You ask whether the City of Radford may prescribe a $200 fine for violation of its ordinance pertaining to permit parking.¹

You observe that § 46.2-1230 of the Code of Virginia authorizes the governing body of a locality to adopt an ordinance providing for the issuance of parking permits on public streets. You advise that Virginia law does not provide a penalty for violating such an ordinance. Further, you observe that § 46.2-1300 permits localities to adopt ordinances regulating the operation of motor vehicles on the highways. You note that § 46.2-113 makes it unlawful to violate the motor vehicles laws of the Commonwealth,² or any local ordinance adopted under § 46.2-1300. Such violations under § 46.2-113 "constitute traffic infractions punishable by a fine of not more than $200." You relate that § 46.2-1300 provides no authority for localities to regulate permit parking; rather, it provides guidance to localities pertaining to authorized penalties for violation of local ordinances regulating the operation of motor vehicles. Finally, you advise that application of Dillon’s Rule appears to prohibit the City of Radford from amending a parking ordinance to provide for a fine of $200 as punishment for a violation.

Under the Dillon Rule of strict construction, it is well-established that political subdivisions of the Commonwealth have only those powers expressly granted or necessarily implied from express powers.³ Accordingly, municipalities have only such legislative and fiscal powers as are expressly or impliedly delegated to them by statute.⁴ When doubtful, the question of whether a municipality has a particular power is to be answered in the negative.⁵ Thus, the Dillon Rule requires a narrow interpretation of all powers conferred on local governments, as they are delegated powers.⁶

Section 15.2-1429 provides:

Any locality may prescribe fines and other punishments for violations of ordinances, which shall be enforced by proceedings as if such violations were misdemeanors. However, no fine or term of confinement for the violation of ordinances shall exceed the penalties provided by general law for the violation of a Class 1 misdemeanor, and such penalties shall not exceed those penalties prescribed by general law for like offenses. Section 55-73(1) of the Code of Ordinances for the City of Radford pertains to permit parking. The City seeks to amend the ordinance by deleting certain language and adding the language in italics:
"If any person should obtain, use, possess, transfer or allow others to use or possess a parking permit issued to him, or give false answers upon application therefor, or use or continue to use such parking permit after termination or expiration thereof, by expiration of time or operation of law or cessation of residence, or violate any other terms, conditions, rules or regulations applicable to the same, he shall be guilty of a misdemeanor and shall be punished by a fine of not less than $7.50 nor more than $25.00. Each day or portion thereof during which such permit or its use shall violate the terms of this article shall constitute a separate violation."

Where the language of a statute is free from ambiguity, its plain meaning will control.\(^7\) Section 15.2-1429 expressly authorizes a locality to prescribe a criminal fine for violation of an ordinance, provided the fine does not exceed the penalty under state law for a Class 1 misdemeanor.\(^8\) In ordinances prohibiting acts of a continuing nature, Virginia localities frequently specify that each day the violation continues will constitute a separate offense.\(^9\)

Therefore, it is my opinion that the City of Radford has the authority to amend its ordinance regarding permit parking to provide that the violation of § 55-73(1) is punishable by a fine of $200.


\(^6\)Board of Supervisors v. Countryside Invest. Co., 258 Va. 497, 522 S.E.2d 610 (1999) (holding that county board of supervisors does not have unfettered authority to decide what matters to include in subdivision ordinance; must include requirements mandated by Land Subdivision and Development Act, and may include optional provisions contained in Act); 1974-1975 Op. Va. Att'y Gen. 403, 405.


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