

# City of Alexandria, Virginia

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## MEMORANDUM

DATE: APRIL 16, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: BUDGET MEMO #74 : ABANDONED AUTO FINES

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This memo is in response to a question from City Council asking: The Virginia statute carries a \$500 fine for abandoned vehicles. Is it worth creating a parking code that would mirror the Commonwealth Code (46.2 – 1200, 46.2 – 1200.1, & 46.2 – 1201) which would allow Parking Enforcement to issue a parking citation or be given the authority to get a summons from the magistrate to give to the owner when a vehicle is towed in response to the “abandon auto” notice?

Creating a City Code to mirror Commonwealth Code would prove problematic and likely would cost more in terms of administrative time and resources than any revenues that would be recovered from issuing the citations. The intent of the Commonwealth Code seems to be to deter the abandoning of cars rather than to receive additional revenues due to the cost of administering the Code.

According to Parking Enforcement, an average of 50 abandoned vehicles are towed in a 6 month period. At 100 vehicles per year with a \$500 dollar fine, revenues could total approximately \$50,000 per year. However, these revenues would be difficult to obtain.

The Virginia Code allows the imposition of a civil penalty of \$500. However, before the civil penalty can be imposed, the vehicle's owner must be convicted of the traffic infraction of abandoning the vehicle (Va. Code section 46.2-1200.1). The procedure to be followed is:

(a) Mail (via first-class mail) a summons for violation of Va. Code section 46.2-1200.1 to the vehicle owner (as listed on Virginia DMV records).

(b) If the person fails to appear at the specified court date, a new summons is to be issued and served upon the vehicle owner of record by the sheriff of the locality where the owner resides.

(c) After service of the second summons, if the vehicle owner fails to appear at the specified court date, the court is to instigate contempt-of-court proceedings.

The vehicle owner must first be convicted of abandoning the vehicle before the \$500 civil penalty can be imposed. Thus, the City must incorporate into the city code the summons process set out above. (Presently, the City code already sets up a process for notifying the vehicle owner that the vehicle has been impounded, prescribes the towing and storage charges that will be imposed, and establishes a process for the sale of impounded vehicles that have not been claimed after 40 days.) This process (from Va. Code section 46.2-1200.1) can be incorporated by ordinance into the city code. See Va. Code sections 46.2-1201 and 46.2-1313.

Once the vehicle owner has been convicted of an abandoned vehicle violation, the City would then file a civil action in the general district court to collect the \$500 civil penalty. The vehicle owner will be subjected to two separate court proceedings, with two different penalties. This is similar to the process currently followed for the recovery of public safety costs related to DUI incidents involving property damage or personal injury. Once the driver has been convicted of DUI, the City sues the driver to recover the public safety costs incurred during the response to the DUI incident.

As with the DUI cases, the City would only pursue collection of the \$500 fee against Virginia residents, due to the difficulty and expense of obtaining valid service of process on residents from other states. Implementing this fee would likely cost more in terms of staff time and resources than would be recovered from the fine.