

DEC 13 2017

VILLAGE OF WASHINGTONVILLE DEPARTMENT OF STATE

LOCAL LAW NO. 5 OF 2017

**A LOCAL LAW CREATING CHAPTER 163 OF THE VILLAGE OF  
WASHINGTONVILLE CODE ENTITLED "VEHICLES, ABANDONED JUNKED OR  
INOPERATIVE"**

Be it enacted by the Board of Trustees of the Village of Washingtonville, County of Orange, State of New York, as follows:

**Section 1. Purpose.**

This Local Law is enacted for the purpose of creating regulations with respect to the treatment and disposition of abandoned and inoperative vehicles within the Village of Washingtonville.

**Section 2. New Chapter.**

Chapter 163 of the Village Code of the Village of Washingtonville is hereby created as follows:

**Chapter 163. VEHICLES, ABANDONED JUNKED OR INOPERATIVE**

**§ 163-1 Legislative intent**

The Board of Trustees of the Village of Washingtonville hereby finds that the storage or presence of abandoned, junked or inoperative motor vehicles on private property creates a public and private nuisance and is harmful to the public health, safety and welfare. Such vehicles: i) present a source of potential serious injury, particularly to children; ii) seriously harm the aesthetic qualities of the Village; and iii) are a contributing cause to the depreciation of property values within neighborhood and the Village as a whole. The Board of Trustees finds that the problems can be diminished by permitting the storage of such vehicles only within a garage or other enclosed structure.

**§ 163-2 Definitions**

As used in this chapter, the following terms shall have the meaning as indicated:

**ABANDONED, JUNKED OR INOPERATIVE MOTOR VEHICLE**

A. Any motor vehicle, as defined in the Vehicle and Traffic Law of the State of New York, that is:

1. Unlicensed, old, wrecked, stored, discarded, dismantled or partly dismantled and which is not intended for or in any condition fit for legal use upon the public highway;
2. Being held or used for the purpose of resale of used parts therefrom or for purpose of reclaiming for use some or all of the materials therein for the purpose of disposing of the same;
3. In such condition as to cost more to repair and place in operating condition than its reasonable market value prior to such repair;
4. Left unattended for more than 24 hours on property of another if left without permission of the property owner. Notwithstanding the foregoing, if such vehicle presents an immediate danger to persons or property as determined by any Enforcement Official, said vehicle shall be deemed to be abandoned at the time of the determination.
5. With no number plates affixed thereto or in an inoperable condition for more than six hours on any highway or in any other public place.
6. Whether licensed or not, for more than 24 hours on any highway or in any other public place, except a portion of a highway or public place on which parking is legally permitted.
7. For more than 48 hours, after the parking of such vehicle shall have become illegal, on a portion of a highway or public place on which parking is legally permitted.

- B. With respect to any motor vehicle not required to be licensed or not customarily used on public highways, the fact that such motor vehicle has remained unused for more than six months and is not in condition to be removed under its own power shall be presumptive evidence that such motor vehicle is an 'abandoned, junked or inoperative motor vehicle'.
- C. The fact that a motor vehicle does not display a current motor vehicle registration or license plate shall be presumptive evidence that such motor vehicle is not in any condition for legal use upon the highways.
- D. The use of the term in the singular herein is intended, where applicable, to include the plural.

#### **ENFORCEMENT OFFICIAL**

The Building Inspector, Code Enforcement Officer, any officer of the Village of Washingtonville Police Department or any person authorized to issue appearance tickets in the Village pursuant to the laws of the State of New York.

#### **OWNER OF PRIVATE PROPERTY**

Any person, firm, partnership, limited liability company or corporation, whether business membership, religious, charitable or otherwise, or any association or any other unit or entity owning real property in the Village of Washingtonville.

### **§ 163-3 Prohibited actions; exception**

- A. It shall be unlawful for any person, his agent or employee to abandon or to suffer, permit or cause to be left any motor vehicle, whether or not owned by him, upon any public street or in any public place or on private property not owned by him or on his own property in violation of the provisions of this chapter or any other local law of the Village of Washingtonville.
- B. This chapter shall not prohibit a person from keeping one unregistered motor vehicle on his/her own property under the following conditions:
  1. The property owner must fill out an unregistered vehicle application form and submit same to the Building Inspector/Code Enforcement Officer. The application form shall include the following information:
    - a. Property owner's name and address;
    - b. Name of the owner of the vehicle;
    - c. Reason(s) for maintaining unregistered vehicle on property. Examples of acceptable reasons shall include, but not be limited to: vehicle owner/operator being ill; actively engaged in military service; attending an educational institution; or unable to insure the vehicle for financial reasons.
  2. The Building Inspector/Code Enforcement Officer shall either approve or deny the application, subject to an appeal to the Village Board of Trustees should an applicant be aggrieved by the Building Inspector's/Code Enforcement Officer's decision. Any approval granted by either the Building Inspector/Code Enforcement Officer or the Village Board, as applicable, shall be for a period of one year. At the expiration of said period, a new application must be submitted to the Building Inspector/Code Enforcement Officer or the unregistered vehicle removed from the property.

### **§ 163-4 Storage restricted**

It shall be unlawful for any person within the Village to store or deposit or cause, suffer or permit to be stored or deposited more than one abandoned, junked or inoperative motor vehicle or part or piece thereof outside of an enclosed structure on any private property within the Village.

### **§ 163-5 Removal Procedures**

In addition or as an alternative to the fines, penalties and other remedies provided in § 163-6, any abandoned, junked or inoperative motor vehicle in violation of § 163-4 may be removed from the property on which it is located in the following manner:

#### **A. Notice**

1. The Enforcement Official shall serve written notice, either by personal service on the property owner, tenant or agent or by certified mailing, to the owner of the private

property on which the vehicle is located and post a copy of such notice in a conspicuous place on the subject property ordering such property owner, tenant or agent to remove the vehicle or cause the vehicle to be removed therefrom within five days after the date of a hearing before the Board of Trustees. Such notice shall be mailed at least five days prior to the hearing and shall state the date of the hearing.

2. Such notice shall also state that:
  - a) Failure to remove the vehicle within the specified period shall cause legal title to the vehicle to vest in the village and shall grant to the village the legal right to enter upon the premises to remove and sell or dispose of said vehicle
  - b) The expense of such removal, storage and sale or disposal, including the costs of this proceeding, shall be charged to the vehicle owner and/or property owner and may be charged against the property and, if unpaid said charge may be assessed, levied and collected in the same manner as a real property tax.
3. At the hearing, the property owner or vehicle owner is entitled to be represented by counsel and present testimony and witnesses. The Enforcement Official may determine the ownership and the address of the owner of any parcel of land in the Village from the current assessment roll.
4. Following the aforesaid hearing before the Board of Trustees, the Board may affirm, modify or rescind the Enforcement Official's order.

**B. Removal**

In the event that said abandoned, junked or inoperative motor vehicle is not removed from the premises within five days subsequent to the hearing, or said other time period as the Board may specify, the Village shall have the right to enter upon the premises and to remove, store and sell or dispose of said vehicle. The expense of such removal, storage and sale or disposal shall be a lawful charge against the owner of the private property and may be collected in the same manner as a real property tax or, in the alternative, said charges may be collected in a civil action instituted in the name of the Village of Washingtonville.

**C. Acquisition of title to vehicle by Village**

1. If a vehicle which is declared abandoned, junked or inoperative by the Enforcement Official has no current registration, inspection sticker or license plate and is of a wholesale value, taking into consideration the condition of the vehicle, of \$750 or less, title to such vehicle shall vest in the Village ten (10) days subsequent to the public hearing provided for in §163-5A. Such determination as to wholesale value shall be made by the Enforcement Official.
2. For vehicles other than those governed by Subsection (1) above, the Village shall notify the last owner of the vehicle and any lien holders thereon that the Village has commenced procedures to acquire title to the vehicle, and if such vehicle is not claimed and removed from the property within ten (10) days subsequent to the aforesaid public hearing, title to such vehicle shall vest in the Village.

**D. Sale, use and disposal of vehicle**

1. The Village Board of Trustees shall determine if an abandoned, junked or inoperative motor vehicle is suitable or feasibly may be made suitable for operation on the public highways. If the vehicle is so suitable, the vehicle shall be sold after public bid to the highest bidder or converted pursuant to Subsection D(2) below.
2. The Village Board of Trustees may convert to its own use those abandoned, junked or inoperative motor vehicles not affected by §163-5(C) above or may, by sale or gift, transfer title to any such vehicles to any other municipal corporation for use by its law enforcement agency; provided, however, that the total number of vehicles converted and/or transferred in any calendar year shall not exceed two such vehicles.
3. If the Village Board of Trustees determines that an abandoned, junked or inoperative motor vehicle is not suitable for operation on the public highways or if a vehicle does not have a vehicle identification number plate, the village shall sell the vehicle to a vehicle dismantler or scrap processor registered or certified pursuant to § 415-a of the New York State Vehicle & Traffic Law or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which the business is located.
4. Any proceeds from the sale of an abandoned, junked or inoperative vehicle, less all costs and expenses incurred by the Village in the entire proceeding, shall be held by the Village without interest, for the benefit of the immediate past owner of such vehicle, for a period of one year. If not claimed within such one year period, said proceeds shall be paid into the general fund of the Village.

**§ 163-6 Penalties for offenses**

- A. Any person who violates any provision of this chapter shall be subject to the jurisdiction of the local justice court, for each violation, to a fine or civil penalty not exceeding \$750 or imprisonment not to exceed 15 days, or both. Each day such offense continues shall constitute a separate and distinct offense hereunder.
- B. In addition or as an alternative to the above provided penalties, the Village may commence a vehicle removal administrative proceeding pursuant to § 163-5.
- C. In addition or as an alternative to the above provided procedures and penalties, the Board of Trustees may maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

**Section 3. Severability**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or

circumstances, and the Board of Trustees of the Village of Washingtonville hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**Section 4. Repeal**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**Section 5. Authority**

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local Law shall supersede the provisions of Village Law to the extent that it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

**Section 6. Effective Date**

This law shall become effective upon filing with the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.