

Ordinance

Chapter 24 - No. 2019-1

An ordinance amending Chapter 24 entitled

Article II (A) Abandoned or Inoperative Vehicles on Public or Private Property

Whereas, the Mayor and the Board of Alderman of the Village of Folsom see the necessity to and in accordance with the determination made and authority granted to remove abandoned, inoperative, dismantled, or wrecked vehicles as public nuisances.

Now Therefore, Be it Ordained by the Village of Folsom, through the Board of Alderman and the governing authority that the failure or refusal to comply with the provisions of this article shall constitute a misdemeanor and the violator shall be subject to the issuance of a misdemeanor summons.

Be It further Ordained, that the penalty shall be a fine up to Five Hundred dollars or Thirty days imprisonment, or both such fine and imprisonment for each violation.

The Final Adoption of the foregoing ordinance after public hearing was held, was duly moved and seconded, the roll was called, and the following vote was taken and recorded as follows:

| | <u>YEA</u> | <u>NAY</u> | <u>ABSENT</u> | <u>ABSTAIN</u> |
|-------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Alderman Jill Mathies | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Alderman Shawn Dillion | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Aldermen George Garrett | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Chapter 24 No 2019.1

AN ORDINANCE ENACTING AND ADOPTING SECTIONS 24-34 THROUGH SECTIONS 24-48

BE IT ORDAINED

ARTICLE II(A) ABANDONED OR INOPERATIVE VEHICLES ON PUBLIC OR PRIVATE PROPERTY

SEC. 24-34 Findings, declarations and authority

The regulations and provisions of this Article shall not preclude, super cede or repeal any enforcement measures taken, or procedures and regulations adopted in, accordance with the authority granted under R.S. 33 :361, et seq, and Village Code of Ordinance, Chapter 24. The regulations contained within the Sections of this Article shall be considered as additional and/or supplemental regulations to those contained in Chapter 24, nuisances.

(A) Findings and Declarations: In addition to and in accordance with the determination made and the authority granted to remove abandoned, inoperative, dismantled, or wrecked vehicles as public nuisances, the Village of Folsom makes the following findings and declarations:

The prolonged presence of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are found to present a significant and immediate threat to public health and safety as well as to the environment, necessitating their expedient removal from public and private property. These threats include posing a safety hazard to children who might use the abandoned, inoperative, dismantled, or wrecked vehicles as playgrounds, rusting automobiles representing health hazards to those who may come into contact with them, and the damage that such vehicles and debris are sure to cause to the underlying property though the leakage of hazardous fluids into the surrounding ground or water. The environmental and health hazards of these vehicles have been noted by the Louisiana Department of Environmental Quality (DEQ). DEQ Hurricane Katrina Debris Management Plan (DEQ 2005). The hazards from automobiles include "gasoline and diesel fuel, refrigerants, lubricating oils, mercury ABS switches, mercury convenience switches, lead acid batteries, brake and transmission fluid, antifreeze, and tires."

The accumulation of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are also found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health and safety and general welfare.

Further, an abandoned, inoperative, dismantled or wrecked vehicle on public property, particularly on a street, shoulder, sidewalk, neutral ground or right of way constitutes a traffic hazard and imminent threat to public safety.

the governing authority of any municipality parish to enact ordinances regulating or prohibiting abandoned motor vehicles on public property, left unattended for more than three (3) days, and regulating or prohibiting the storing or abandoning of junk, wrecked or used automobiles or motor vehicles, or any part or parts thereof, on any vacant lot, or any portion of any occupied lot within the Village, to provide for the removal and disposition thereof, to charge the vehicle owner or the property owner therefor, and to otherwise provide with respect thereto, and to provide enforcement and procedures with respect to damaged and inoperable motor vehicles on occupied private property.

SEC. 24-35 Definitions

As Used in this part:

(a) Abandoned motor vehicle on public property means a motor vehicle that is inoperable and is left unattended on public property for more than three (3) days, or is inoperable and left unattended on the shoulder, neutral ground or sidewalk of any public street, road or right of way for more than three (3) days.

(b) Abandoned junk, wrecked or used automobiles or motor vehicles on private property means a motor vehicle, situated upon any occupied or unoccupied private property, which is totally inoperable and is so damaged or dismantled as to be a total loss. The term "total loss" shall mean that the cost to repair a damaged or dismantled motor vehicle exceeds the value of such vehicle, as determined by any recognized national appraisal book. Lack of current and/or valid registration, inspection sticker, or license plate alone does not constitute abandoned, inoperative condition.

(c) Antique vehicle means any motor vehicle twenty-five (25) years or older, which is operable and substantially in its original condition. These vehicles must be registered as antiques and display antique license plates.

(d) Enforcing agency means the chief of police, or mayor as well as their duly authorized agents.

(e) Motor Vehicle or vehicle shall mean every device by which persons or things may be transported upon a public highway or bridge, except devices moved by human power or used exclusively upon stationary rails or tracks, and include a "motor vehicle", which is commonly referred to as a car, any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, motor home, motorcycle, trailer or semi-trailer propelled or drawn by mechanical power. A trailer or semi-trailer shall be a separate vehicle.

(f) Owner of the motor vehicle means the last registered owner.

(g) Owner of the premises means the owner of the land on which the vehicle is located, as shown on the last equalized assessment roll.

(h) Secured motor vehicle means any abandoned junk, wrecked or used automobiles or motor vehicles on private property, which is completely enclosed within a building, garage, or under a carport or in otherwise covered and placed at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property.

(a) It shall constitute a public nuisance, in violation of this ordinance, for an abandoned motor vehicle to remain on public property for more than three (3) days. Such violation shall be a misdemeanor, punishable as set forth herein below.

(b) It shall constitute a public nuisance, in violation of this Village ordinance, to have one or more abandoned junk, wrecked or used automobiles or motor vehicles on occupied or unoccupied private property, as that phrase is defined in 24-35, unless such vehicle is a secured motor vehicle, as that term is defined in 24-35 (h), or is a motor vehicle that is considered to be an exception to this Article. Such violation shall be a misdemeanor, punishable as set forth herein below.

SEC. 24-37 Exceptions

This part shall not apply to:

(a) A motor vehicle which is completely enclosed within a building, garage, or under a carport, or is otherwise covered and placed at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property;

(b) Any motor vehicle in an appropriate storage place or depository maintained at a location where such business is authorized under the comprehensive zoning ordinance and other regulatory ordinances of the Village;

(c) Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways;

(d) Any antique vehicle retained by the owner for collection purposes, as defined herein, rather than for salvage or for transportation; and

(e) Any motor vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

SEC. 24-38 Notice and Procedure for removal

(1) The following shall be contained within a notice that is posted on any abandoned motor vehicle on public property, and abandoned junk, wrecked or used automobiles or motor vehicles on private property:

(a) Description of the motor vehicle: Make, Model, Type, License Number and VIN number, if determinable;

(b) Location of vehicle, including Village address where applicable;

(c) Date and time of posting;

(d) Name of enforcing officer, enforcing agency and telephone number;

(e) A statement that the identified motor vehicle will be removed from its location because of one of the following conditions:

used automobile or motor vehicle on unoccupied private property, and must be removed within fifteen (15) days following the date and time shown on this notice, or the vehicle will be removed and stored, at the owner's expense, and disposed of in accordance with law.

(2) In the case of abandoned junk, wrecked or used automobiles or motor vehicles on private property that is occupied, in lieu of posting a notice on the vehicle as provided in part one (1) of this section, the enforcing agency shall provide notice to the owner of the premises, by registered or certified mail, return receipt requested, which shall provide the following:

(a) Description of the motor vehicle: Make, Model, Type, License Number and VIN number, if determinable;

(b) Location of vehicle, including Village address where applicable;

(c) Name of enforcing officer, enforcing agency and telephone number;

(d) a statement that the vehicle is in violation of the Village ordinance Section 24:36(b), an abandoned junk, wrecked or used motor vehicle on occupied private property, and that the vehicle must be removed or secured, within fifteen(15) days following the date of this notice. The vehicle may be secured, and the nuisance abated, by completely enclosing the vehicle within a building, garage, or under a carport, or by covering the vehicle and placing it at the rear of a residence or other primary structure that is located on the property in such manner that the vehicle is not otherwise visible from the street or other public or private property. Warning, if the vehicle is not removed or secured, within fifteen (15) days of the date of this notice, or an administrative hearing requested, within fifteen (15) days of the date of this notice and the Chief of Police or Mayor thereafter determines that you are in violation of the ordinance, the Chief of Police or Mayor may order the vehicle to be removed and stored, at the owner's expense, and disposed of in accordance with law.

SEC. 24-39 Notice presumed from refused certified mail

For purposes of this Article, when the owner of the premises, or the owner of the vehicle, has been served notice by registered or certified mail, return receipt requested, as set forth in Section 24-38, and such registered or certified mail is refused, the owner is deemed to have received notice in accordance with the provisions of this Article, and the fifteen (15) day period commences to run on the date of refusal.

SEC. 24-40 Investigation and Enforcement

An officer of the Chief of Police or Mayor or their designees authorized to enter private property, without the consent of the owner of the premises, for the purposes of investigating and/or posting any motor vehicle, when the enforcing officer reasonably believes that there is a violation of this ordinance.

Following the posting of any motor vehicle and/or service of written notice, an officer of the enforcing agency is authorized to enter private property, without the consent of the owner of the premises, for the purpose of removing any motor vehicle that is determined to be in violation of this

SEC. 24-41 Penalty for failing or refusing to comply

The failure or refusal to comply with provisions of this Article shall constitute a misdemeanor, and the violator shall be subject to the issuance of a misdemeanor summons. The penalty shall be a fine up to five hundred dollars (\$500.00) or thirty (30) days imprisonment, or both such fine and imprisonment for each violation.

In the case of one or more abandoned junk, wrecked or used automobiles or motor vehicles of this ordinance shall constitute a separate offense. Each day that the nuisance remains, following expiration of the time to remove or secure the vehicle, or to apply for an administrative hearing, shall constitute a separate offense and a civil penalty of fifty (\$50.00) Dollars per day shall be imposed.

In all cases where a vehicle has been determined to be in violation of this Article, and the vehicle is removed and stored by the enforcing agency as authorized, the owner shall be responsible for all costs and charges associated with the removal, storage and disposition of such vehicle. If a vehicle is removed and stored by the enforcing agency, and the vehicle is subsequently claimed by the owner or representative, the owner or representative upon claiming the vehicle, shall be responsible for the payment of all costs and charges associated with the removal, storage and disposition of a said vehicle. The costs and charges associated with the removal and storage of a vehicle shall not exceed the amount of two hundred (\$200.00) dollars, for removal, and thirty (\$30.00) dollars per day storage.

In lieu of, or in addition to, the issuance of a misdemeanor summons, the failure or refusal to comply with the provisions of this chapter is enforceable by imposition of civil penalties, damages, by a civil action in the 22nd Judicial District Court, in and for the Parish of St. Tammany, State of Louisiana.

SEC. 24-42 Notice of Removal, Storage, Disposition and Associated Costs

Whenever any motor vehicle is found to be in violation of this ordinance, and the requirements to remove the motor vehicle have been satisfied, the vehicle may be removed from public or private property, in accordance with the following.

The motor vehicle shall be removed to, and stored at, a Village designated storage area, pending notice in accordance with the following:

1) Notice: Within seventy-two (72) hours of removal, the owner of the vehicle, or the owner of the private property from which the vehicle was removed, shall be provided with notice of the removal and the intended disposition of the vehicle in the following manner:

(a) By registered or certified mail, return receipt requested, addressed to the last registered owner of the vehicle, or to the owner of the private property as shown on last equalized assessment.

(b) The notice shall inform the owner of the specific location where the vehicle is being stored and shall provide a telephone number that the owner may call for more information and assistance.

(c) The notice shall include a copy of any posting notice that was placed on the vehicle.

(d) The notice shall inform the owner of the vehicle that unless the vehicle is claimed in person, by the owner or representative of the owner (the insurer, lien holder,

has been sent notice by registered or certified mail, return receipt requested, and such certified mail is refused, the owner is deemed to have received notice in accordance with this provision, as of the date of refusal.

2) Disposition Following Second Notice: At the expiration of the three (3) month period in which to claim the vehicle that was removed and stored, any vehicle that has not been claimed by the owner, within the three (3) months of the notice of removal and intended disposition, shall be deemed to be abandoned vehicle and the Village may thereafter dispose of the vehicle in the following manner:

(a) In the case of any vehicle that was removed from public or private property and stored, as set forth herein above, and the owner has not claimed the vehicle within the three (3) month period allowed following notice of the removal and the intended disposition, the owner shall be sent a second notice, by registered or certified mail, return receipt requested, which shall be sent to the owner at his last known address. The notice shall inform the owner that the vehicle shall be sold to the highest bidder, unless said owner, on or before the date of sale, claims the vehicle and pays the costs and charges imposed, which amount shall be set forth in the notice. The costs and charges shall not exceed the amount of two hundred (\$200.00) dollars, for towing/removal, and thirty (\$30.00) dollars per day storage. In any case where the owner or his representative does not claim the vehicle and pay the costs and charges, within the time allowed, the Village may proceed to dispose of the vehicle in accordance with the provisions hereof

(b) Before the sale of any such vehicles, the Village shall have them appraised by a competent appraiser and shall publish a notice of the proposed sale of said vehicle or vehicles in the official journal of the Village not less than three times within a thirty-day period prior to the date of said sale. The published notice shall contain a complete list of the vehicles to be sold, the date and place of said sale, and notification that said vehicles will be sold either individually or in globo to the highest bidder therefor, all in the discretion of the Village authority.

(c) All funds received from the sale of a motor vehicle under the provisions hereof shall be set aside and placed in a separate account established therefor by the Village. If, within one year following the date of the sale, the owner or lien holders of any of said vehicles shall present sufficient proof of his ownership or lien, the said owner or lien holder shall be entitled to the amount received for his individual vehicle less the costs and expenses of the sale, as well as all charges and costs due and owing for removal and storage of said vehicle. Any funds not claimed within one year following the date of sale shall be deposited to the general fund of the Village.

SEC. 24-43 Right to enter upon private property

The Chief of Police or Village Mayor, or its duly authorized agents shall be authorized to enter upon private property or public property to investigate a vehicle, or parts thereof, alleged to be a nuisance pursuant to this chapter.

SEC. 24-44 Notice to owner or occupant to abate public nuisance on occupied or unoccupied premises.

1. Whenever any public nuisance, as provided for herein, exists on occupied or unoccupied premises within the Village in violation of Section 24-38, the enforcing agency shall order the owner of the vehicle, or the owner or the

5. Provide for compliance within fifteen (15) days from the service thereof; and
6. Provide for an opportunity for a pre-enforcement hearing before the Village Municipal Court Judicial Determination by written request received by the Village within ten (10) days of receipt of notice.
7. The order shall be served upon the owner or occupant of the premises by serving him personally or by sending the order by certified mail, return receipt requested, to the address of the premises or of the owner if different from the premises, and the address shown by the Louisiana Department of Motor Vehicles for the vehicle in question.
8. Within the fifteen-day period after service of notice, the owner or occupant of the premises or the owner of the vehicle shall abate the nuisance by (1) removing the nuisance from the premises, or (2) enclosing the vehicle as provided in Section 24-37(a).
9. It shall be the responsibility of the owner or occupant of the property or owner of the vehicle to notify the Chief of Police or Mayor as soon as the vehicle has been removed or enclosed. Upon notification, the Chief of Police or Mayor will set up an appointment in order to verify that compliance has taken place.
10. If owner or occupant of the premises or the owner of the vehicle fails to abate the nuisance within the fifteen-day period of notification and fails to timely request a hearing, the Chief of Police or his designee may issue a misdemeanor summons to the owner or occupant of the premises or may seek to have the vehicle removed from the premises by means of injunctive relief and imposition of civil penalties.

SEC. 24-45 Notice presumed from refused certified mail

For purposes of this chapter, when the owner of the premises or owner of the vehicle has been served notice by certified mail as set forth in Section 24-42 herein, and such certified mail is refused, the owner is deemed to have received notice in accordance with the provisions of this chapter, and the fifteen-day period commences to run on the date of refusal.

SEC. 24-46 Failure or refusal to comply

The failure or refusal to comply with the provisions of this chapter shall constitute a misdemeanor, and the violator shall be subject to the issuance of a misdemeanor summons. The penalty shall be a fine up to five hundred dollars (\$500.00) or six (6) months imprisonment or both for each violation.

In lieu of the issuance of a misdemeanor summons, or in addition thereto, the failure or refusal to comply with the provisions of this chapter may be enforced by imposition of civil penalties and injunctive relief. Each day that the nuisance remains, following expiration of the time to apply for a hearing as set forth herein, shall constitute a separate offense and a civil penalty of fifty dollars (\$50.00) per day shall be imposed.

SEC. 24-47 Removal from occupied premises when owner's whereabouts are unknown or notice is returned unclaimed

in the same manner as provided in LSA R.S. 32:471 et seq.


SEC. 24-48 Removal of vehicles from private property

Private property owners, whether commercial or residential, have the power, as authorized by general law, to cause vehicles to be removed from their property illegally situated thereon. In any case where an owner requests any law enforcement agency having jurisdiction, to cause to be removed from his property a vehicle said by the property owner to be illegally situated on his property and has filed with such law enforcement agency an acceptable indemnification agreement, such law enforcement agency shall be authorized and empowered to cause the vehicle to be removed by wrecker service in accordance with established policies and procedures for obtaining of wrecker services by law enforcement agencies in the Village.

SECTIONS 24-49 THROUGH 54 RESERVED

And the Ordinance was passed and adopted on this 13th

day of May 2019.



Alderwoman Jill Mathies



Alderman Shawn Dillion



Alderman George Garrett

Approved by:



Mayor Lance Willie

CERTIFICATE

I, Margra Steele, Municipal Clerk of the Village of Folsom, certify that the above and foregoing pages constitutes a true and correct copy of a Ordinance passed and adopted on the 13th day of May 2019.

In faith Whereof, witness my official signature on the 13th day of May 2019.



Municipal Clerk, Margra Steele