

INOPERABLE MOTOR VEHICLES

Chapter 52**INOPERABLE MOTOR VEHICLES**
[Added 9-10-1998, Amended 6-14-2007]

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§ 52-1. Findings.

The outdoor storage of inoperable vehicles within the Town of Middleburg is detrimental to the health, safety and general welfare of the community, detracts from the enjoyment of the environment by the citizens, tends to depreciate neighborhood property values, and infringes on their property and homes. The same also constitutes a potential nuisance to the children of the community and may imperil their safety. The fuel tanks of inoperable motor vehicles containing gasoline or gasoline fumes constitute a danger of explosion. Inoperable motor vehicles may contain broken glass and sharp metal edges; if kept with batteries containing harmful acids, they pose a threat to the health and safety of the community. The prohibition of outdoor storage of inoperable motor vehicles and restriction upon the number of such vehicles any person may keep outside of a fully enclosed structure promote the health, safety and welfare of the community.

§ 52-2. Definitions.

As used in this chapter, the following words shall have the meanings ascribed:

MOTOR VEHICLE means any motor vehicle, trailer or semitrailer, as such are defined in sec. 46.2-100, *Va. Code Ann.*

INOPERABLE MOTOR VEHICLE means any motor vehicle which is not in operating condition; or does not display valid license plates; or, being required by law to display an inspection decal, does not display an inspection decal that is

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valid or displays an inspection decal that has been expired for more than sixty days.

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. (amended 6-14-07)

PROPERTY ZONED FOR RESIDENTIAL, COMMERCIAL, OR AGRICULTURAL PURPOSES means any property within the Town of Middleburg which is zoned A-C, R-1, R-2, R-3, R-4, Planned Residential District (PRD), C-1, C-2, or C-3. (amended 6-14-07)

KEEPING or KEPT means the uninterrupted presence on a property for a period of ten days or more, whether or not the motor vehicle is moved on the property during such period. Evidence that any officer of the police department observed such vehicle on the subject property at least once per day during a period of ten consecutive days shall create a rebuttable presumption that the presence was uninterrupted.

§ 52-3. Keeping inoperable vehicles prohibited.

The keeping of any inoperable motor vehicle on property zoned for residential, commercial or agricultural use, except within a fully enclosed building or structure or otherwise shielded or screened from view is prohibited.

§ 52-4. Restriction on number of inoperable motor vehicles.

Not more than one inoperable motor vehicle shielded or screened from view may be kept on property zoned for residential, commercial or agricultural purposes that is not kept within a fully enclosed building or structure. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate that that he is actively restoring or repairing the vehicle, and if it is shielded or screened from view, the vehicle and one additional inoperative motor vehicle that is shielded or screened from view and being used for the restoration or repair may remain on the property but only so long as such person diligently pursues restoration or repair of the vehicle. (amended 6-14-07)

§ 52-5. Notice to remove inoperable motor vehicle.

- A. On an original determination by the chief of police or other police officer that any motor vehicle is being kept on property zoned for residential, commercial or agricultural property in violation of this chapter, the chief or his designee shall give written notice to the owners of such property including a description of the inoperable motor vehicle and requiring the owners to remove such vehicle therefrom within ten days from the date of receipt of the notice. Such notice also shall notify such owners that upon their failure to comply, the chief of police may cause such vehicle to be

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removed and charge to the owners the expense of such removal, storage and disposal, if the vehicle is disposed as provided in sec. 52-9. The notice shall also specify that an appeal may be taken within ten days of date of the notice, pursuant to section 52-6.

- B. The notice required by subsection A. shall also provide that the owner may notify the chief of police at any time within ten days of receipt of remedial action taken to come into compliance with the provisions of this chapter.
- C. The notice required by subsection A. shall also be directed to the registered owner of such vehicle if such person's name and address may be readily ascertained.

§ 52-6. Appeals.

- A. Any person aggrieved by a decision of the chief of police that a motor vehicle is inoperable or is otherwise being kept in violation of sec. 52-3 or 52-4 may appeal such decision to the town administrator by filing a notice of appeal with the police department within ten days of receipt of the notice provided in accordance with sec. 52-5. Such notice of appeal shall state in writing:
 - (i) The order, requirement, decision or determination which is subject of the appeal;
 - (ii) The date upon which the decision was made; and
 - (iii) The reasons for the appeal.
- B. A hearing shall be conducted within seventy-two hours of receipt of the request therefor unless otherwise agreed to by the parties.
- C. An appeal under this section shall stay enforcement proceedings until after the appeal has been heard and determined by the town administrator or mayor.

§ 52-7. Voluntary compliance.

- A. Any person to whom a notice is directed pursuant to sec. 52-5 may remedy the conditions giving rise to the violation of this chapter and may invite inspection for compliance by the chief of police.
- B. If the chief of police is satisfied that a violation of this chapter no longer exists, he shall notify the owner that the notice issued pursuant to sec. 52-5 is rescinded and enforcement proceedings abated.

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§ 52-8. Removal of vehicle; notice to reclaim.

- A. Whenever the owners of property zoned for residential, commercial or agricultural purposes shall fail to remove any motor vehicle kept in violation of this chapter in accordance with the notice given pursuant to sec. 52-5, the chief of police or his designee shall cause such vehicle to be removed therefrom to a location approved by the chief of police for such purposes. Upon such removal, the chief of police shall give written notice to such owners that they may reclaim such vehicle by paying, in cash or certified funds, all costs of removal and storage of the vehicle not later than ten days after receipt of such notice; otherwise, the chief of police shall dispose of such vehicle in accordance with the provisions of sec. 18-3 and 18-4 of this Code or any other manner authorized by law.
- B. The notice required by this section shall also be directed to the registered owner of such vehicle if such person's name and address may be readily ascertained.

§ 52-9. Disposal of unclaimed motor vehicle; charge of costs.

If neither the property owner nor owner of a motor vehicle removed under the provisions of sec. 52-8 shall reclaim the vehicle as therein provided, the chief of police or his designee shall cause the vehicle to be disposed of in accordance with the provisions of sec. 18-3 and 18-4 of this Code or any other manner authorized by law.

§ 52-10. Collection of charges; lien.

- A. The cost of removal, storage and disposal of motor vehicles incurred by the Town pursuant to this chapter may be charged to either the owner of the inoperable motor vehicle or the owner of the premises from which it was removed and may be collected as taxes are collected.
- B. Every cost authorized by this chapter with which the owner of the premises has been assessed shall constitute a lien against the property from which the inoperable motor vehicle was removed, the lien to continue until actual payment of the cost has been made to the Town.

§ 52-11. Exceptions.

- A. The provisions of this chapter shall not apply to a licensed business which is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor.

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- B. Any vehicle being actively used in farming operations and located on property zoned for agricultural purposes shall be exempted from the provisions of this chapter, provided that:
- (i) The vehicle is being used on private property and is being held for continuing operation on private property and is not being held primarily for nonoperating purpose; and
 - (ii) The vehicle, if not in a condition for legal operation on public highways, is in a condition such that it can be operated and that such operation on private property will not be unduly dangerous to the operator, passengers or others; and
 - (iii) The vehicle is in such condition that there is no sharp metal, broken glass or other condition which would endanger children who might be attracted to play around the vehicle.

§ 52-12. Notice.

- A. Notices required to be given under this chapter may be given by certified or registered mail, return receipt requested, to the person addressed therein or may be delivered by hand to such person.
- B. Any notice given in accordance with the provisions of subsection A. above shall be deemed received on the date shown on the return receipt, in the case of certified or registered mail, or on the date of delivery when delivery by hand.

§ 52-13. Severability.

If any provision of this chapter shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect the validity of this chapter in its entirety, or any of the remaining provisions, all provisions of this chapter being hereby declared to be severable.