

VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK
BOARD OF TRUSTEES
PUBLIC HEARING NO. 2
OCTOBER 21, 2014

A Public Hearing was held by the Board of Trustees on Tuesday, October 21, 2014 at 7:36 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

PRESENT: Mayor Peter Swiderski, Trustee Bruce Jennings, Trustee Marjorie Apel, Trustee Meg Walker, Trustee Nicola Armacost, Village Manager Francis A. Fobel, Village Attorney Linda Whitehead, and Village Clerk Susan Maggiotto

CITIZENS: Thirteen (13).

Mayor Swiderski declared the Board in session for the purpose of conducting a Public Hearing in accordance with the legal notice that appeared in the October 17, 2014 issue of *The Rivertowns Enterprise* to consider the advisability of adopting Proposed Local Law No. 5 of 2014 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York, Chapter 282 Part 2 Vehicles and Traffic to add provisions for Vehicle Immobilization.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

SECTION 1. Section 282-2.B. of the Code of the Village of Hastings-on-Hudson is hereby amended to add the following definitions:

Vehicle Immobilization – To apply and lock a vehicle immobilization device to the exterior of a motor vehicle.

Vehicle Immobilization Device - A vehicle boot or wheel clamp designed to immobilize a parked vehicle and prevent its movement until the device is unlocked and removed.

SECTION 2. New Article XVII is hereby added to Chapter 282 of the Code of the Village of Hastings-on-Hudson to read as follows:

Article XVII Immobilization of Vehicles.

§282-47 Authorization; responsibility for expense.

A. The Chief of Police hereby is authorized to provide for the immobilization of any vehicle against which three or more parking summonses have been issued

for a violation of this Chapter within eighteen (18) months for which fines equal to or in excess of \$500.00 remain unpaid, and/or vehicles that have been deemed parking scofflaws by the State of New York.

- B. Such vehicles may be immobilized where located, secured by the use of an immobilization device or, in the discretion of the Chief of Police, be impounded and towed pursuant to Article XIII of this Chapter.
- C. Such immobilization or impound will be at the sole expense of the owner of the vehicle.

§282-48 Notice and warning to owner.

When an immobilization device is used, the Police Department or its agents shall attach a notice to the vehicle containing the following information:

- A. The location and identifying characteristics of the vehicle.
- B. The date and time of placement of the immobilization device and signature of installer.
- C. Notice that the vehicle will be towed if it remains in the same location for 72 hours from the immobilization.
- D. Notice that any person tampering with the device or the vehicle will be subject to criminal prosecution and liable for any loss to the Village.
- E. The steps which must be taken by the owner of the vehicle to obtain the release of the vehicle from the Village Justice Court.
- F. Such other information, statements, notices and warnings as the Chief of Police may, from time to time, determine to be appropriate.

§282-49. Tampering with or attempted removal of immobilization devices.

No person shall attempt to or shall tamper with, deface, remove or destroy an immobilization device or move an immobilized vehicle as herein provided.

§282-50. Release of vehicle to owner.

- A. Any immobilized vehicle as herein provided shall be released to its owner upon payment of the expenses of immobilization and all outstanding parking fines against the immobilized vehicle. A vehicle release must be obtained from the Village Justice Court during normal business hours. Once the release is obtained from the Village Justice Court it may be presented to the Police Department, during normal business hours, in order to have the Police Department remove the immobilization device or release the vehicle from impound.

- B. In rare instances where the owner of the vehicle may be unavailable, an original notarized letter from the registered owner or title holder may be submitted authorizing a particular person to receive custody of the vehicle. Photocopies of letters or faxed or electronic letters will not be accepted. A clearly legible copy of the registered owner's driver's license must be submitted with the notarized letter. The authorized person must have no unpaid summonses in their own name or in relation to a vehicle owned by them and must possess a valid driver's license.
- C. The owner of the vehicle is responsible for all towing charges and storage fees associated with towing and impound of the vehicle. Fees associated with towing and storage will be paid directly to the tow company.
- D. New parking summonses may be issued to an illegally parked vehicle which is immobilized, and penalties will continue to accrue until payment is made.
- E. Expired registrations must be renewed and any suspended registration must be reinstated prior to the release of an immobilized or impounded vehicle.

§282-51. Penalties for offenses.

- A. Any person violating any of the provisions of this article shall, upon conviction, be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.
- B. The fee to release a Vehicle Immobilization Device shall be \$150.00
- C. The fee to replace a damaged Vehicle Immobilization Device shall be \$600.00.
- D. All the above penalties and fees shall be in addition to the payment of all outstanding parking fines and penalties.

SECTION 3. All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

SECTION 4. SEVERABILITY

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 5. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

Mayor Swiderski: Any public comments on this?

Patrick Randolph Bell, Prince Street: The one thing that is bothering is section 282-50, release the vehicle to owner. On that list you had a few weeks ago people owing, let us say, 50-grand or whatever it was. How many of those people are corporations like UPS, FedEx, the bloodmobile, the delivery guys. Because here in that release it says to get a release, in the rare instances where the owner of the vehicle may be unavailable, a clearly legible copy of the registered owner's driver's license must be submitted with a notarized letter. As far as I know, corporations do not have driver's licenses. So I am not sure how a corporation will be able to get their car out of this by following the letter of this law. I sent an e-mail after the last meeting to the Mayor possibly to pass on to the Board about that section. I thought you might amend it in the meantime because it seems now that if FedEx gets booted there is no way for them to get their truck back.

Village Attorney Whitehead: A representative of FedEx could. Fran and I discussed this earlier today. We have gotten a couple of comments about that issue, where a registered owner, in rare instances, may not have a driver's license. It is technically not required to register a car. You can get insurance without ...

Mr. Bell: Yes, I mentioned that last week to you.

Village Attorney Whitehead: So we talked about changing that sentence to say a clearly legible copy of the registered owner's driver's license or other government-issued photo identification.

Mr. Bell: That is not in here though, is it?

Village Attorney Whitehead: It is not in here yet, but it is a change that can be made if the Board ...

Mr. Bell: And what do you do if a corporation owns this truck, the UPS? There is nobody. There is not going to be a form of ID, there is not going to be a driver's license. Can you have maybe the registration, like some other kind of way of releasing this?

Village Attorney Whitehead: Corporations have authorized representatives. So it would have to be an authorized representative of the corporation who would be able to bring the registration.

Mr. Bell: Drive the car away.

Village Attorney Whitehead: Yes. Now, if they are going to drive it away they do have to have a license.

Mr. Bell: OK. But you are saying you can still have some representative show up. But that person must have a driver's license or some other form of ID.

Village Attorney Whitehead: If they are going to drive it away they have to have a driver's license.

Mr. Bell: But this is in the office, I am saying. So in the office this guy shows up with ID saying I work for UPS, here is my letter from UPS. Then he can release the car, then whoever is outside can drive it away no matter what once you take the boot off if they have a driver's license like any other driver.

Village Attorney Whitehead: Right.

Mr. Bell: So you are going to make that change?

Village Attorney Whitehead: Yes.

Mr. Bell: Do you make it before or after you accept the law today?

Village Attorney Whitehead: They are not going to act tonight. It is just the public hearing, and then the Board will discuss whether to proceed with adopting the law at the next meeting. We will make the change before that so they will have the revised version in front of them.

Mayor Swiderski: But is not substantial enough to require another public hearing.

Village Attorney Whitehead: No, not a substantial thing.

Elisa Zazzera, 111 Pinecrest Parkway: Since I saw my first boot many decades ago, I never understood the concept of them. They are now locking a car in a parking space which otherwise could be used. Could you do this and tow the car? Is that a consideration in this?

Village Manager Frobel: Yes, that is what we will do if the owner does not come forth within a few hours, 72 hours, then we will impound the vehicle.

Ms. Zazzera: OK. So it is not going to sit there for a week with a boot on it.

Village Attorney Whitehead: No.

John Gonder, 153 James Street: I am in favor of it, and I think it is well-written with those changes. Thank you.

Hearing no further comments, Mayor Swiderski asked for a motion to close the Public Hearing.

CLOSE OF PUBLIC HEARING

On MOTION of Trustee Apel, SECONDED by Trustee Armacost with a voice vote of all in favor, Mayor Swiderski closed the Public Hearing at 7:42 p.m.