ORDINANCE NUMBER: 2019-16

AN ORDINANCE AMENDING CHAPTER 70 TRAFFIC AND VEHICLES, ARTICLE V. INOPERABLE VEHICLES OF THE VILLAGE OF CHERRY VALLEY CODE OF ORDINANCES

WHEREAS, the Village of Cherry Valley, Illinois ("Village") has adopted a Village Code of Ordinances ("Code"); and

WHEREAS, Chapter 70, Article V of the Code governs Inoperable Vehicles; and

WHEREAS, the Village wishes to amend the Sections under Article V to add clarification; and

WHEREAS, the Village has determined it is in the best interest of the Village and its citizens to enact such amendment.

NOW THEREFORE, be it ordained by the President and Board of Trustees of the Village of Cherry Valley, Illinois as follows:

1. The above recitals are incorporated herein and made a part hereof.

2. That Chapter 70, Article V of the Code of Ordinances is hereby amended to establish the amended Sections of the Code with additions being underlined and bold and any deletions being stricken as follows:

Sec. 70-102. - Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Inoperable motor vehicle means any motor vehicle from which, for a period of at least seven 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 power. The term "inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily, for a period not exceeding seven days, incapable of being driven under its own power in order to perform ordinary service or repair operations.

Owner means an individual, corporation, partnership, or association to whom the motor vehicle was last registered. Absent evidence of a registration plate on the motor vehicle, the owner is presumed to be the owner and/or occupant of the real estate upon which the motor vehicle is found.
Motor Vehicle means every vehicle, regardless of readiness for transportation, which is self-propelled and every vehicle which is propelled by electric, petrol, battery, or like power source including automobiles, motorcycles, motor homes, buses, trucks, trailers, and other motor driven or motor-drawn similarly used. This shall not apply to vehicles moved solely by human power and motorized wheelchairs.

Sec. 70-103. - Public nuisance declared.
It is hereby declared that all inoperable motor vehicles or automobile parts, whether on public or private property and in view of the general public, are a public nuisance. Any motor vehicle or part thereof which is inoperable or deteriorated or in need of repair which is located for seven days or more upon public or private property within the village, outside any enclosure building which encloses the vehicle completely from lateral view on all sides, is hereby declared to be a public nuisance.

Sec. 70-104. - Repairs; time limit.
Any inoperable motor vehicle which has been rendered temporarily, for a period of seven days or more, incapable of being driven under its own power in order to perform ordinary service or repair operations, is hereby declared to be a public nuisance. Such inoperative motor vehicle which has been rendered incapable of being driven under its own power in order to perform ordinary service or repair operations shall be placed within a building, which building encloses the vehicle completely from lateral view on all sides so that it is not in view of the general public.

Sec. 70-105. - Exceptions.
No provisions of sections 70-102—70-108 shall apply to any motor vehicle that is kept within a building or an enclosure which encloses the vehicle completely from lateral view on all sides, so as not to be in view of the general public, or to a motor vehicle on the lawfully zoned premises of a place of business engaged in the repair, wrecking or junking of motor vehicles.

Sec. 70-106. - Penalty for violation of article.
Any owner or lessee or any other person in control of the premises and the owner or lessee or any other person in control of a motor vehicle who permits a public nuisance, as declared by section 70-103, to exist or who maintains such public nuisance shall, upon conviction, be punished by a fine of not less than $50.00 nor more than $200.00 $150.00. Each day's failure to comply with the provisions of this article shall constitute a separate offense. Each motor vehicle which is permitted to exist as a public nuisance shall constitute the subject of a separate offense.
The cost of towing and storage of inoperable motor vehicle shall be the responsibility of the owner of the vehicle. No motor vehicle towed pursuant to this Chapter shall be released without payment of the cost of towing and storage.

Sec. 70-107. - Enforcement of article provisions. Sections 70-102—70-108 shall be enforced by the police department of the village, or by such agencies of the county, as may from time to time be designated to enforce such sections by the Village.

Sec. 70-108. - Removal after notice. Notice to abate an inoperable vehicle shall be given to the owner or person in control of the property or the owner of the vehicle by personal service or by certified mail which is addressed to their residence or usual place of business.

Upon the failure of the owner of the vehicle or the owner or person in control of the property to remove the inoperable motor vehicle within seven (7) days from the date of the service of the notice, the Village shall remove said motor vehicle located thereon.

The owner of the vehicle or the owner or person in control of the lot with an occupied structure may stay the removal of said vehicle by filing a written request for an administrative hearing to the Police Department within seven (7) days from the date of the service of the notice.

If the notice to abate sent by certified mail is returned to the Village by the United States Post Office because of its inability to make delivery thereof, the Village is authorized to give notice and remove the inoperable motor vehicle by adhering a notice in a visible place upon said vehicle. This notice shall inform the owner that the motor vehicle to which it is attached shall be removed within seven (7) days from placement of the notice. This notice will further inform the owner that he may stay the removal of said vehicle by filing a written request for an administrative hearing within seven (7) days from the date of placement of the notice.

Any nuisance for inoperable motor vehicle which is not abated within seven (7) days of delivery of notice to abate pursuant to Section 70-108 shall be removed and disposed of.

(a) The Village Police Department is authorized to issue notice of any inoperable motor vehicle or parts thereof.
(b) No vehicle shall be removed from private property until such time as the Village has obtained a Court Order authorizing the removal.

Secs. 70-109—70-119. - Reserved.

3. All other provisions of Chapter 42 of the Code of Ordinances shall remain in effect as previously enacted except that those ordinances or parts thereof in conflict are hereby repealed.

4. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as provided by law.

PASSED UPON MOTION BY JEFF FUSTIN
SECONDED BY DAVID SCHROEDER
BY ROLL CALL VOTE THIS 3RD DAY OF SEPTEMBER, 2019
AS FOLLOWS:
VOTING “AYE”: JEFF FUSTIN, SALLY HOLLEMBEAK, JEFF O’HARA
DAVID SCHROEDER
VOTING “NAY”: NONE

ABSENT, ABSTAIN, OTHER STEPHEN APPELL, NANCY BELT

APPROVED: SEPTEMBER 3, 2019

ATTEST:

Kathy [Signature]
CLERK

[Signature]
PRESIDENT