

**Buckingham County  
Planning Commission  
Work Session  
Packet**



**April 19, 2016**

**Buckingham County Planning Commission  
Work Session Agenda  
Tuesday, April 19, 2016  
County Administration Building  
7:00 P.M.**

1. Call to Order by Zoning Administrator
  - Establishment of Quorum
  - Invocation
  - Pledge of Allegiance
  
2. Adoption of Agenda
  
3. Public Comment
  
4. Old Business
  - A. Zoning Ordinance - Automobile Graveyards/Junkyards\*
  
5. Reports and Correspondence
  
6. Commission Matters / Concerns
  
7. Adjournment

Code of Virginia  
Title 15.2. Counties, Cities and Towns  
Chapter 9. General Powers of Local Governments

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

A. Any locality may, by ordinance, provide that it shall be unlawful for any person 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 § 46.2-100, which is inoperable. Any locality in addition may, by ordinance, limit the number of inoperable motor vehicles which any person may keep outside of a fully enclosed building or structure, but which are shielded or screened from view by covers. As used in this section, an "inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 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 (iii) any motor vehicle 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.

B. Any locality may, by ordinance, further provide that: (i) the owners of property zoned for residential, commercial or agricultural purposes shall, at such time or times as the locality prescribes, remove therefrom any such inoperable motor vehicles, trailers or semitrailers that are not kept within a fully enclosed building or structure; (ii) such locality 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; (iii) in the event such locality, through its own agents or employees, removes any such motor vehicles, trailers or semitrailers, after having given such reasonable notice, such locality may dispose of such motor vehicles, trailers or semitrailers after giving additional notice to the owner of the vehicle; (iv) 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 locality as taxes are collected; and (v) 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 locality. Notwithstanding the other provisions of this subsection, if the owner of such vehicle can demonstrate 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.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, which may be imposed in accordance with the provisions of § 15.2-2209.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

E. 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 from outside of the property on which the subject vehicle is located.

1966, c. 390, § 15.1-11.1; 1970, c. 196; 1972, c. 572; 1973, c. 395; 1982, c. 368; 1985, c. 289; 1986, c. 245; 1989, c. 404; 1997, c. 587; 2003, c. 829; 2004, cc. 513, 934; 2005, cc. 465, 775.

## Code of Virginia

## Title 33.2. Highways and Other Surface Transportation Systems

## Chapter 8. Offenses Concerning Highways

**§ 33.2-804. Junkyards; penalty.**

A. For the purpose of promoting the public safety, health, welfare, convenience, and enjoyment of public travel, protecting the public investment in public highways, and preserving and enhancing the scenic beauty of lands bordering public highways, it is hereby declared to be in the public interest to regulate and restrict the establishment, operation, and maintenance of junkyards in areas adjacent to the highways within the Commonwealth.

B. As used in this section:

"Automobile graveyard" means any lot or place that is exposed to the weather and upon which more than five motor vehicles of any kind that are incapable of being operated and which it would not be economically practical to make operative are placed, located, or found. The movement or rearrangement of vehicles within an existing lot or facility does not render this definition inapplicable. The provisions established by this subsection shall begin with the first day that the vehicle is placed on the subject property.

"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, 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).

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste; junked, dismantled, or wrecked automobiles or parts thereof; and old or scrap iron, steel, or other ferrous or nonferrous material.

"Junkyard" means an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard. "Junkyard" includes garbage dumps and sanitary landfills.

"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, including extensions of such system within municipalities.

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

C. No junkyard shall be established any portion of which is within 1,000 feet of the nearest edge of the right-of-way of any National Highway System highway or primary highway or within 500 feet of the nearest edge of the right-of-way of any other highway or city street, except the following:

1. Junkyards that are screened by natural objects, plantings, fences, or other appropriate means so as not to be visible from the main-traveled way of the highway or city street or otherwise removed from sight.
2. Junkyards that are located in areas that are zoned for industrial use under authority of state law or in unzoned industrial areas as determined by the Board.
3. Junkyards that are not visible from the main-traveled way of the highway or city street.

D. Any junkyard lawfully in existence on April 4, 1968, that is within 1,000 feet of the nearest edge of the right-of-way and visible from the main-traveled way of any interstate or federal-aid primary highway, and not located within an industrial area, shall be screened, if feasible, by the Commissioner of Highways at locations on the highway right-of-way or in areas acquired for such purposes outside the right-of-way, so as not to be visible from the main-traveled way of such highways.

Any junkyard lawfully in existence on April 4, 1968, that is within 1,000 feet of the nearest edge of the right-of-way of any other primary highway or within 500 feet of the nearest edge of the right-of-way of any other highway and visible from the main-traveled way of such highway, and not located within an industrial area, may be screened by the Commissioner of Highways in the same manner as junkyards adjacent to National Highway System highways.

The Commissioner of Highways is authorized to acquire by purchase, gift, or the power of eminent domain such lands or interests in lands as may be necessary to provide adequate screening of such junkyards.

E. When the Commissioner of Highways determines that the topography of the land adjoining a National Highway System highway will not permit adequate screening of such junkyards or the screening of such junkyards would not be economically feasible, the Commissioner of Highways shall have the authority to acquire by gift, purchase, or the power of eminent domain such interests in lands as may be necessary to secure the relocation, removal, or disposal of the junkyards and to pay for the costs of their relocation, removal, or disposal. When the Commissioner of Highways determines that the topography of the land adjoining any other highway will not permit adequate screening or such would not be feasible, the Commissioner of Highways may exercise the same authority to relocate such junkyards as is vested in him in regard to National Highway System highways.

F. Any junkyard that comes into existence after April 4, 1968, and that cannot be made to conform to this section is declared to be a public and private nuisance and may be forthwith removed, obliterated, or abated by the Commissioner of Highways or his representatives. The

Commissioner of Highways may collect the cost of such removal, obliteration, or abatement from the person owning or operating the junkyard.

G. The Board is authorized to enter into agreements with the United States as provided in 23 U.S.C. § 136 with respect to control of junkyards.

H. The Commissioner of Highways shall not be required to expend any funds for screening or relocation under this section unless and until federal-aid matching funds are made available for this purpose.

I. Any person violating any provision of this section is guilty of a Class 1 misdemeanor.

Code 1950, § 33-279.3; 1958, c. 552; 1962, c. 8; 1966, c. 485; 1968, c. 240; 1970, c. 322, § 33.1-348; 1973, c. 328; 2005, c. 291; 2013, c. 127; 2014, c. 805.

## Current Buckingham County Zoning Ordinance

- List Automobile junkyard/graveyard as a SUP requirement
- Definition - **Automobile Junkyard** - Also known as an automobile graveyard. Any lot or place which is exposed to the weather upon which five (5) or more motor vehicles of any kind, incapable of being operated are placed.
- No definition for inoperable

After reading Code of Virginia 15.2-904 and 33.2-804 the following are suggested changes and questions that need to be addressed

- Keep Automobile junkyard/graveyard as a SUP
- Add to definition – Automobile Junkyard - Also known as an automobile graveyard. Any lot or place which is exposed to the weather upon which five (5) or more motor vehicles of any kind, incapable of being operated and/or do not display a valid license plate are placed.
  - May have to change this to more than 5 vehicles (33.2-804 defines as more than 5. 15.2-904 says we can limit the number)
  - Not adding portion of 33.2-804 that says “and which it would not be economically practical to make operative” because what does “economically practical” mean? Too open for dispute.
  - Adding does not have a valid license gives an extra element of intent, also easy to check out when complaints are made, will also help with taxes
- Add definition – Junk – means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste; junked dismantled, or wrecked automobiles or parts thereof; and old or scrap iron, steel, or other ferrous or nonferrous material.
- May add definition – Junkyard – means an establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling junk or for maintenance or operation of an automobile graveyard. Junkyard includes garbage dumps and sanitary landfills.
  - Does “establishment or place of business” limit those we can ask to clean up? Does establishment mean any location/property or only someone claiming a business....everyone will say they don't have a business.

