

Introduced by the County Executive: and Presiding Officer Norma Gonsalves

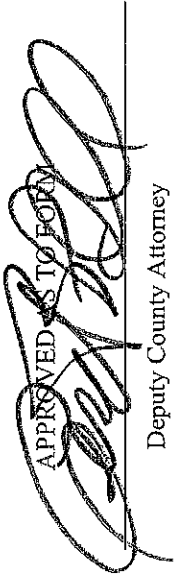
LOCAL LAW NO. 6 -2014

A LOCAL LAW TO AMEND THE ADMINISTRATIVE CODE OF NASSAU COUNTY WITH RESPECT TO THE IMMOBILIZATION AND REMOVAL OF ILLEGALLY PARKED VEHICLES AND SCOFFLAWS

Passed by the Nassau County Legislature on June 16, 2014

Voting: ayes: 13 nays: 6 abstained:

Became a law on June 19, 2014 with the approval of the County Executive

APPROVED & TO FORN  
  
Deputy County Attorney

WHEREAS, the immobilization or removal of illegally parked vehicles and the vehicles of scofflaws by and through the Police Department serves a significant governmental interest by facilitating the enforcement of traffic regulations; and;

WHEREAS, the immobilization or removal of illegally parked vehicles and the vehicles of scofflaw encourages voluntary compliance with parking laws and regulations, discourages illegal parking; deters the consistent disregard of parking summonses and red light camera summons; facilitates traffic and public safety and brings within the reach of the law owners who have demonstrated their defiance of the County's parking rules and judicial process by consistently disregarding parking summonses; and

WHEREAS, scofflaws continue to flout the parking laws of Nassau County by utilizing multiple or alternative vehicles in order to avoid payment of multiple fines associated with another vehicle, therefore

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. Title J of Chapter 8 of the Administrative Code of Nassau County as enacted by Local Law No. 25-2001 and amended by Local Law No 20-2010 is amended as follows:

Title J.

Immobilization and Removal of Illegally Parked Vehicles and Vehicles of Scofflaw

Section	8-120.1	Definitions
	8-120.2	Immobilization and removal of vehicles; general provisions
	8-120.3	Immobilization; notice and penalties
	8-120.4	Removal; notice; release of immobilized and removed vehicles
	8-120.5	Procedures

§ 8-120.1 **Definitions.**

- (a) "Illegally parked vehicle" shall mean any motor vehicle parked or left standing upon any county-owned property, public street or highway of the County of Nassau in violation of an ordinance or regulation issued by an agency authorized to promulgate parking ordinances and regulations.
- (b) "Immobilize" or "immobilization" shall mean the act of placing on a parked motor vehicle a mechanical device known as a boot, designed to be attached to the wheel or tire or other part of such vehicle so as to prohibit its usual manner of movement.

- (c) "Delinquent" shall mean a parking ticket, warrant or summons that has not been answered by the required appearance date, or for which adjudged fines and applicable surcharges have not been paid.
- (d) "Police Department" shall mean the Police Department of the County of Nassau and its members, agents, and officers employed by such department.
- (e) "Remove" or "removal" shall mean the act of towing a parked motor vehicle, which shall be placed and stored in a location designated by the Police Department and shall be held until it is released or disposed of pursuant to applicable law.
- (f) "Vehicle(s) of a scofflaw" or "vehicles of scofflaws" shall for purposes of this title mean (i) a vehicle or vehicles, as more particularly defined in clause i. of subparagraph a. of subdivision 5-a of section 401 of the vehicle and traffic law, against which two (2) or more tickets, warrants, summonses or fines for parking violations or two (2) or more notices of liability issued pursuant to any law authorizing photo or digital enforcement of the vehicle and traffic law or any local law, or any combination thereof, which are returnable to the Nassau County Traffic and Parking Violations Agency, have been issued and are delinquent or any other vehicles owned by a person, corporation or other concern who also owns a vehicle subject to immobilization or removal by virtue of subdivision (f)(i) of this section.

**§ 8-120.2 Immobilization and removal of vehicles; general provisions.**

- (a) In addition to any other authority, the Police Department, subject to the procedures in this title, is hereby authorized to cause the immobilization and removal of i) illegally parked vehicles; and ii) vehicles of scofflaws.
- (b) A vehicle subject to the provisions of subsection (a) of this section may be

immobilized or removed, or both, by the Police Department or the Police Department's contractor at any place and at any time the Police Department may lawfully enforce traffic and parking laws or regulations.

- (c) The immobilization or removal of a vehicle under this title shall be at the expense and risk of the owner of such vehicle, who shall pay to the Police Department the cost incurred for any such immobilization or removal prior to the release of the vehicle in accordance with section 8-120.4 of this title.
- (d) The immobilization or removal of a vehicle under this title shall not prevent a determination pursuant to other law that such vehicle was abandoned, provided that no application to release the vehicle has been made or that no administrative or judicial proceeding to determine the status of the vehicle is pending.
- (e) The Police Department may provide for the removal, immobilization and/or storage and notifications to be sent in connection therewith, by contracting with one or more private entity.
- (f) All sums due for delinquent parking tickets and all fees for immobilization or removal shall be a lien on any vehicle so immobilized or removed. On or after the fifteenth business day following the immobilization or removal of a vehicle pursuant to this title, such vehicle shall be subject to levy upon execution of a judgment. Nothing in this title shall impair any other authority of the Sheriff or Sheriff's deputy to levy, upon execution of a judgment, against any seized vehicle.
- (g) Nothing in this title shall impair the rights or remedies under other law of any owner or operator of any vehicle immobilized or removed.

(h) Nothing in this title shall impair any other power or duty of the Police Department heretofore or in the future established by law.

§ 8-120.3 **Immobilization; notice and penalties.**

(a) When an immobilization device is used, the Police Department shall cause to be attached to the immobilized vehicle a notice containing the following information, in such form as directed by the Commissioner of the Police Department:

- (i) The location and identifying characteristics of the vehicle;
- (ii) The dates and time of placement of the devices and the signature of the installer of the device;
- (iii) Notice that further parking penalties will be waived while the vehicle is immobilized;
- (iv) Notice that any person tampering with the device or vehicle will be subject to criminal prosecution as provided in paragraph (b) of this section, as well as civil liability for any loss to the County of Nassau due to damage to or theft of the device;
- (v) The steps that the owner must take to obtain release of the vehicle; and
- (vi) Such other information, statements, notices and warnings as the Police Department may from time to time determine.

(b) Any person who tampers with, defaces, removes or destroys an immobilization device or moves by any means a vehicle immobilized as herein provided will be subject to prosecution to the full extent of the law.

§ 8-120.4 **Removal; notice; release of immobilized and removed vehicles.**

(a) Notice. Within two business days following the removal of a vehicle under this title, the Police Department shall send notification to the registered owner of such vehicle, by first-class mail to the address indicated on the vehicle's registration, of:

- (i) the place to which such vehicle has been removed;
- (ii) the reason for the removal;
- (iii) the owner's ability to obtain the release of such vehicle upon payment of the outstanding fines to the Nassau County Traffic and Parking Violations Agency and the immobilization or removal fees to the Police Department; and
- (iv) the owner's option to post a bond, as provided by paragraph (ii) of subdivision (b) of this section, equal to the outstanding fines and immobilization or removal fees, for the release of the vehicle.

(b)

- (i) Prior to the release of a vehicle that has been immobilized or removed pursuant to this title, the owner, or a person authorized by the owner to obtain the release of such vehicle, shall furnish satisfactory evidence of his or her identity and ownership or authorization from the owner to obtain the release of such motor vehicle, and shall make payment to the Police Department for charges incurred in the immobilization or removal of such vehicle, and in the case of a vehicle, to the Nassau County Traffic and Parking Violations Agency of all fines for delinquent parking tickets, warrants or summonses issued against such vehicle. Upon the presentation of such evidence of identity and ownership or authorization, and payment, the Police Department shall

forthwith release the vehicle and provide a receipt to the owner or person authorized by the owner to obtain the release of such vehicle.

- (ii) Any vehicle of a scofflaw immobilized or removed pursuant to this title may be released upon the posting of a cash or money order bond with the Nassau County Traffic and Parking Violations Agency in the amount of the fines for delinquent parking tickets, warrants or summonses issued against such vehicle plus any charges incurred in the immobilization or removal of such vehicle. Upon an acquittal or dismissal of any underlying parking violation or violations by the Nassau County Traffic and Parking Violations Agency, the Nassau County Traffic and Parking Violations Agency shall refund that portion of the bond corresponding to the amount of the penalty for such underlying parking violation or violations. In addition, the full amount of the bond shall be refunded if the Police Department determines that immobilization or removal should not have occurred pursuant to the provisions of this title. No bond will be refunded after one year after posting unless the time is extended by Nassau County Traffic and Parking Violations Agency for administrative purposes or, in the discretion of such Agency, upon a request by the person posting the bond.

**§ 8-120.5 Procedures.**

- (a) The Police Department, with the cooperation of the Nassau County Traffic and Parking Violations Agency, shall develop procedures necessary to effectuate the

purposes and provisions of this title, including but not limited to specifications for the manner and content of notice to the public concerning the operation of this title; the content of notice to the registered owner of a vehicle immobilized or removed under this title; the place of storage of such vehicles; the time and place such vehicles may be released; and the fees for immobilization or removal of a vehicle that shall compensate the Police Department and/or a contractor that performed such functions on the Police Department's behalf for such immobilization or removal, as well as the administrative costs of the vehicles of scofflaws removal program.

(b) The Nassau County Traffic and Parking Violations Agency shall develop procedures necessary to effectuate the expeditious adjudication of traffic tickets, warrants and summonses for those persons who contest the validity of such traffic tickets, warrants and summonses issued against a vehicle immobilized or removed pursuant to this title.

§ 2. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.



§ 3. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§ 4. This local law shall take effect immediately.

**APPROVED**



**County Executive**

**DATE** 6/19/14