

## Title 10 ► Chapter 5

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# Abandoned and Junked Vehicles

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### Sec 10-5-1 Abandoned Vehicles; Definitions.

- (a) **Abandonment of Vehicles Prohibited.** No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Elmwood for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village of Elmwood or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than seventy-two (72) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- (b) **Definitions.** For purposes of this Chapter, the following definitions shall be applicable:
- (1) **Vehicle** shall mean a motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.
  - (2) **Unattended** shall mean unmoved from its location with no obvious sign of continuous human use.
  - (3) **Street** shall mean any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.
- (c) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:
- (1) A vehicle shall be presumed unattended if it is found in the same position seventy-two (72) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said seventy-two (72) hours.

- (2) Any vehicle left unattended for more than seventy-two (72) hours on any public street or public ground or left unattended for more than seventy-two (72) hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance; provided, that the vehicle shall not be deemed abandoned under this Subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by a law enforcement officer.
- (d) **Exceptions.** This Section shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with Village zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

### **Sec. 10-5-2 Removal and Impoundment of Vehicles.**

Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of Section 10-5-3.

### **Sec. 10-5-3 Removal, Storage, Notice or Reclaimer of Abandoned Vehicles.**

- (a) **Applicability.** The provisions of this Section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in Section 10-5-1.
- (b) **Removal.** Any law enforcement officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Elmwood which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
- (c) **Storage and Reclaimer.** Any abandoned vehicle which is determined by a Village law enforcement officer to be abandoned shall be retained in storage for a period of fourteen (14) days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if a Village law enforcement officer determines an abandoned vehicle to have a value of less than One Hundred Dollars (\$100.00), or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of forty-eight (48) hours and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle

Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of nineteen (19) model years of age shall be deemed as a having value in excess of One Hundred Dollars (\$100.00). Any such vehicle which may be lawfully reclaimed may be released upon the payment of all accrued charges, including towing, storage and notice charges and upon presentation of the vehicle title or other satisfactory evidence to a Village law enforcement officer to prove an ownership or secured party interest in said vehicle.

- (d) **Notice to Owner or Secured Party.** Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Motor Vehicle Division, if any, of the following:
- (1) That the vehicle has been deemed abandoned and impounded by the Village of Elmwood;
  - (2) The "determined value" of the abandoned vehicle;
  - (3) If the cost of towing and storage costs will exceed the determined value of the vehicle;
  - (4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within fourteen (14) days of the date of notice, unless the vehicle has been determined to have a value less than One Hundred Dollars (\$100.00) or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven (7) days upon the payment of the aforesaid charges; and
  - (5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

#### **Sec. 10-5-4 Disposal of Abandoned Vehicles.**

Any abandoned vehicle impounded by the Village which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this Chapter may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class I Notice, including the description of the vehicles, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale shall be published before the sale.

#### **Sec. 10-5-5 Report of Sale or Disposal.**

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, a Village law enforcement officer shall advise the State of Wisconsin Department of Transportation,

Division of Motor Vehicles, of such sale or disposal on a form supplied by said Division. A copy of the form shall be given to the purchaser of the vehicle enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have ten (10) days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the Village for each day the vehicle remains in storage after the second business day subsequent to the sale date. Ten (10) days after the sale the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list to the Village. The Village may charge a reasonable fee for the list.

### **Sec. 10-5-6 Owner Responsible for Impoundment and Disposal Costs.**

- (a) The owner of any abandoned vehicle, except a stolen vehicle, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.
- (b) Payment of removal and impoundment costs is not required when the vehicle has been impounded for purposes of law enforcement investigation.

### **Sec. 10-5-7 Conflict with Other Code Provisions.**

In the event of any conflict between this Section and any other provisions of this Municipal Code, this Chapter shall control.

### **Sec. 10-5-8 Junked Vehicles and Appliances on Private Property.**

#### **(a) Storage of Automobiles and Other Debris Restricted.**

- (1) No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, appliances, household furnishings, abandoned mobile home or trailer, miscellaneous junk or appliances, junk, or construction debris shall be stored unenclosed upon private residential property within the Village of Elmwood for a period exceeding seventy-two (72) hours or if it is in connection with an authorized business enterprise maintained in such a manner as to not constitute a public nuisance and in compliance with Village zoning regulations; outside storage on a commercial or industrial property shall be enclosed by a fence or other enclosure of a design approved by the Village Board.

- (2) Any business engaged in automotive sales or repair located in a properly zoned district may retain no more than five (5) disassembled or wrecked vehicles in the open for a period not to exceed thirty (30) days, after which such vehicles shall be removed.
- (b) **Definitions.** As used in this Section:
- (1) ***Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers.*** Motor vehicles, recreational vehicles (boats, campers, snowmobiles, all-terrain vehicles, etc.), truck bodies, tractors, farm machinery or trailers, and other items listed in Subsection (a), in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.
  - (2) ***Unlicensed – motor vehicles, truck bodies, tractors or trailers.*** Motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.
  - (3) ***Motor vehicle.*** Is defined in Sec. 340.01(35), Wis. Stats. Additionally, motor vehicle means any automobile, automobile part, all-terrain vehicle, snowmobile, motor home, bus, motorcycle, van or other device designed for travel.
  - (4) ***Inoperable appliance.*** Any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.
  - (5) ***Junk.*** Worn out or discarded material of little or no value, including but not limited to, household appliances or parts thereof, tools, discarded building materials or any other unsightly debris, the accumulation of which has an adverse effect upon the neighborhood or Village property values, health, safety or general welfare.
  - (6) ***Enclosure.*** Type of construction required to hide and harbor vehicles from public view, excluding tarps. The Village Board shall have sole authority to determine the adequacy of enclosures required under this Chapter, which may be a structure, fence, vegetative screening, or other type of acceptable enclosure.
  - (7) ***Owner.*** Considered to the person(s) who occupies the premises and who may or may not be the responsible person(s) harboring such unlicensed motor vehicle.
  - (8) ***Abandoned home or trailer.*** One which has not been used or occupied, or which due to dilapidated condition cannot be occupied in a healthful manner, within the past three hundred sixty-five (365) days.
- (c) **Exceptions.**
- (1) This Section shall not apply to:
    - a. Any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area, in such a manner as to not constitute a nuisance, when necessary to the operation of such business enterprise, in an enclosed storage place or depository maintained in a lawful place and manner.

- b. Any business engaged in the sale, repair or storage of such unlicensed vehicles in a properly zoned district may store such vehicles. The Village Board may determine the necessity of such storage and may impose limitations or require fencing of such non-residential properties.
- (2) In other situations the Village Board may issue a one-time temporary permit permitting an extension of not to exceed an additional thirty (30) days' time to comply with this Section where exceptional facts and circumstances warrant such extension.
- (d) **Enforcement.**
  - (1) Whenever a Village law enforcement officer shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the Village, he/she shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles or appliance is not removed within five (5) days, a Village law enforcement officer shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.
  - (2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, a Village law enforcement officer shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in Sections 10-5-3 through 10-5-6 by a Village law enforcement officer. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.
- (e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a penalty as provided in Section 1-1-6. Each motor vehicle or appliance involved shall constitute a separate offense.

*State Law Reference:* Sec. 342.40, Wis. Stats.