

**BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA**

O-30-05

At the regular meeting of the Board of Supervisors of the County of New Kent in the Board Room of the County Office Building in New Kent, Virginia, on the 12th day of December, 2005:

Present:	Vote:
Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye

Motion was made by Mr. Sparks, which carried 5:0, to adopt the following Ordinance:

**AN ORDINANCE TO AMEND SECTION 70-135 OF
THE NEW KENT COUNTY CODE PERTAINING TO THE
KEEPING OF INOPERABLE VEHICLES ON RESIDENTIAL
OR COMMERCIAL OR AGRICULTURAL PROPERTY**

WHEREAS, Section 15.2-904 of the Code of Virginia authorizes counties to adopt ordinances to restrict the keeping of inoperable motor vehicles; and

WHEREAS, Section 15.2-904 of the Code of Virginia was amended during the 2005 Virginia General Assembly session to allow localities to adopt a schedule of civil penalties in accordance with Section 15.2-2209; and

WHEREAS, the proposed amendment to Section 70-135 of the New Kent County Code adopts a schedule of civil penalties in accordance with Sections 15.2-904 and 15.2-2209 of the Code of Virginia; and

WHEREAS, within the timeframes established by the Code of Virginia and New Kent County Code, the Board of Supervisors duly advertised the public hearing which was held on 12 December 2005, in full accord with applicable provisions of the Code of Virginia;

NOW THEREFORE BE IT ORDAINED this, the 12th day of December 2005, by the New Kent County Board of Supervisors that Section 70-135 is hereby amended as follows:

Sec. 70-135. Keeping of inoperable vehicles on residential or commercial or agricultural property; removal of such vehicles.

(a) Unlawful Activities

(1) 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 or agricultural purposes any motor vehicle, trailer or semitrailer, as such are defined in section 46.2-100, Code of Virginia which is inoperable. As used in this section, an inoperable motor vehicle means any motor vehicle which is not in operating condition; or which for a period of sixty (60)90 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle or on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor. A vehicle licensed under the provisions of section 70-55 shall not be deemed to be inoperable.

(2) The owners of property zoned for residential, commercial or agricultural purposes shall, at all times remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure. The county, through its own agents or employees, may remove any such inoperable motor vehicles, trailers or semitrailers, whenever the owner of the premises, after reasonable notice, has failed to do so. If the county, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, the county may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle. The cost of any such removal and disposal shall be chargeable to the owner of the vehicle or premises and may be collected by the county as taxes are collected. Every cost authorized by this section with which the owner of the premises has been assessed shall constitute a lien against the property from which the vehicle was removed; the lien to continue until actual payment of such costs has been made to the county.

(3) Notwithstanding the other provisions of this section, if the owner of such motor vehicle, trailer or semitrailer can demonstrate that the inoperable motor vehicle, trailer or semitrailer is being actively restored or repaired and if it is shielded or screened from view, it and one additional inoperative motor vehicle, trailer or semitrailer that is shielded or screened from view and being used for the restoration or repair of the other vehicle may remain on the property.

(b) Penalties

(1) A violation of this section shall be subject to a civil penalty, not to exceed one hundred dollars (\$100.00) 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 two hundred fifty dollars

(\$250.00). Each business day during which the same violation is found to have existed shall constitute a separate offense. However, specified violations arising from the same operative set of facts shall not be charged more frequently than once in any 10-day period, and a series of specified violations arising from the same operative set of facts shall not result in civil penalties which exceed a total of five thousand dollars (\$5,000.00). Notwithstanding the foregoing, a violation of this section shall constitute a Class 3 misdemeanor, in the event three civil penalties have previously been imposed on the same defendant for the same or for a similar violation, not arising from the same set of operative facts, within a 24-month period. The classifying of such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

(2) The zoning administrator or his deputy may issue a civil summons as provided by law for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court.

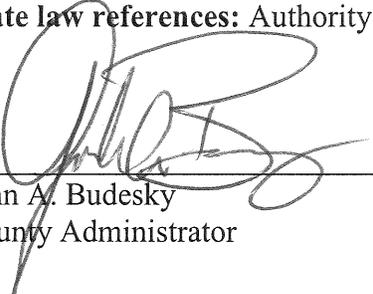
(3) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation authorized by this section, it shall be the burden of the locality to show the liability of the violator by a preponderance of the evidence. An admission of liability or finding of liability shall not be a criminal conviction for any purpose.

(4) No provision herein shall be construed to allow the imposition of civil penalties (i) for activities related to land development or (ii) for violation of any provision of a local zoning ordinance relating to the posting of signs on public property or public rights-of-way.

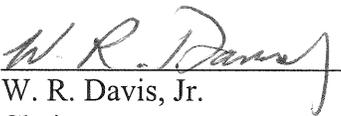
(c) As used in this section, notwithstanding any other provision of law, general or special, "shielded or screened from view" means not visible by someone standing at ground level on the outside of the property on which the subject vehicle is located.

(Code 1999, § 10-67; Ord. No. O-25-02, § C, 10-8-2002)

State law references: Authority for above section, Code of Virginia, § 15.2-904.



John A. Budesky
County Administrator



W. R. Davis, Jr.
Chairman