parking ordinance or regulation created pursuant to Code of Virginia § 46.2-1220 or § 46.2-1221 to the registered owner of the vehicle.

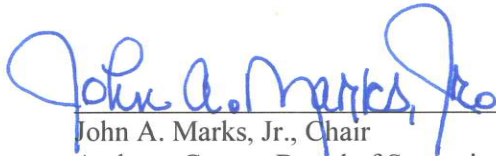
- (f) This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another.

Sec. 9-189 through 9-199. Reserved.


§ 2. That Article IV of Chapter 9, consisting of sections 9-111 through 9-132.26 of the Amherst County Code be and is hereby repealed.

§ 3. That this ordinance shall be in force and effect upon adoption.

Adopted this 19th day of April, 2016.


John A. Marks, Jr., Chair
Amherst County Board of Supervisors

ATTEST:


Dean C. Rodgers, Clerk
Amherst County Board of Supervisors

Ayes 5

Nays 0

Abstentions 0