

**REVISED ORDINANCE CONCERNING ABANDONED, INOPERABLE  
OR UNREGISTERED MOTOR VEHICLES**

WHEREAS, certain motor vehicles, trailers and campers have been abandoned, dismantled, partially dismantled, wrecked, junked, inoperable, discarded or unregistered, and left about the Town on public or private property, in places other than junk yards or other appropriate places; and

WHEREAS, such conditions tend to reduce the enjoyment of one's property, impair the value of real estate, encourage illegal salvaging, create fire hazards, pollute surface and ground water, and threaten public health, safety, comfort, convenience and welfare of the residents of the Town; and

WHEREAS, the "Abandoned Property Ordinance" adopted on April 17, 1984 has become outdated and in need of revision to comply with Connecticut General Statutes Revised to 2001, §14-150 and recent court decisions;

NOW THEREFORE, be it ordained by the Town of Harwinton:

**SECTION 1. SHORT TITLE:** This Ordinance shall be known and may be cited as the "REVISED ORDINANCE CONCERNING ABANDONED, INOPERABLE OR UNREGISTERED MOTOR VEHICLES."

**SECTION 2. DEFINITIONS:** For the purposes of this Ordinance, the following terms shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. "Town" is the Town of Harwinton.
- b. "Vehicle" means any device suitable or designed for the conveyance or transportation of persons or property, but does not include devices propelled or drawn exclusively by human or animal power or designed to be used exclusively on rails.
- c. "Motor Vehicle" is any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor-bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts and construction equipment, and includes any trailer or camper, self-propelled or otherwise, required to be registered by the Department of Motor Vehicles prior to having access to the highway.
- d. "Junked Motor Vehicle" is any motor vehicle, as defined herein, which does not have lawfully affixed thereto an unexpired registration plate or plates, and the condition of which is wrecked, dismantled, partially dismantled, inoperable, abandoned or discarded.
- e. "Antique Motor Vehicle" means any motor vehicle which is at least twenty-five (25) years old and which is actively being preserved and restored because of historic interest.
- f. "Person" shall means any person, firm, partnership, association, corporation, company, or organization of any kind.
- g. "Private Property" shall mean any real property within the Town which is privately owned and which is not public property as defined in this section.
- h. "Public Property" shall mean any street, highway or passway which shall include the entire width between the boundary lines of every such right of way maintained for the

purposes of travel by the public, and shall also mean any other publicly owned property or facility.

i. "Enforcement Officer" means any Town constable, State Police officer, resident state trooper, Department of Motor Vehicles inspector, or other peace officer.

**SECTION 3. PARKING, STORING OR ABANDONING CERTAIN MOTOR**

**VEHICLES PROHIBITED AND DECLARED NUISANCE:** A. No person shall park, store, abandon, or permit the parking, storing, or abandoning of a motor vehicle, of any kind which is in an abandoned, wrecked, disabled, inoperable, junked, unregistered, dismantled or partially dismantled condition upon any public property within the Town for a period of time in excess of forty-eight (48) hours, or upon any private property within the Town for a period of time in excess of fifteen (15) days. The presence of an abandoned, wrecked, disabled, inoperable, junked, unregistered, dismantled or partially dismantled motor vehicle, or parts thereof, on public or private property, is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this Ordinance.

B. The private property provisions of this Ordinance shall not apply to (a) any motor vehicle enclosed within a building or covered by a roof, (b) to any motor vehicle held in connection with a business enterprise which is lawfully licensed and properly operated in the appropriate business zone pursuant to the Zoning Regulations of the Town, (c) a motor vehicle in operable condition specifically adapted or designed for operation on drag strips or raceways, (d) an antique motor vehicle belonging to the property owner or occupant, (e)

an operable motor vehicle belonging to the property owner or occupant for farm or construction work on the premises, or (f) a motor vehicle which is actively being repaired or restored by the property owner or occupant of the premises; provided however, no more than one (1) motor vehicle as defined in (c), (d), (e) or (f) shall be allowed on the premises at any time.

**SECTION 4. NOTICE TO REMOVE:** Whenever it comes to the attention of the Board of Selectmen in writing that a motor vehicle which constitutes a nuisance, as defined herein, exists in the Town of Harwinton, a notice in writing shall be served upon the occupant, if known, of the premises where the nuisance exists, and upon the last known owner of record of the premises or his agent, notifying them of the existence of the nuisance and requesting its removal in the time specified in this Ordinance.

**SECTION 5. RESPONSIBILITY FOR REMOVAL:** Upon proper notice and opportunity to be heard, the owner of the abandoned, wrecked, dismantled, or inoperative motor vehicle, and the owner or occupant of the private property on which the same is located, either or all of them, shall be responsible for its removal. In the event of removal and disposition by the Town, the owner, or occupant of the private property where same is located, shall be liable for the expenses incurred. In the event of removal from public property, the owner of the motor vehicle shall be liable for the expenses incurred.

**SECTION 6. NOTICE PROCEDURE:** The Board of Selectmen shall give notice of removal to the owner or occupant of the private property where the motor vehicle is

located, at least seven (7) days before the time of compliance. It shall constitute sufficient notice when a copy of same is posted in a conspicuous place upon the motor vehicle and duplicate copies are sent by certified mail to the owner or occupant of the private property at the last known address. If the abandoned motor vehicle is located on public property, then sufficient notice shall consist of a copy being conspicuously affixed to the abandoned motor vehicle for a period of twenty-four (24) hours and a copy mailed to the last known address of the owner of the abandoned motor vehicle.

**SECTION 7. CONTENTS OF NOTICE:** The notice shall contain the following information: (a) The date and time the notification was affixed to the motor vehicle; (b) a statement that pursuant to this Ordinance, if the motor vehicle is not removed within seven (7) days from private property, or twenty-four (24) hours from public property, from the time the notice was affixed, it shall be towed and stored at the property owner's or occupant's expense if it is on private property, or at the motor vehicle owner's expense if it is on public property; (c) the storage location of the motor vehicle and a telephone number where additional information may be obtained; and (d) the identity of the enforcement officer affixing the notice.

**SECTION 8. REMOVAL PROCEDURE:** If the motor vehicle is not removed within twenty-four (24) hours from public property or within seven (7) days from private property, the Board of Selectmen shall have the motor vehicle taken into custody under the supervision of its enforcement officer and the same shall be stored in a suitable place, except

that the enforcement officer shall make a reasonable attempt to notify the owner of any motor vehicle which is determined to be stolen so that such owner may make arrangements for removal of such motor vehicle. It shall be unlawful for any person to interfere with, hinder, or refuse to allow the Town's enforcement officer or towing contractor to remove a motor vehicle under the provisions of this Ordinance, and such interference shall constitute breach of peace.

**SECTION 9. DISPOSITION OF UNREGISTERED AND ABANDONED MOTOR VEHICLES WORTH LESS THAN \$500.00:** A. If the motor vehicle has no registration marker plates or invalid registration marker plates, and if the enforcement officer makes a determination in good faith that (1) the motor vehicle is apparently abandoned, (2) the market value of such motor vehicle in its current condition is five hundred dollars or less, and (3) the motor vehicle is so vandalized, damaged, or in disrepair as to be unusable as a motor vehicle, title to such motor vehicle shall, upon taking custody of such motor vehicle, immediately vest in the Town. Within forty-eight (48) hours of the time that such motor vehicle is taken into custody, the Town shall notify the Commissioner of Motor Vehicles, in writing, of the vehicle identification number and a description of the motor vehicle. Upon sale or other disposition of the motor vehicle, the Town shall give written notice by certified mail to the person who was the owner of such motor vehicle at the time of abandonment, if known, and to any lienholder of record according to the Department of Motor Vehicles, which notice shall state that the motor vehicle has been sold or otherwise disposed.

B. The proceeds of the sale or disposition, or the fair market value of the motor vehicle in its current condition, whichever is greater, less the towing and sale or disposal expenses and the amount of any fines due, shall be paid first, to any lienholder of record in order of priority, then to the owner or such owner's duly authorized representative, if claimed by such persons within one (1) year from the date of sale. If such balance is not claimed within such period, it shall escheat to the Town. If the expenses incurred by the Town for towing and the sale or disposition of such motor vehicle and any such fines exceed the proceeds of such sale or disposition, the owner of the motor vehicle shall be liable to the Town for such excess amount.

**SECTION 10. DISPOSITION OF ALL OTHER MOTOR VEHICLES:** Within forty-eight (48) hours of the time that a motor vehicle is taken into custody and stored pursuant to Section 8 of this Ordinance, the Town shall give written notice by certified mail to the owner of such motor vehicle, if known, and to any lienholder of record according to the Department of Motor Vehicles, which notice shall state (1) that the motor vehicle has been taken into custody and stored, (2) the location of storage of the motor vehicle, (3) that, unless title has already vested in the Town pursuant to Section 9 of this Ordinance, such motor vehicle may be sold after fifteen (15) days if the market value of such motor vehicle does not exceed one thousand five hundred dollars (\$1,500.00) or after forty-five (45) days if the value of such motor vehicle exceeds one thousand five hundred dollars (\$1,500.00), and (4) that the owner or lienholder has a right to contest the validity of such taking by

application, on a form prescribed by the Commissioner of Motor Vehicles, to the hearing officer named in such notice within ten (10) days from the date of such notice. Such application form shall be made readily available to the public at the Town Hall.

**SECTION 11. LIEN RIGHTS:** In the event the owner or occupant of the premises fails or refuses to remove any motor vehicle on private property which is in violation of this Ordinance within the time allowed, and if the cost of removal, towing, transporting, storage and disposition exceeds the net proceeds received by the Town for such motor vehicle, then the Town shall have a lien against the premises for the excess cost not covered by the net proceeds received by the Town, which lien shall bear interest at the same rate as provided for delinquent property taxes, and which lien shall be signed by the First Selectman, recorded in the land records, and subject to collection and foreclosure, in the same manner as provided for municipal tax liens in Connecticut General Statutes Revised to 2001, Chapter 205.

**SECTION 12. HEARING PROCEDURE:** A. The First Selectman shall appoint a suitable person, who shall not be a member of any state or local police department, to be a hearing officer to hear applications to determine whether or not the removal of such motor vehicle was authorized by law. The hearing officer's qualifications and the procedures for the holding of such hearing shall be in accordance with regulations adopted by the Commissioner of Motor Vehicles. The hearing shall be held at the Town Hall, and shall be recorded so that a transcript can be made in the event of an appeal.



B. At such hearing the Board of Selectmen, its enforcement officer, the owner of the motor vehicle, the owner or occupant of the premises, and any lienholder shall have the right to be represented by legal counsel, present witnesses and evidence, and to be heard. If it is determined at the hearing that the motor vehicle was not in violation of this Ordinance or state law, the owner of the motor vehicle, or the owner or the occupant of the premises, as the case may be, shall not be liable for any expenses incurred in the towing and storage of such motor vehicle, the lien collection provisions shall not apply, and the Town shall pay such expenses, or if previously paid by such owner, shall reimburse same.

C. Any person aggrieved by the decision of the hearing officer may, within fifteen (15) days of the notice of such decision, appeal to the Superior Court for the Judicial District of Litchfield.

**SECTION 13. AUTHORITY:** This Ordinance is adopted pursuant to Connecticut General Statutes Revised to 2001 §7-148(c)(7)(E) and §14-150a, and is intended to comply with the requirements of Connecticut General Statutes Revised to 2001 §14a-150 regulations adopted thereunder and recent court decisions. The provisions of this Ordinance are severable, and the invalidity of one section, paragraph or phrase shall not affect the validity of the remainder of the Ordinance. The captions are included for convenience and shall not constitute legislative intent.

**SECTION 14. EFFECTIVE DATE:** This Ordinance repeals and replaces the "Abandoned Property Ordinance" (No. 63) adopted April 17, 1984. This Ordinance shall

take effect fifteen (15) days after publication of a summary of its provisions in accordance with Connecticut General Statutes Revised to 2001 §7-157(b), and shall apply to all enforcement actions commenced on or after the effective date.

ADOPTED AT TOWN MEETING: May 15, 2001.

PUBLISHED IN THE Republican-American ON May 22, 2001.

EFFECTIVE DATE: June 6, 2001.

HARWINTON TOWN RECORDS: VOLUME 7 PAGES 12 - 20.