

TOWN OF ONLEY, VIRGINIA
ORDINANCE REGULATING INOPERABLE VEHICLES

Ordinance No. 003-06
August 2006

WHEREAS, the Town Council of the Town of Onley desire to promote the public safety, health, and welfare of the residents of the Town of Onley, and

WHEREAS, it is declared to be in the public interest to regulate and restrict the keeping of inoperable motor vehicles on residential or commercial property within the Town of Onley,

WHEREAS, under the authority of § 15.2 – 904 of the Code of Virginia, the Town of Onley may enact ordinances regulating the keeping of inoperable motor vehicles, etc., on residential or commercial property and may provide for their removal and penalty for violations of such ordinances; and

WHEREAS, the Town Council of the Town of Onley hereby repeals ordinance 93-3 adopted November 1, 1993 regarding the regulation of inoperable vehicles;

BE IT THEREFORE ORDAINED, by the Town Council of the Town of Onley that the following provisions be enacted regulating the keeping of inoperable motor vehicles, etc., on residential or commercial property with the Town of Onley.

***State law references:**

Authority to restrict keeping of inoperable motor vehicles, etc., on residential or commercial property; removal of such vehicles; penalty, Code of Virginia, § 15.2 – 904.

Sec. 1. Definitions.

Sec. 2. Purpose.

Sec. 3. Restrictions; exemptions; removal and cost.

Sec. 4. Penalty.

Sec. 5. Enabling authority.

Sec. 6. Effective date.

Sec. 1. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable motor vehicle, trailer or semi-trailer means any motor vehicle, trailer or semi-trailer which is not in operating condition; or which for a period of sixty (60) days or longer has been partially or totally disassembled by the removal of tires and

wheels, the engine, if applicable, or other essential parts required for operation of the vehicle; or, if applicable, on which there are displayed neither valid license plates nor a valid inspection sticker.

Motor vehicle means every vehicle as defined in § 46.2-100 of the Code of Virginia, which 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. For the purposes of this ordinance any device defined under § 46.2-100 as a bicycle or a moped shall be deemed not to be a motor vehicle.

Person means any person, firm, partnership, association, corporation, company or entity of any kind, and being the owner, tenant, lessee or otherwise in possession or control of any private or public real property.

Private real property means any area which is not owned by the federal, state or local government or any instrumentality, agency or political subdivision thereof.

Shielded or screened means completely precluding visibility of the subject motor vehicle, trailer, or semi-trailer, from view by a solid, rigid, opaque fence or by a landscaped arrangement of nondeciduous plantings, sufficient in height, spacing, density and circumference. Non-rigid covers specifically manufactured and designed for use on a particular make and model of a motor vehicle, trailer or semi-trailer are permitted for use as a screen. Such fitted covers shall be in non-deteriorated or otherwise acceptable state. Draped tarpaulins, or other non-fitted, non-rigid type covers are specifically prohibited as methods of screening inoperable vehicles. All fencing shall comply with current town zoning.

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

Trailer means every vehicle without motor power designed for carrying property or passengers only on its own structure and for being drawn by a motor vehicle. This definition does not include any mobile home for which there exists a valid zoning permit.

*State law reference—Similar definitions, Code of Virginia, § 46.2-100; § 15.2 – 904 A.

Sec. 2. Purpose.

(a) The purpose of this ordinance is to prevent the accumulation of inoperable motor vehicles or parts thereof, in unapproved and inappropriate locations throughout the incorporated territory of the town, inasmuch as they constitute an unsightly, obnoxious and unsanitary condition within such territory. The presence of such inoperable motor vehicles increases the danger of the spread of certain communicable diseases by

providing a breeding place for rats, mice and other known disease carriers and otherwise constitutes a condition detrimental to the mental and general well-being of the town citizens and is declared a public nuisance.

(b) It is, therefore, determined and council so finds, that it is imperative for the preservation of health, safety, peace and the general public welfare that these provisions concerning inoperable motor vehicles be adopted requiring property owners, tenants, lessees or persons otherwise in control or possession of real estate to remove such inoperable motor vehicles from their premises.

Sec. 3. Restrictions; exemptions; removal and cost.

(a) It shall be unlawful for any person, except as expressly provided herein, to keep on any real property within the town zoned for residential, commercial or agricultural purposes, any inoperable motor vehicle. A person may keep any number of inoperable motor vehicles within a fully enclosed building or structure, or may keep up to a maximum of two (2) motor vehicles outside a fully enclosed building or structure, but which are shielded or screened from view as provided for herein.

(b) Any such person shall have thirty (30) days to remove any such inoperable motor vehicle after it becomes inoperable as provided for herein.

(c) This ordinance shall not apply to a lawfully licensed and zoned business which is regularly engaged in business as an automotive dealer, salvage dealer, scrap processor, or commercial garage.

(d) The owner of any such real property on which any such inoperable motor vehicle is located contrary to the provisions of this ordinance, shall be notified of such violation by registered or certified mail, return receipt requested, mailed to the last known address of such owner as shown on the current real estate tax books of the town. If, after 30 days from the date of actual receipt of such notice by the owner of said real property, or 60 days after the date of mailing, whichever shall first occur, the owner of such real property has failed to remove said inoperable motor vehicle, the town, acting through its agents or employees, may enter onto such real property and remove such inoperable motor vehicle and dispose of same as hereinafter provided.

(e) After removal of any such inoperable motor vehicle pursuant to subsection (d) hereof, the town through its agents or employees may dispose of such inoperable motor vehicle, after giving a further notice as provided in subsection (d) hereof to the owner of such inoperable motor vehicle, and the failure of the owner to pay all costs attributable to such removal within five (5) days of the completion of such notice. If the owner of the inoperable motor vehicle cannot be determined by investigation through the State Department of Motor Vehicles or the comparable state agency in which said inoperable motor vehicle is registered, or such cannot be reasonably ascertained from the inoperable motor vehicle, or from the owner of said property from which it was removed, no such additional notice to the owner of the inoperable motor vehicle shall be required.

(f) The cost of any such removal and disposal shall be chargeable to the owner of the real property from which removed, and/or the owner of the inoperable motor vehicle, and may be collected by the town as taxes and levies are collected. Any amount which may be realized by the town from the sale of any such inoperable motor vehicle shall be applied to such costs.

(g) Every cost authorized by this section with which the owner of the premises from which an inoperable motor vehicle is removed shall be assessed, shall constitute a lien against the property from which the inoperable motor vehicle was removed, such lien to continue until actual payment of such costs have been made to the town.

Sec. 4. Penalty.

Any person violating the provisions of this ordinance shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.


Sec. 5. Enabling authority.

This ordinance is enacted pursuant to the provisions of § 15.2-904 of the Code of Virginia of 1950, as amended. In the event of any conflict between the terms and provisions hereof and § 15.2-904, the provisions of § 15.2-904 shall control.

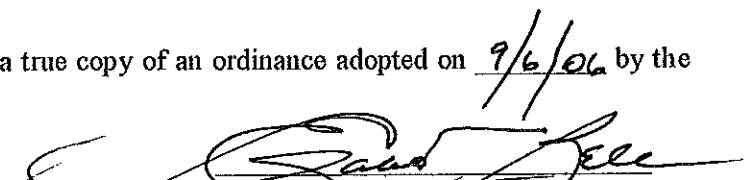
Sec. 6. Effective date.

This ordinance shall repeal Ordinance 93-3 adopted November 1, 1993 regulating inoperable vehicles and shall become effective upon passage.


John Willis Kellam, Mayor

Attest:

Elizabeth Bell, Town Clerk

I certify that the foregoing is a true copy of an ordinance adopted on 9/6/06 by the Onley Town Council.


Elizabeth Bell, Town Clerk

Council voting: