

VILLAGE OF VARNA
MARSHALL COUNTY, ILLINOIS

ORDINANCE NO. 284

AN ORDINANCE CONCERNING ABANDONED, INOPERATIVE,
UNLICENSED, DERELICT AND WRECKED VEHICLES FOR THE
VILLAGE OF VARNA, MARSHALL COUNTY, ILLINOIS

Background Recitals

- A. The Village of Varna ("the Village") has the authority to adopt ordinances that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens.
- B. Section 11-60-2 of the Illinois Municipal Code, 65 ILCS 5/11-60-2, grants municipalities the authority to define, prevent and abate public nuisances.
- C. Section 11-40-3 of the Illinois Municipal Code, 65 ILCS 5/11-40-3, grants municipalities the authority to declare all inoperable motor vehicles, whether on public or private property and in view of the general public, to be a nuisance.
- D. The Village Board of Trustees finds inoperable, unlicensed and/or unregistered and/or abandoned vehicles constitute a safety hazard, are detrimental to the health, safety and welfare of the general public by harboring disease, providing breeding places for vermin, inviting plundering, creating fire hazards and presenting physical dangers to children and others, and produce scenic blights which degrade the environment and adversely affect land values and the proper maintenance and continuing development of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VARNA AS FOLLOWS BELOW.

Section 1: Recitals. The facts and statements contained in the Background Recitals to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2: Definitions: For the purpose of this Ordinance, the following words shall have the meanings ascribed to them as follows:

(A) **Abandoned Vehicle:** Any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any vehicle that has not been moved or used for seven (7) consecutive days or more and is apparently deserted. (625 ILCS 5/1-101.05)

(B) **Antique Vehicle:** Any motor vehicle or other vehicle twenty five (25) years of age or older.

(C) **Derelict Vehicle:** Any inoperable, unregistered, discarded motor vehicle, regardless of title, having lost its character as a substantial property and left unattended without justification on the owner's land contrary to the public policy expressed in Section 4-301 of the Illinois Vehicle Code, 625 ILCS 5/4-301, as now in effect or hereafter amended or codified, the same being a public record of the State of Illinois.

(D) **Highway:** Any street, alley or public way within the Village.

(E) **Inoperable Motor Vehicle:** Any motor vehicle from which for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power.

(F) **Owner:** A person who holds legal title of a vehicle or in the event a vehicle is the subject of an agreement for conditional sale or lease thereof with the right of purchase upon the performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of such vehicle is entitled to possession then such conditional vendee, lessee or mortgagor shall be deemed the owner for the purposes of this Ordinance.

(G) **Person:** Any natural person, firm, partnership, association, corporation or other legal entity.

(H) **Private Property:** Any real property within the Village which is privately owned and which is not public property as defined in this Section.

(I) **Public Property:** Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

(J) **Vehicle:** Every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway whether subject to or exempt from registration excepting, however, bicycles, snowmobiles and devices used exclusively upon stationary rails or tracks.

Section 3: Inoperable, Unlicensed, Unregistered, Derelict, and/or Abandoned Vehicles Declared Nuisance:

(A) Inoperable, unlicensed and/or unregistered, derelict, and/or abandoned vehicles are hereby declared a public nuisance.

(B) This Ordinance shall not apply to the following:

- (1) A motor vehicle which is kept within a building when not in use; or

- (2) An operable antique vehicle over twenty-five (25) years of age; or
- (3) A motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles, or on the premises of a place of business engaged in the sale of new or used automobiles; or
- (4) A motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations for a period of not more than fourteen (14) days from the date said vehicle became operable.

Section 4: Storage of Unlicensed/unregistered Vehicles: No person shall accumulate, store or allow any unlicensed or unregistered vehicle in the open upon any public or private property within the Village for a period exceeding seven (7) days.

Section 5: Duty to Dispose: Any person not exempted under Subsection 3(B) of this Ordinance shall dispose of any inoperable, unlicensed, derelict, and/or unregistered and/or abandoned motor vehicle owned by him or under his control or located upon property owned or occupied by him upon written notice received from the Village Clerk commanding the disposition of the motor vehicle.

Section 6: Notice:

(A) If the inoperable, unlicensed, derelict, and/or unregistered and/or abandoned vehicle displays license or registration plates or decals from which the last known owner may be determined in a reasonably expeditious manner, notice as set forth herein shall be sent to the last registered owner of such motor vehicle and to the owner or occupant of the property upon which such motor vehicle is located.

(B) All notices provided by this Section shall be sent by registered or certified mail, return receipt requested, postage prepaid. Notice to one owner of said vehicle or one owner or occupant of said property shall be considered notice to all owners or occupants. Refusal to accept delivery of said notice shall be deemed acceptance for purposes of this Section. Service by U.S. mail is complete four days after mailing. In the alternative, notice provided herein may be personally served by a Village official upon said owner or an occupant of the same household above the age of fourteen (14) years old, in which case the date of notice shall be the date of said personal service.

(C) Such notice by the Village Clerk to remove said inoperable, unlicensed and/or unregistered and/or abandoned vehicle shall be substantially in the form set forth below.

NOTICE TO REMOVE VEHICLE

TO: NAME: _____ DATE: _____
ADDRESS: _____

A Motor Vehicle described as

MAKE: _____
YEAR: _____
COLOR: _____

with registration plates number _____ is registered in the name(s) of _____ with the State of _____.

This vehicle is located at _____ outside of an enclosed building and is deemed to be an Inoperable, Unlicensed, Derelict, and/or Unregistered and/or Abandoned Vehicle under an Ordinance of the Village of Varna. You are hereby notified that such Vehicle must be removed, disposed of or placed in an enclosed building within seven (7) days after the date of this notice as indicated above. You may request a hearing on the matter of whether the above described vehicle is an Inoperable, Unlicensed, Derelict, and/or Unregistered and/or Abandoned Vehicle in violation of the Ordinance by submitting a written request for such a hearing to the Village Clerk of the Village of Varna addressed as set forth below, within seven (7) days of the date of this notice. If you submit such a request for a hearing, a hearing date will be set and you will be advised of the time, date and place of such hearing at least three (3) days in advance of the date of such hearing. Pursuant to the Ordinance you may request an extension period at any such hearing. The Village Board shall, upon good cause being shown, grant an extension of not more than thirty (30) days if the owner of the vehicle or the owner or occupant of the property upon which such vehicle is located submits to the Village Board an affidavit that the vehicle is being held for sale or expeditious repair as defined by Subsection 3(B) or 7(B) of the Ordinance. To request a hearing, hand deliver or mail by certified mail, return receipt requested, a request for such a hearing in writing to the Village of Varna [insert current address] Varna, Illinois. If you fail to request a hearing within seven (7) days of the date of this notice, and you do not remove, dispose of, or place the Vehicle in an enclosed building within the specified period, or within any extension granted by the Village Board after a hearing, such Vehicle is subject to being towed and impounded and you may be charged with a violation of the Ordinance and subject to a fine of not more than Seven Hundred Fifty Dollars (\$750.00) for such violation. In addition, the costs of towing and storage will be assessed against you.

Section 7: Hearing:

(A) The person or persons, or the designated agent thereof, to whom the notice as specified by this Ordinance is directed, shall have the right to a hearing before the Village Board on the matter of whether the motor vehicle cited in such notice is an inoperable, unlicensed, derelict, unregistered and/or abandoned vehicle in violation of this Ordinance. To obtain such a hearing, any such person must first submit a written request for such a hearing by hand delivery or by certified mail, return receipt requested, addressed to the Village of Varna at its current address, Varna, Illinois, within

seven (7) days of the date of any such notice. If a hearing is so requested, the Village Clerk shall, as soon as reasonably practicable, set a time, date and place for the hearing before the Village Board and shall cause the person or persons so requesting the hearing to be provided with written notice of the time, date and place for the hearing at least three (3) days in advance of the date thereof. All enforcement of this Ordinance shall be stayed pending said hearing and determination by the Village Board.

(B) The owner of the vehicle or the owner or occupant of the property where the vehicle is located may apply for an extension of time by making a written request for a hearing as provided in Subsection (A) of this Section. Upon receipt of any such application for an extension of time, the Village Board shall, upon good cause being shown, grant an extension of not more than thirty (30) days, if such person submits to the Village Board an affidavit that the motor vehicle is being held for sale or expeditious repair. As used in this Section, "expeditious repair" shall mean:

(1) that the necessary parts for repair have been ordered but are not available for installation in the motor vehicle for reasons not within the control of the owner of said motor vehicle; or

(2) that the motor vehicle is scheduled to be repaired by a person whose regular course of business includes the repair of vehicles and the scheduled repair date is within thirty (30) days; or

(3) that the motor vehicle is in such condition of being inoperable as a result of a vehicular accident, and the owner of such inoperable motor vehicle or any third party to whom or from whom a claim for damages sustained in such accident is anticipated is investigating or preparing a claim for such damages, but in no event shall any such extension period exceed thirty (30) days.

Section 8: Notify Municipality: When an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this State, not the owner of the vehicle, such person shall immediately notify the Village President when the vehicle is within the corporate limits of the Village. Upon receipt of such notification, the Village President or his designee shall authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed motor vehicle or other vehicle. The towing service will safely keep the towed vehicle and its contents and maintain a record of the tow until the vehicle is claimed by the owner or any other person legally entitled to possession thereof, or until it is disposed of as provided in this Ordinance.

Section 9: Towing Abandoned Vehicles:

(A) When a motor vehicle or other vehicle is abandoned on a highway in the Village ten (10) hours or more, its removal by a towing service may be authorized by order of the Village President.

(B) When an abandoned, unattended, wrecked, burned or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway or its

physical appearance is causing the impeding of traffic, its immediate removal from the highway by a towing service may be authorized by order of the Village President.

(C) When a vehicle removed from either public or private property is authorized by order of the Village President, the owner of the vehicle will be responsible for all towing costs.

Section 10: Towing from Private Property; Disposal of Vehicles:

(A) In the event the notice provided for in Section 6 of this Ordinance is not complied with, and except as provided in Subsection (B) of this Section, the Village shall obtain a warrant and shall cause the towing or removal of the motor vehicle from private property.

(B) In the event a request for hearing before the Village Board was properly made and the Village Board determined by majority vote that the said vehicle is an derelict and/or inoperable and/or unlicensed and/or unregistered and/or abandoned motor vehicle for purposes of this Ordinance, then the Village Board shall set a reasonable date by which said vehicle shall be disposed of or enclosed within a building. Said date shall be no less than seven (7) days after the date of hearing. If said vehicle is not disposed of or enclosed within a building by the said date set by the Village Board, then the Village shall obtain a warrant and shall cause the towing or removal of the motor vehicle without further, prior notice thereof. It shall be the responsibility of the owner of said vehicle to deliver a written notice to the Village Clerk and to provide documentation and/or demonstration of operability or that the motor vehicle has properly licensed and/or registered if said vehicle has been put into operable and/or licensed and/or registered condition prior to towing or removal of said vehicle. If no such written notice is received by the Village Clerk prior to towing or removal, it shall be presumed that said vehicle remains derelict and/or inoperable and/or unlicensed and/or unregistered and/or abandoned and may be towed or removed in accordance herewith.

(C) Whenever a motor vehicle is towed or removed by a towing service pursuant to the provisions of this Ordinance, the owner of the motor vehicle and the owner or occupant of the property upon which such inoperable motor vehicle is located shall be jointly and severally responsible for all towing and storage charges unless otherwise determined by the Village Board pursuant to hearing as provided in Section 7 of this Ordinance.

(D) Within forty eight (48) hours of the removal of such vehicle, the Village Clerk shall send notice to the registered owner of the vehicle and lien holder, if known, and also to the owner or occupant of the private property from which the vehicle was removed that said vehicle(s), has been impounded and stored for violation of this Ordinance. The notice shall give the location of where the vehicle(s) is towed and the costs incurred by the Village for removal.

(E) Any motor vehicle towed or removed pursuant to the provisions of this Ordinance shall be stored and claimed or disposed of in accordance with the applicable provisions of the Illinois Vehicle Code, as amended, entitled "Abandoned Lost, Stolen or Unclaimed Vehicles," as now in effect or hereafter amended or codified, the same being a public record of the State of Illinois.

Section 11: Record of Vehicles Towed: When a motor vehicle or other vehicle is authorized to be towed away, the Village Clerk shall keep and maintain a record of the vehicle towed, listing (to the extent the information is available) the color, year of manufacture, make, model, vehicle identification number and license plate year and number displayed on the vehicle. The record shall also include the date of tow, location towed from, location towed to, reason for towing.

Section 12: Nonliability for Damages: Any Village official, police officer, attorney, towing service owner, operator or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this Ordinance.

Section 13: Penalty: Any person violating any of the provisions of this Ordinance shall be subject to a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00). If court action is necessary, the violator shall pay the Village's attorney fees and court costs, if found guilty.

Section 14: Severability. If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Ordinance.

Section 15: Repealer. All ordinances, resolutions or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, expressly repealed.

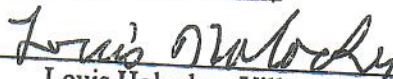
Section 16: Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law.

PRESENTED and ADOPTED at a regular meeting of the Village of Varna, Marshall County, Illinois, held on July 1, 2024, by roll call vote as follows:

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RECORD OF THE VOTE	Yes	No	Absent	Abstain
Chambers	✓			
Koch	✓			
Marliere	✓			
Meierkord	✓			
Todd	✓			
Higgins	✓			

APPROVED July 1, 2024


 Louis Holocker, Village President

PUBLISHED in pamphlet form on July 2, 2024

ATTEST:


 Jane Egli, Village Clerk


 Jane Egli, Village Clerk

State of Illinois)
) ss
 County of Marshall)

CERTIFICATE OF MUNICIPAL CLERK

I, the undersigned, do hereby certify that I am the duly qualified and acting Clerk of the Village of Varna, the County and State aforesaid, and, as such Clerk, I am the keeper of the records and files of the Corporate Authorities of the Village. I do further certify that the attached and foregoing is a true and correct copy of: **AN ORDINANCE CONCERNING ABANDONED, INOPERATIVE, UNLICENSED, DERELICT AND WRECKED VEHICLES**, as passed by the Village Board of Trustees at its regular meeting held on July 1, 2024, and as approved by the Village President on July 1, 2024.

IN WITNESS WHEREOF I have hereunto affixed my official signature and the corporate seal of the Village of Varna, Illinois.


 Jane Egli, Village Clerk

(SEAL)