

Community Development Committee

Wednesday, May 19, 2021

1:00 PM

Hanover County Administration Building

Board of Supervisors Auditorium

AGENDA

- I. Opening Remarks** **Sean Davis, *Chairman***
- II. Regulation of Parking Large Trucks on Subdivision Streets – Dennis Walter**
- III. Unsafe Structures Potential Ordinance Amendments – Richard Gordon**
- IV. Subdivision Performance Agreement – Lengthen Performance Period – David Maloney**
- V. Potential Comprehensive Plan Scope and Timeline – David Maloney**
- VI. Other Business**
- VII. Future Topics to be considered**
 - **Trash and Property Maintenance, Expand the Definition**
 - **Road Matter**
- VIII. Future Meeting**
- IX. Adjourn**

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Henry District

Angela Kelly-Wieczek, Vice Chairman
Chickahominy District

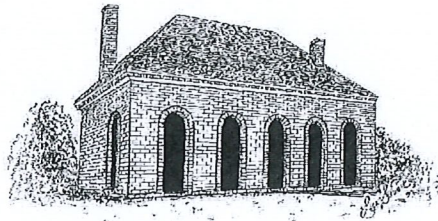
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Historic Hanover Courthouse

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Assistant County Attorney

Leah D. Han
Assistant County Attorney

MEMORANDUM

TO: Members of Community Development Committee

FROM: Dennis A. Walter, Hanover County Attorney *DAW*

SUBJECT: Proposed ordinance: Parking of commercial vehicles in residential districts

DATE: May 13, 2021

At its March 22, 2021 meeting, the Community Development Committee had a discussion on the possible adoption of parking regulations related to large trucks and other commercial vehicles in residential subdivisions. During the meeting, Committee members discussed the possible parameters of an ordinance, including considerations of sight distance, vehicle size, and the widths of streets in older subdivisions. The Committee directed the County Attorney to draft an ordinance that would regulate the parking of these vehicles on residential streets, and to see if some of the provisions of the parking regulations adopted by the Town of Ashland could be included in a County ordinance.

Draft Ordinance

Attached to this memo is a draft ordinance which would regulate the parking of trucks and other commercial vehicles. The provisions in this ordinance are derived from Sections 46.2-1222.1 and 46.2-1224 of the Code of Virginia (copies of which are attached). Also attached is a copy of Section 10-15 of Town Code, which sets forth the applicable regulations from the Town of Ashland.

The draft ordinance includes all categories of commercial vehicles that the County is authorized to regulate. The Committee may wish to remove certain categories of vehicles from the draft ordinance that it feels are not parked throughout the County in a way that currently creates a hazard to the traveling public or that would present enforcement issues. The regulations used in the Town of Ashland were not included as the weight limit listed there is lower than is permissible in the County.

Staff Recommendation

Staff recommends that the Committee forward the Ordinance to the Board, after making necessary amendments to reflect the intent behind the regulation and the enforcement challenges that might be created, with the recommendation that it authorize the advertisement of a public hearing on the Ordinance.

ORDINANCE 21-

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, CHAPTER 15, MOTOR VEHICLES AND TRAFFIC, AS FOLLOWS:

1. BY THE ADDITION OF A NEW SECTION 15-43.2 PROHIBITING THE PARKING OF COMMERCIAL VEHICLES, AS DEFINED IN THE ORDINANCE, ON PUBLIC HIGHWAYS IN THE COUNTY THAT ARE ADJACENT TO PROPERTIES ZONED RS SINGLE-FAMILY RESIDENTIAL DISTRICT, RM MULTI-FAMILY RESIDENTIAL DISTRICT, R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT, R-2 SINGLE-FAMILY RESIDENTIAL DISTRICT, R-3 SINGLE-FAMILY RESIDENTIAL DISTRICT, R-4 RESIDENTIAL CLUSTER DEVELOPMENT DISTRICT, R-5 MULTIPLE-FAMILY RESIDENTIAL DISTRICTS, AND R-6 RESIDENTIAL MOBILE HOMES DISTRICTS, AND THAT VIOLATIONS SHALL BE SUBJECT OF A FINE OF ONE HUNDRED FIFTY DOLLARS (\$150.00); AND
2. BY AMENDING SECTION 15-44, RELATING TO THE WAIVER AND VOLUNTARY PAYMENT OF FINES ASSESSED FOR THE VIOLATIONS OF COUNTY PARKING REGULATIONS.

WHEREAS the Hanover County Code regulates the parking of motor vehicles in certain locations throughout the County; and

WHEREAS the General Assembly amended the enabling legislation contained in the Code of Virginia so that the County is authorized to regulate the parking of commercial vehicles on public highways; and

WHEREAS the Board of Supervisors finds that an amendment to the parking regulations prohibiting the parking of such vehicles on public highways adjacent to properties that are residentially zoned is in the public interest;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Chapter 15, Motor Vehicles and Traffic, be amended by the addition of a Section 15-43.2, Parking of commercial vehicles in residential areas prohibited, which shall read in its entirety as follows

Section 15-43.2. Parking of commercial vehicles in residential areas prohibited.

(a) It shall be unlawful for a person to park, on a public highway adjacent to a residentially zoned property, any commercial vehicle as defined in subsection (e).

(b) A violation of this section shall be punishable by a fine of one hundred fifty dollars (\$150.00).

(c) Every person receiving a citation for violation of this section may waive the right to appear and be tried upon voluntary payment of the amount of one hundred dollars (\$100.00) in accordance with section 15-44 of this article.

(d) A summons or citation for violation of this section may be issued by authorized personnel of the County sheriff's office.

(e) For the purposes of this section:

(1) "Commercial vehicle" means any

- a. solid waste collection vehicle;
- b. tractor truck or tractor truck/semitrailer or tractor truck/trailer combination;
- c. dump truck;
- d. concrete mixer truck;
- e. tow truck with a registered gross weight of 12,000 pounds or more;
- f. heavy construction equipment;
- g. trailer, semitrailer, or other vehicle in which food or beverages are stored or sold;
- h. trailer or semitrailer used for transporting landscaping or lawn-care equipment, whether or not such trailer or semitrailer is attached to another vehicle;
- i. any truck more than 20 feet in length, other than commercial vehicles used by a public service company, those used in the provision of cable television service, or vehicles used in the provision of propane gas service; or
- j. any vehicle that has a gross vehicle weight rating of 12,000 or more pounds.

(2) "Residentially zoned property" means a property zoned RS Single-Family Residential District, RM Multi-Family Residential District, R-1 Single-Family Residential District, R-2 Single-Family Residential District, R-3 Single-Family Residential District, R-4 Residential Cluster Development District, R-5 Multiple-Family Residential Districts, or R-6 Residential Mobile Homes District.

(f) The provisions of this section shall not apply to:

- (1) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location; or
- (2) utility generators located on trailers and being used to power network facilities during a loss of commercial power.

2. That the Hanover County Code, Section 15-44, regarding the waiver and voluntary payment of fines related to the parking of vehicles, be amended to read in its entirety as follows:

Section 15-44. - Waiver and voluntary payment of fine; contest of citation.

- (a) Any person receiving a citation that he has violated section 15-41, 15-42, 15-43, ~~or 15-43.1, or 15-48~~ may waive his right to appear and be tried for the offense set forth in the citation. Such waiver shall be effective upon voluntary payment of the amount specified in the citation to the county treasurer's office, within thirty (30) days from the date written on the citation, or upon voluntarily placing the amount specified in the citation in the reply mail envelope on which the citation is printed and mailing it to the county treasurer's office, so that it is postmarked within thirty (30) days from the date written on the citation. Such person shall not thereafter be required to appear before the general district court for trial upon the charge set forth in the citation. Uncontested payment of parking citation penalties shall be collected and accounted for by the county treasurer's office.
- (b) Any person who wishes to contest the charged violation must appear in person before the Clerk of the Hanover County General District Court within thirty (30) days from the date written on the citation to have his case placed on the court docket for a hearing. The contest by any person of any parking citation shall be certified on an appropriate form to the Hanover County General District Court.

3. That this ordinance shall be effective on the date of adoption.

Code of Virginia

Title 46.2. Motor Vehicles

Subtitle III. Operation

Chapter 12. Abandoned, Immobilized, Unattended and Trespassing Vehicles; Parking

Article 3. Trespassing Vehicles, Parking, and Towing

§ 46.2-1222.1. Regulation or prohibition of parking of certain vehicles in certain counties and towns

A. The Counties of Arlington, Fairfax, Frederick, Hanover, Stafford, and Prince William and the Towns of Blackstone, Cape Charles, Clifton, Herndon, Leesburg, Vienna, and West Point may by ordinance regulate or prohibit the parking on any public highway in such county or town of any or all of the following: (i) watercraft; (ii) boat trailers; (iii) motor homes, as defined in § 46.2-100; and (iv) camping trailers, as defined in § 46.2-100.

B. In addition to commercial vehicles defined in § 46.2-1224, any such county or town may also, by ordinance, regulate or prohibit the parking on any public highway in any residence district as defined in § 46.2-100 any or all of the following: (i) any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle; (ii) any vehicle with three or more axles; (iii) any vehicle that has a gross vehicle weight rating of 12,000 or more pounds; (iv) any vehicle designed to transport 16 or more passengers including the driver; and (v) any vehicle of any size that is being used in the transportation of hazardous materials as defined in § 46.2-341.4. The provisions of any such ordinance shall not apply to (i) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power.

2000, cc. 72, 270;2001, c. 144;2003, cc. 122, 470;2004, cc. 108, 225, 702;2009, c. 535;2011, c. 201; 2014, cc. 49, 680;2017, c. 556;2019, cc. 116, 144;2020, c. 997.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 46.2. Motor Vehicles

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Article 3. Trespassing Vehicles, Parking, and Towing

§ 46.2-1224. County ordinances prohibiting certain parking in streets and highways

A. The governing body of any county may, by ordinance, prohibit any person from parking any motor vehicle, trailer, or semitrailer on or adjacent to the highways in the county when such person parks any such motor vehicle, trailer, or semitrailer for commercial purposes. The provisions of any such ordinance shall not apply to motor vehicle carriers when picking up or discharging passengers.

B. The governing bodies of (i) counties with populations greater than 500,000 and of towns located therein and (ii) counties with populations of at least 210,000 but less than 217,000 may, by ordinance, prohibit any person from parking any commercial vehicle, as defined in this section, on the highways within their respective jurisdiction in areas zoned for residential use. For the purposes of this section, the term "commercial vehicle" may include: (i) any solid waste collection vehicle, tractor truck or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, tow truck with a registered gross weight of 12,000 pounds or more, and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer; (ii) any trailer, semitrailer, or other vehicle in which food or beverages are stored or sold; (iii) any trailer or semitrailer used for transporting landscaping or lawn-care equipment whether or not such trailer or semitrailer is attached to another vehicle; (iv) any vehicle licensed by the Commonwealth for use as a common or contract carrier or as a limousine; (v) any truck more than 20 feet in length, other than commercial vehicles used by a public service company as defined in § 56-1 or by others working on its behalf, or commercial vehicles used in the provision of cable television service as defined in § 15.2-2108.2, or commercial vehicles used in the provision of propane gas service; and (vi) any vehicle carrying commercial freight in plain view. Such ordinance shall permit, however, one resident of each single-family dwelling unit zoned for residential use to park one vehicle licensed as a taxicab or limousine on such highways, provided other vehicles are permitted to park thereon. The provisions of any such ordinance shall not apply to a commercial vehicle when picking up or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location.

C. The governing bodies of counties with populations greater than 500,000 and the governing bodies of towns within such counties' boundaries may by ordinance prohibit any person from parking any of the following vehicles on the highways within their respective jurisdictions in areas zoned for commercial or industrial use if such highways do not comply with the current geometric design standards of the Virginia Department of Transportation Road Design Manual or Subdivision Street Requirements that would apply had the highways been constructed at the time of adoption of such ordinance: (i) any solid waste collection vehicle, tractor truck, or tractor truck/semitrailer or tractor truck/trailer combination, dump truck, concrete mixer truck, tow truck with a registered gross weight of 12,000 pounds or more, and any heavy construction equipment, whether located on the highway or on a truck, trailer, or semitrailer; (ii) any trailer, semitrailer, or other vehicle in which food or beverages are stored or sold; or (iii) any trailer or

semitrailer used for transporting landscaping or lawn care equipment whether or not such trailer or semitrailer is attached to another vehicle. The provisions of any such ordinance shall not apply to any commercial vehicle when picking up or discharging passengers or when temporarily parked pursuant to the delivery of goods or the performance of work or service at a particular location.

Any violation of the provisions of any such ordinance shall be a traffic infraction.

Code 1950, § 46-259.2; 1952, c. 602; 1958, cc. 10, 541, § 46.1-254; 1989, c. 727; 1996, c. 770; 1997, c. 19; 1998, cc. 391, 403, 424; 2005, c. 293; 2006, cc. 874, 891; 2009, c. 183.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Sec 10-15 Parking Of Motor Vehicles In Excess Of 8700 Lbs On Public Roadways

Except for when an individual is actively engaged in the receiving loads or actively engaged in making deliveries, it shall be unlawful for the owner, operator or driver of any motor vehicle in excess of eight thousand seven hundred (8700) pounds, to park the same or permit the same to be parked on any highway or public place.

HISTORY

Adopted by Ord. 2008-03 on 2/19/2008

ORDINANCE 21-

AN ORDINANCE TO AMEND THE HANOVER COUNTY CODE, CHAPTER 6, BUILDINGS AND CONSTRUCTION REGULATIONS, SECTIONS 6-51, 6-52, AND 6-54 TO (1) CLARIFY AN OWNER'S RESPONSIBILITY TO REMOVE, REPAIR OR SECURE UNSAFE BUILDINGS AND STRUCTURES RELATED TO "FARM BUILDINGS AND STRUCTURES", (2) AUTHORIZE THE BUILDING OFFICIAL TO TAKE EMERGENCY MEASURES TO SECURE OR REPAIR AN UNSAFE STRUCTURE, AFTER NOTICE TO THE OWNER, AND (3) PROVIDE THE CRITERIA FOR WHEN A BUILDING OR STRUCTURE SHALL BE SUBJECT TO THE UNSAFE BUILDINGS AND STRUCTURES REGULATIONS SET FORTH IN THE HANOVER COUNTY CODE.

WHEREAS the Hanover County Code currently provides for the regulation of buildings and structures in Hanover County, including provisions applicable to the maintenance of existing buildings and structures in certain defined areas of the County; and

WHEREAS the Chief Building Official has received complaints over the years of existing structures and buildings located outside those areas where the Property Maintenance Code is applicable that are unsafe to those who live and work in close in proximity to these buildings and structures, and to the public in general; and

WHEREAS there exists a need to balance the rights and obligations of property owners and the safety of the public and others who might find themselves near buildings and structures that are unsafe or unfit for human occupancy; and

WHEREAS the Board of Supervisors' Community Development Committee has studied the issue and has recommended that the maintenance obligations for these unsafe structures be expanded to include those structures that are close to property lines or that are near public-use areas; and

WHEREAS the Board of Supervisors finds that the Hanover County Code should be amended to specifically address these areas that could create a heightened risk to members of the public;

NOW, THEREFORE, BE IT ORDAINED by the Board of Supervisors of Hanover County:

1. That the Hanover County Code, Chapter 6, Buildings and Construction Regulations, Section 6-51, Owner's responsibility to remove, repair or secure unsafe buildings and structures, shall be amended to read as follows:

Sec. 6-51. Owner's responsibility to remove, repair or secure unsafe buildings and structures.

The owners of property shall remove, repair or secure any building or other structure which might endanger the public health or safety of other residents of the county, within sixty (60) days of being provided notice that the building official has determined such building or other structure to be unsafe; provided, the provisions of this section shall not apply to a "farm building or structure" as that term is defined in the Code of Virginia.

2. That the Hanover County Code, Chapter 6, Buildings and Construction Regulations, Section 6-52, Abatement by building official, shall be amended to read as follows:

Sec. 6-52. - Abatement by building official.

(a) If the owners of property on which an unsafe building or other structure is located have failed to remove, repair or secure such structure within sixty (60) days after notice from the building official, the building official may cause the building or other structure to be removed, repaired or secured. For the purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings.

(b) The building official is authorized to take emergency measures to repair or secure a structure necessary to make the structure temporarily safe where the building official has determined that :

1. a building or other structure is unsafe to the extent that the building or structure constitutes an immediate danger to public health or safety, or
2. that there is a code violation resulting in the immediate serious and imminent threat to the life and safety of the occupants.

Prior to taking any emergency measures, the building official shall provide notice to the owner, owner's agent or person in control of the building or structure at least seven (7) days prior to taking such actions.

(c) Nothing in this section shall preclude the issuance of a Notice of Violation for any violations of the Virginia Uniform Statewide Building Code.

3. That the Hanover County Code, Chapter 6, Buildings and Construction Regulations, Section 6-54, Criteria, shall be amended to read as follows:

Sec. 6-54. Criteria.

~~In determining whether a building or other structure endangers the public health or safety of residents of the county, the building official shall consider whether the building or other structure is in a state of dilapidation, deterioration or decay to the extent that it is in danger of collapse or structural failure and whether the building or other structure is located in proximity to occupied dwellings, businesses or community facilities~~ A building or structure shall be deemed unsafe and subject to the enforcement provisions of this article if the building or structure :

(a) Is an “Unsafe Structure” or “Structure Unfit for Human Occupancy” as defined in Part III of the Uniform Statewide Building Code; and

(b) Is located within:

1. Fifty (50) feet of any property line, lot line, or right-of-way;

2. 1000 feet of an operating business; or

3. 1000 feet of a school, park, or similar public-use areas.

Should the Building Official determine that (1) a building or structure meets the definition of an “Unsafe Structure” or “Structure Unfit for Human Occupancy,” regardless of its proximity to uses or property lines as set forth in subsection (b), and (2) the structure is occupied or has created a public nuisance by attracting trespassers to the property, the building or structure shall also be subject to the enforcement provisions of this article.

4. This ordinance shall be effective on the date of adoption.

Sec. 25-69. Performance agreements.

- (a) *When required.* Where the subdivider does not construct all required improvements in accordance with the approved plans and standards set forth in this chapter and has those improvements accepted for maintenance by the appropriate county or state agency, the subdivider shall enter into a performance agreement with the county and post adequate surety in accordance with the provisions of section 25-70 prior to the recordation of a final plat.
- (b) *Authority to enter agreement.* The director shall have authority to execute the agreement on behalf of the county.
- (c) *Form of agreement.* The agreement, which shall be made on forms to be supplied by the director and approved as to form by the county attorney, shall ~~as~~ a minimum provide that all improvements required or voluntarily agreed to and all improvements shown on the approved construction plan or final plat of subdivision shall be completed, approved, and accepted within ~~eighteen (18)~~ twenty-four (24) months from the date of recordation. When VDOT or another non-county agency or entity will be maintaining the improvement after final acceptance, that agency or entity shall be a third party beneficiary of the agreement.
- (d) *Extensions of time—Generally.* Extensions of time for the completion, approval and acceptance of all required improvements may be granted as follows:
- i. Following the initial twenty-four month term of the performance agreement, the director may grant one three month extension;
 - ii. Any extension after the one approved by the director shall be approved by the Planning Commission. In acting on the request for an extension, the Planning Commission shall indicate the length of the extension and the conditions, if any, of approval.
- In deciding whether to approve an extension of time under i. or ii., above, the following factors shall be taken into~~by the director after consideration of the following:~~
- (1) The needs of the occupants of residences in the subdivision for safe and convenient access to their residences.
 - (2) Deterioration of the roads, drainage, and other improvements completed or partially completed.
 - (3) The season of the year and the type of work which remains to be completed.
 - (4) The number of residences occupied and the eligibility of the facilities for acceptance by the appropriate state or local agency.
 - (5) Extensions of time - landscaping. An extension of time for the completion of required landscaping may be granted by the director if the time of year or environmental circumstance would jeopardize any planting.
- ~~(c) — Following the initial twenty four month term of the performance agreement, the director may grant one three month extension.~~
- ~~(f) — Any extension beyond three months shall be approved by the Planning Commission~~
~~An extension of time may be granted for a period not to exceed six (6) months.~~
- (e) *Amendments.* Amendments, including addendums adding additional parties to the agreement, may be permitted in accordance with the terms of the agreement.

(Ord. No. 11-09, § 7, 9-14-11; Ord. No. 12-08, § 4, 1-9-13)

applicable to the common and open space, to the county, and applicable to the preservation lot and conservation lot, to the county, and to the owners' association, with content approved by the county, requiring preservation of features so designated on the plan, requiring maintenance in perpetuity of the common and open space and preservation lot ~~(s)~~ and conservation lot, prohibiting further division of those areas, and prohibiting any use not permitted by the Zoning Ordinance.

- (3) The Board may approve conveyance of the open space and any open space easement to a qualifying nonprofit or governmental entity other than the owners' association or the county, upon a finding that such a conveyance will achieve purposes of open space or historic preservation consistent with the character of the RC district, that the conveyance will be beneficial to the future owners within the district and to the public, and that the purposes and resources of the entity and the proposed conveyance are consistent with the perpetual preservation of the open space and significant features.
- (g) Evaluation criteria. At the time of consideration of the zoning request, the following criteria will be considered as indicating design appropriate to the site's natural, historic, and cultural features, and meeting the purposes of this ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between residential and open space areas. Accordingly, proposals shall be evaluated to determine whether the proposed development plan adequately addresses the following criteria:
 1. Protection and preservation of all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction (except as may be approved by the county for essential infrastructure or active or passive recreation amenities).
 2. Preservation and maintenance of existing treelines between fields or meadows, mature woodlands, pastures, meadows, and orchards, which create sufficient buffer areas to minimize conflicts between residential and other uses; and limitation of impacts on large woodlands (greater than five (5) acres), especially those containing many mature trees or a significant wildlife habitat. Also, woodlands of any size on highly erodible soils with slopes greater than ten (10) percent should be avoided.
 3. Minimization of development on open fields or pastures. Dwellings should be sited on the least prime agricultural soils, or in locations at the far edge of a field, as seen from existing public roads.
 4. Preservation of existing vistas, particularly as seen from public roadways, and buffering of development within view of public roads with landscaping screens.
 5. Avoidance of siting of new construction on prominent hilltops or ridges, by taking advantage of lower topographic features.
 6. Preservation of sites of historic, archaeological, or cultural value, and their environs, insofar as needed to safeguard the character of the feature.
 7. Provision of active recreational areas in suitable locations offering convenient access by residents, and with adequate screening from nearby residential lots.

8. Inclusion of a pedestrian circulation system designed to assure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the open space. All roadside footpaths should connect with off-road trails, which in turn should link with open space.
9. Provision of open space that is reasonably contiguous and avoids fragmentation so that these areas are not divided into numerous small parcels located in various parts of the development. The open space shall generally abut existing or potential open space land on adjacent parcels, and shall be designed as part of any existing or proposed larger contiguous and integrated greenway systems.