

TOWN OF WEST HAMLIN

Jerry L. Duncan, Mayor

P. O. Box 221, West Hamlin, WV 25571 • (304) 824-3055 • Fax (304) 824-7802

Ordinance 10

June 7, 1999

ARTICLE II Junk and Abandoned Vehicles

Definitions.	Notification of vehicle owner and lien holders.
Abandonment of vehicles.	Disposal of unclaimed vehicles.
Junk vehicles prohibited.	Proceeds from sale.
Old vehicle tires; abandoned household appliances.	Injunctive relief.
Authority to take possession of abandoned vehicles; enforcement; notification to owner.	Junk on private property with permission of owner.
Household garbage/debris	Penalty.

CROSS REFERENCE

Disposition of junk and abandoned vehicles - see W. Va.
Code Art. 17-24

DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) "Abandoned household appliance" means a refrigerator, deep freeze, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode or bed springs, to which no person claims ownership and which is not in an enclosed building or a licensed salvage yard or in the actual possession of a demolisher.
- (b) "Abandoned motor vehicle" means any motor vehicle or major part thereof which is inoperative and which has been abandoned on public or private property for any period of time over five days, other than in an enclosed building or in a licensed salvage yard or at the business establishment of a demolisher; or any motor vehicle or major part thereof, which has remained illegally on public or private property for any period of time over five days; or any motor vehicle or major part thereof which has remained on private property without consent of the owner or person in control of the property for any period of time over five days; or any motor vehicle or a major part thereof which is unattended, discarded, deserted and is unlicensed and is not in an enclosed building or a licensed salvage yard or in actual possession of a demolisher.

GENERAL OFFENSES CODE

- (c) "Demolisher" means any person licensed by the State whose business to any extent or degree, is to convert a motor vehicle or any part thereof or an inoperative household appliance into processed scrap or scrap metal, or into saleable parts, or otherwise to wreck or dismantle vehicles or appliances.
- (d) "Enclosed building" means a structure surrounded by walls or one continuous wall, and having a roof enclosing the entire structure, including a permanent appendage thereto.
- †(e) "Enforcement agency" means the Police Department of the City *or other authorized law*
- (f) "Inoperative household appliance" means a refrigerator, deep freeze, range, stove, automatic dishwasher, clothes washer, clothes dryer, trash compactor, television set, radio, air conditioning unit, commode or bed springs, which by reason of mechanical or physical defects can no longer be used for its intended purpose, and which either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in the actual possession of a demolisher.
- (g) "Junk motor vehicle" means a motor vehicle, or any part thereof, other than an on-premises farm utilities vehicle, which:
 - (1) Is discarded, wrecked, ruined, scraped or dismantled;
 - (2) Cannot pass the State inspection required by West Virginia Code 17C-16-1 et seq., fails to display a State inspection sticker or displays a State inspection sticker which has been expired for more than sixty days;
 - (3) Fails to display a valid registration plate; or
 - (4) Is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in actual possession of a demolisher.
- (h) "Motor vehicle" means a vehicle which is or was self-propelled, including but not limited to automobiles, trucks, buses and motorcycles.
- (i) "Old vehicle tire" means a pneumatic tire in which compressed air is designed to support a load, but which, because of wear, damage or defect, can no longer safely be used on a motor vehicle, and which is either not serving a functional purpose or use or is not in an enclosed building, a licensed salvage yard or in actual possession of a demolisher.

ABANDONMENT OF VEHICLES.

No person shall, within the City, abandon a motor vehicle upon the right of way of any public highway, upon any other public property; or upon any private property which he does not own, lease, rent or otherwise control unless it be a licensed salvage yard or at the business establishment of a demolisher (Ord. 80-53. Passed 12-1-80.)

JUNK VEHICLES PROHIBITED.

No person shall, within the City, place or deposit any junk motor vehicle upon the right of way of any public highway or upon any other public property; nor shall any person within this City place or deposit any junk motor vehicle upon any private property which he does not own, lease, rent or otherwise control unless it is at a licensed salvage yard or at the business establishment of a demolisher.

Junk and Abandoned Vehicles

PROCEEDS FROM SALE.

From the proceeds of the sale, the Police Department shall reimburse itself for any expenses it may have incurred in conducting the auction, any costs of towing, preserving and storing the vehicle which resulted from placing the abandoned vehicle in custody and all notice and publication costs incurred pursuant to this article.

Any remainder from the proceeds of sale after payment of these costs shall be held for the last registered owner of the vehicle or entitled lien holder for ninety days, after which time, if no owner or lien holder claims the remainder, it shall be deposited in the City Treasury to be kept and maintained as a special revolving account designated as the Abandoned Vehicle Disposal Account and any monies so collected and deposited shall be used solely by the Police Department for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from the sale of those abandoned vehicles are insufficient to meet these expenses and costs.

The abandoned vehicle disposal account shall be under the direction and control of the City Treasurer, who shall assure that all the money is properly deposited in the account by the Police Department and that any money necessary to pay costs and expenses of those sales, as specified in the preceding paragraph are disbursed in accordance with required accounting procedures applicable to law enforcement agencies selling abandoned vehicles.

The abandoned vehicle disposal account shall never be maintained in excess of the amount necessary to efficiently and properly carry out the intentions of this article and in no event shall the abandoned vehicle disposal account be maintained in excess of the sum of one thousand dollars (\$1,000); and whenever the abandoned vehicle disposal account exceeds that amount, the City Treasurer shall transfer the excess to the General Revenue Fund.

INJUNCTIVE RELIEF.

In addition to all other remedies provided for in this article, the City Attorney may apply to the Circuit Court for an injunction to restrain, prevent or abate the maintenance and storage of abandoned motor vehicles, junk motor vehicles, old vehicle tires or inoperative or abandoned household appliances which are in violation of any provision of this article.

JUNK ON PRIVATE PROPERTY WITH PERMISSION OF OWNER.

It is hereby declared to be a nuisance and no person shall store or allow to be stored, accumulate or exist on real estate within the City any junk, disabled and non-serviceable automobiles, automobile bodies, automobile parts and other debris.

In addition to the penalty provided below, the City, in order to abate such nuisance, shall have the power and authority to order the removal of such nuisance by giving the owner of the property, or the person in lawful possession thereof, ten days' notice. and in the event such nuisance is not abated within ^{thirty} ~~ten~~ days, the City shall have such right to abate such nuisance and remove any junk, disabled and non-serviceable automobiles, automobile bodies, automobile parts and other debris and charge the expense thereof against such property, and the expense of removing and abating such nuisance shall constitute a lien against such property. (1967 Code §14-24)

GENERAL OFFENSES CODE

8-2-20 PENALTY.

Whoever violates any provision of this article shall be fined not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00) or required to do two hundred forty hours of community service or both, plus cost of prosecution. Each day's continued violation shall constitute a separate offense. (Ordinance Passed 6/7/99).

THIS ORDINANCE WAS INTRODUCED AND READ ON FIRST READING ON JUNE 7, 1999,
AND WILL BE READ ON THE SECOND READING AND ADOPTION ON JULY 6, 1999.

DATED THIS THE SEVENTH DAY OF JUNE, 1999.

FINAL READING AND ADOPTION HELD ON JULY 6, 1999.

TOWN OF WEST HAMLIN

A MUNICIPAL CORPORATION

BY: JERRY L. DUNCAN

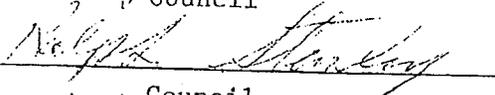


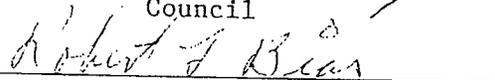
It's Mayor

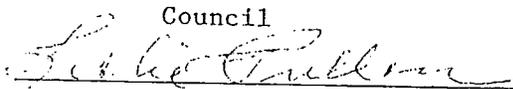
ATTEST:




_____ (YES)
Council


_____ (YES)
Council


_____ (YES)
Council


_____ (YES)
Council

GENERAL OFFENSES CODE

(b) If the identity of the last registered owner of the abandoned motor vehicle or junk motor vehicle cannot be determined, or if the certificate of registration or certificate of title contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and address of all lien holders, notice shall be published as a Class I legal advertisement in compliance with the provisions of West Virginia Code 59-3-1 et seq., and the publication area for such publication shall be the City wherein such motor vehicle was located at the time such enforcement agency took custody and possession thereof, and such notice shall be sufficient to meet all requirements of notice pursuant to this article. Any notice by publication may contain multiple listings of abandoned motor vehicles and junk motor vehicles. The notice shall be published within ten days after such motor vehicle is taken into custody and possession and shall have the same contents required for a notice pursuant to subsection (a) hereof, except that the ten day period shall run from the date such notice is published as aforesaid.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle or junk motor vehicle within the ten day period after notice is received by registered or certified mail or within ten days after the notice is published in a newspaper as aforesaid shall be set forth in such notice.

DISPOSAL OF UNCLAIMED VEHICLES.

(a) If an abandoned motor vehicle or junk motor vehicle is not reclaimed as provided for in Section , the enforcement agency in possession of the abandoned motor vehicle or junk motor vehicle shall sell it either at a public auction or to a licensed salvage yard or demolisher. The purchaser of such motor vehicle shall take title to such motor vehicle free and clear of all liens and claims of ownership and shall receive a sales receipt from the enforcement agency which disposed of such motor vehicle. The sales receipt at such sale shall be sufficient title only for purposes of transferring such motor vehicle to a licensed salvage yard or to a demolisher for demolition, wrecking or dismantling, and no further titling of such motor vehicle shall be necessary by either the purchaser at the auction, the licensed salvage yard or the demolisher, who shall be exempt from the payment of any fees and taxes required pursuant to West Virginia Code 17A-3-1 et seq.; provided, that the purchaser at the auction shall place such motor vehicle in the possession of a licensed salvage yard or demolisher within twenty days from the date he purchases such motor vehicle; and if such licensed salvage yard or demolisher does not demolish such vehicle, such licensed salvage yard or demolisher shall be required to pay all fees and taxes required pursuant to West Virginia Code Article 17A-3.

(b) When an enforcement agency has in its custody and possession old vehicle tires or inoperative or abandoned household appliances collected in accordance with Section , it shall sell such property from time to time at public auction or to a licensed salvage yard or demolisher.

Junk and Abandoned Vehicles

OLD VEHICLE TIRES; ABANDONED HOUSEHOLD APPLIANCES. GARBAGE

No person shall, within this City, place or deposit any old vehicle tire or inoperative household appliance upon the right of way of any public highway or upon any other public property nor abandon the same upon any private property which he does not own, lease, rent or otherwise control, unless it be a licensed salvage yard or at the business establishment of a demolisher. HOUSEHOLD GARBAGE MUST BE DISPOSED OF ACCORDING TO LAW.

AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES; ENFORCEMENT; NOTIFICATION TO OWNER.

Any enforcement agency which has knowledge of or discovers or finds any abandoned motor vehicle, any junk motor vehicle, old vehicle tire or inoperative or abandoned household appliance on either public or private property shall take the same into its custody and possession. For that purpose, the enforcement agency shall employ its own personnel, equipment and facility or hire persons, equipment and facilities for the purpose of removing, preserving and storing abandoned motor vehicles, junk motor vehicles, old vehicle tires, or inoperative or abandoned household appliances. Before taking any abandoned motor vehicle or junk motor vehicle into custody and possession from private property, the enforcement agency shall give the private property owner and the owner of such motor vehicle, if ascertainable, thirty days notice by registered or certified mail, that such action shall be taken unless such motor vehicle is restored to a functional use.

NOTIFICATION OF VEHICLE OWNER AND LIEN HOLDERS.

(a) The enforcement agency which takes into custody and possession an abandoned motor vehicle or a junk motor vehicle shall, within seven days after taking custody and possession thereof, notify the last known registered owner of such motor vehicle and all lien holders of record that such motor vehicle has been taken into custody and possession, such notification to be by registered or certified mail, return receipt requested. The notice shall contain a description of such motor vehicle, including the year, make, model, manufacturer's serial or identification number, or any other number which may have been assigned to such motor vehicle by the State and any distinguishing marks; set forth the location of the facility where such motor vehicle is being held and the location where such motor vehicle was taken into custody and possession; inform the owner and any lien holders of record of their right to reclaim such motor vehicle within ten days after the date notice was received by the owner or lien holders upon payment of all towing, preservation and storage charges resulting from taking and placing such motor vehicle into custody and possession; and state that the failure of the owner or lien holders of record to exercise their right to reclaim such motor vehicle within such ten day period shall be deemed a waiver of the owner and lien holders of record of all right, title and interest in such motor vehicle and of their consent to the sale or disposal of the abandoned motor vehicle or junk motor vehicle at a public auction or to a licensed salvage yard or demolisher.