

Chapter 147

VEHICLES, ABANDONED

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[HISTORY: Adopted by the Town Board of the Town of Patterson 4-21-65; amended in its entirety 12-11-85 as L.L. No. 4-1985; (readopted 4-13-2005 by L.L. No. 9-2005) amended in its entirety 8-09-06 by L.L. No. 7-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic - See Ch. 150.

Zoning - See Ch. 154

Article I

Title, Purpose, Definitions

§147-1. Title

This Chapter may be cited as “Abandoned Vehicles Law”, which shall establish regulations and procedures for abandoned vehicles on a highway or other public property, and abandoned, junked, discarded, dismantled or currently unlicensed motor vehicles on private property within the Town of Patterson.

§147-2. Findings.

A. It is hereby declared and found that abandoned vehicles on highways or other public property threaten the safety of the people using said public property. These vehicles inhibit highway maintenance operations and may pose hazardous obstacles to motorists. If in a poor or damaged condition they may pose a concern to the health, safety and welfare of the community.

B. Similarly, abandoned, junked, discarded, dismantled or currently unlicensed motor vehicles on private property within the Town of Patterson also affect the public interest and constitute a nuisance. Such vehicles are generally unsightly, affecting the aesthetic quality of the Town and may depreciate the value of neighboring properties. They may be replete with broken glass, and sharp torn metal edges and points. Abandoned or junk vehicles may constitute an attractive nuisance to children and cause their safety to be jeopardized. If left unabated such storage may pose a dangerous hazard to the community, since fuel tanks containing gasoline or gasoline fumes may easily explode, or may be harmful to the environment from gas or oil leaking into the groundwater used for drinking.

C. The control of abandoned, junked, discarded and unregistered motor vehicles on publicly and privately owned properties within the Town of Patterson is found to be necessary for the preservation and protection of the health, safety and general welfare of the community.

§ 147-3. Definitions.

The following definitions shall apply in the interpretation and enforcement of the chapter:

ABANDONED VEHICLE - A motor vehicle shall be deemed to be an abandoned vehicle if left unattended:

- A. With no number plates affixed thereto or in an inoperable condition, for more than six hours on any public or private highway or in any other public place; or
- B. For more than 24 hours on any public or private highway or in any other public place, except a portion of a highway or public place on which parking is legally permitted; or

- C. For more than 48 hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted; or
- D. For more than 96 hours on property of another if left without permission of the owner.

HIGHWAY, PRIVATE - Every traveled way or place in private ownership which provides access to three or more homes and is used for vehicular travel by the owner or owners thereof and those having express or implied permission from the owner or owners. A private highway shall include both the traveled portion of the highway and any right-of-way with respect thereto.

HIGHWAY, PUBLIC - The entire width between the boundary lines of every publicly maintained traveled way when any part thereof is open to the use of the public for purposes of vehicular travel, and shall include any highway, road, street, avenue, alley, public place, public driveway or any other public way open to use by vehicles. A public highway shall also include any right of way in which the traveled way lies. In the case of a highway by use as defined by Highway Law §189, such highway shall include the adjacent lands 25 feet from the center of the highway.

JUNKED MOTOR VEHICLE OR CYCLE - Any vehicle which is physically or legally incapable of being operated on a public street or highway. A motor vehicle shall be presumed to be a junked vehicle if it is not duly registered and is dismantled or partly dismantled or dilapidated or is in a rusted or wrecked condition or lacks equipment in good operating condition necessary to enable it to be operated or required by law to enable it to be registered. A motor vehicle that has remained unused for more than six months and is not in a condition to be moved under its own power, whether registered or unregistered, shall be presumptive evidence that such motor vehicle is a "junked or inoperative motor vehicle."

OWNER OF VEHICLE - A person, other than a lien holder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. Unless demonstrated by competent proof showing ownership by another person, the last registered owner of an abandoned vehicle shall be presumed to be the owner of the vehicle. The last registered owner of the vehicle shall be as indicated on the New York State Department of Motor Vehicles records.

UNLICENSED VEHICLE — Any motor vehicle or part or piece thereof that meets one or more of the following conditions:

- A. An unregistered motor vehicle;
- B. Is currently without a valid inspection sticker issued by the State of New York;
- C. Is not operable, or is no longer intended or in legal condition to be used on a public highway.

UNREGISTERED MOTOR VEHICLE — Any motor vehicle which must be registered with the State of New York and is not currently registered. The fact that a motor vehicle which must be registered with the State of New York does not display a current license plate or displays an expired license plate shall be presumptive evidence of the fact that such motor vehicle is not currently registered.

VEHICLE - A machine intended to be propelled by any means other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, but not limited to, an automobile, bus, truck, tractor, trailer, mobile home, motorcycle or any other conveyance originally intended for use on public highways.

Article II Abandoned Vehicles on Highways or Public Lands

§ 147-4. Abandonment prohibited.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to abandon, or cause or permit to be abandoned, a vehicle upon any public highway, public lands or private highway within the Town of Patterson.

§ 147-5. Impoundment.

The Code Enforcement Officer, Code Compliance Officer or Superintendent of Highways of the Town of Patterson, or any member of his department designated by him, is hereby, authorized to remove or have removed any vehicle left on any street or highway within the Town of Patterson which reasonably appears to have been abandoned.

§ 147-6. Ownership of abandoned vehicles; inquiry into ownership; notification of owner to claim vehicle.

A. If an abandoned vehicle, at the time of abandonment, has no number plates affixed and is of a value, taking into consideration the condition of the vehicle, of one thousand two hundred fifty dollars or less, as determined by the most recent edition of the Blue Book published by the National Association of Automobile Dealers, ownership shall immediately vest with the Town of Patterson upon taking custody of said abandoned vehicle, and title to the vehicle shall vest in accordance with applicable law and regulations of the commissioner, provided however that the Town of Patterson shall not be required to obtain title to an abandoned vehicle that is subject to the provisions of this subdivision if the vehicle will be sold or otherwise disposed of as junk or salvage, dismantled for use other than as a motor vehicle, or otherwise destroyed.

B. For any abandoned vehicle impounded or otherwise in the custody of the Town of Patterson,

which has number plates affixed, or is of a value, taking into consideration the condition of the vehicle, of one thousand two hundred fifty dollars or more, as determined by the most recent edition of the Blue Book published by the National Association of Automobile Dealers, the Town shall make an inquiry concerning the last owner of such vehicle as follows:

- (1) abandoned vehicle with number plates affixed, to the jurisdiction which issued such number plates;
- (2) abandoned vehicle with no number plates affixed, to the New York State Department of Motor Vehicles.

C. For any abandoned vehicles the Town shall notify the last owner in the manner required in Article IV, Section 147-13(B) of this Chapter, if known, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be disposed of in a manner set forth in §147-7, including sold at public auction or by bid, after ten days from the date such notice was given. If the agency described in paragraph “A” also notifies such local authority that a lien or mortgage exists, or that a leaseholder exists, such notice shall also be sent to the leaseholder, lienholder or mortgagee. Any person claiming such vehicle shall be required to pay the costs of removal and storage of such vehicle.

D. Ownership of such abandoned vehicles, if unclaimed, shall vest with the Town of Patterson ten days from the date such notice is given; or if the last owner cannot be ascertained, when notice of such fact is received.

§ 147-7. Disposition of Vehicles.

A. For the purposes of this Article, the authority entitled to custody of a vehicle abandoned within the incorporated limits of the Town of Patterson shall be the Town of Patterson, except that if a vehicle is abandoned on property of the New York State Thruway Authority or property under the jurisdiction of the Office of Parks, Recreation and Historic Preservation, the Department of Transportation, or other State public authority or commission, such authority, office, department or commission shall be entitled to the custody of such vehicle.

B. Such local authority shall determine if an abandoned vehicle is suitable for operation on the public highways. If so, the vehicle shall be sold at public auction to the highest bidder or converted pursuant to §147-8 of this Article.

C. If such local authority determines that an abandoned vehicle is not suitable for operation on the public highways, it shall sell the vehicle to a vehicle dismantler or scrap processor registered or certified pursuant to section four hundred fifteen-a of the New York State Vehicle and 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 he has a place of business.

D. An abandoned vehicle without a vehicle identification number plate must be sold only to a vehicle dismantler or a scrap processor registered or certified pursuant to section four hundred

fifteen-a of the New York State Vehicle and 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 he has a place of business. Nothing contained herein shall be construed as preventing a local authority from applying for a replacement vehicle identification number plate.

§ 147-8. Conversion to Municipal Use.

A. The Town of Patterson, may convert to its own use those abandoned vehicles not affected by Section 147-6 of this section or may, by sale or gift, transfer title to any of such vehicles to any other municipal corporation for use by its law enforcement agency, provided however, the total number of vehicles converted and/or transferred in any calendar year may not exceed one percent of the Town of Patterson's unclaimed abandoned vehicles not affected by Section 147-6 or two such vehicles, whichever is greater.

B. Any proceeds from the sale of an abandoned vehicle less any expenses incurred by the Town of Patterson shall be held by the Town of Patterson without interest, for the benefit of the owner of such vehicle for a period of one year. If not claimed within such one year period, such proceeds shall be paid into the general fund of such the Town of Patterson.

Article III
Abandoned or Junk Vehicles, Private Lands

§ 147-9. Abandonment prohibited.

It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, to place, park, store or deposit, or cause or permit to be placed, parked, stored or deposited, an abandoned or junk vehicle upon any private land within the Town of Patterson,

§ 147-10. Exemptions.

A. This Article shall not apply to properties occupied and used for the repair, reconditioning and remodeling of vehicles in conformance with the Zoning Code of the Town of Patterson.

B. This Article shall not prohibit a person from keeping one unregistered motor vehicle on his own property located in a residential zoning district, pursuant to §154-27(A)(11) of the Patterson Town Code, provided that such unregistered motor vehicle has not been substantially dismantled or permitted to deteriorate and permitted to continue in that state for a period of at least three months, after which time there shall be a presumption that there is no interest to make the vehicle fit to operate.

C. This Article shall not apply to the storing of any vehicle in a wholly enclosed garage, when said storage is in compliance with the requirements of the New York State Building and Fire Code, and the Town of Patterson Zoning Code

D. This Article shall not apply to farm equipment located on a parcel used for a farm operation.

§ 147-11. Removal procedure.

Any abandoned, junked or inoperative motor vehicle found by the enforcement official to be located within the unincorporated areas of the Town in violation of §147-9 may be removed from the premises on which located in the following manner:

A. If the provisions of the foregoing sections of this Article are reasonably believed to be violated, the enforcement official shall serve a written notice, either personally or by registered, certified or ordinary mail, upon the owner, occupant or person having charge of such private property, ordering such person to remove the same or cause the same to be removed therefrom within 10 days after service of the notice. The enforcement official may determine ownership of any parcel of land in the Town of Patterson from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the enforcement official is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing same once in the official newspaper of the Town.

B. If the person upon whom the notice is served fails, neglects or refuses to comply with the provision of the notice within 10 days after service of the notice, the enforcement official shall advise the Town Board, and the Town Board shall hold a hearing on the removal of the vehicle or vehicles and shall serve notice of said hearing upon the owner of the private property at least five days prior to the hearing.

C. In the event that said abandoned, junked or inoperative motor vehicle or vehicles are not removed from the premises within 10 days subsequent to the hearing or said other time period as the Board may specify, the Town shall have the right to enter upon the premises and to remove and dispose of the abandoned, junked or inoperative motor vehicle or vehicles. The expense of such removal and disposal shall be a lawful charge upon the lands affected and shall constitute a lien thereon which shall be levied and collected in the same manner as all other town assessments.

§ 147-12. Enforcement.

A. The Superintendent of Highways of the Town of Patterson, or any member of his department designated by him, is hereby, authorized to enforce the provisions of Article II of this Chapter and to remove or have removed any vehicle left on any street or highway within the Town of Patterson which reasonably appears to be abandoned or otherwise in violation of Article II of this Chapter.

B. The Code Enforcement Officer or Code Compliance Officer is hereby authorized to enforce any and all of the provisions of this Chapter, and to remove or have removed any vehicle left on any street or highway within the Town of Patterson which reasonably appears to be abandoned or otherwise in violation of this chapter. Enforcement of this Chapter may be by the issuance of an Appearance Ticket, by removing said vehicle as provided herein, or by invoking both enforcement provisions.

§ 147-13. Penalties for offenses.

A. Any vehicle owner, property owner, occupant, lessee, agent or tenant who shall abandon, or cause to be abandoned any vehicle, or who owns a junk vehicle, or who owns property on which there exists a junk vehicle, or who refuses to remove said abandoned, junked, discarded or unlicensed motor vehicle as directed by this chapter or who shall fail or refuse to comply with the provisions of any notice herein provided for or who shall commit an offense against any of the provisions of this chapter or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the town in the removal and destruction thereof shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not less than two hundred fifty dollars (\$250.) nor more than one thousand dollars (\$1,000), or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued after notice, a separate and distinct offense hereunder.

B. Notice of any violation pursuant to this Chapter shall be served on the owner of the vehicle by certified mail, return receipt requested. Notice of any violation of Section 147-9 of this Chapter shall be served upon the owner of the vehicle, or upon the owner of the real property on which the vehicle is located, by certified mail, return receipt requested.

C. In addition to the above-named penalty, the Town Board of the Town of Patterson may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

§ 147-14. Liability for charges.

The last registered owner of an abandoned vehicle shall be presumed to be the owner and liable to the Town of Patterson for any penalties, legal fees, and the costs of removal and storage of such

vehicle, unless he shall present proof of present ownership in another person.

§ 147-15. Supersession of State Law.

To the extent that any provisions of this chapter are inconsistent with the New York State Vehicle and Traffic Law Section 1224, or Civil Practice Law & Rules Article 3, or Criminal Procedure Law Article 150, the Town Board of the Town of Patterson hereby declares its intent to supersede those sections of the New York State Law, pursuant to its home rule powers under the Municipal Home Rule Law, Article 2, § 10 et seq., of the Consolidated Laws of the State of New York.

§ 147-16. Effective Date.

This local law shall take effect immediately upon filing in the office of the Secretary of State.

§ 147-17. Severability

If any clause, sentence, paragraph, subdivision, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment, shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.