

## CHAPTER 39: ABANDONED VEHICLES

### Section

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### **SECTION 39.01 ABANDONMENT OF VEHICLES PROHIBITED.**

- (A) The abandonment of a vehicle as described in Subsection (B) of this Section or in Section 90.03, or in any part thereof, on any street or highway in this Village is unlawful. For the purposes of this Section, ***abandoned vehicle*** is defined as 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 7 consecutive days or more and is apparently deserted. (625 ILCS 5/1-101.5)
- (B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this Village is unlawful except on property of the owner or bailee of the abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal by the Village Police Department after a waiting period of seven days or more. (625 ILCS 5/4-201)
- (C) No person shall store, park, or keep, or permit the storage, parking, or keeping of any motor vehicle upon any property within this municipality owned, leased, or controlled, in whole or in part, by such person, unless such motor vehicle is currently registered and licensed by the proper State and unless such motor vehicle has thereon license plates from the proper State, except where such motor vehicle has been recently purchased and proof of application for proper license plates is posted thereon; provided, nevertheless, that this Section shall not apply as to a motor vehicle parked, stored, or kept within a garage duly constructed and permitted under the Zoning Ordinance of the Village of Carlock.

### **SECTION 39.02 AUTHORITY TO DECLARE INOPERABLE VEHICLE A NUISANCE.**

- (A) **Definition** – For the purposes of this Section, the following definition shall apply unless the context clearly indicates or requires a different meaning:

***Inoperable Motor Vehicle.***

- (1) Any motor vehicle from which, for a period of at least one month, 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.
  - (2) This definition shall not include any motor vehicle which has been rendered temporarily incapable of being driven under its own power for at least one month in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, or to a motor vehicle on the premises of a place of business engaged in wrecking or junking of motor vehicles.
- (B) Leaving of wrecked, non-operating vehicles on street – No person shall leave any partially dismantled, non-operating, wrecked, or junked vehicle on any street or highway in the Village.
- (C) Inoperable vehicles declared to be a nuisance – Inoperable motor vehicles, as defined herein, whether on public or private property, are hereby declared to be a nuisance.
- (D) Written notice and opportunity for hearing – All persons are required to dispose of any inoperable motor vehicles under their control upon written notice received from the Board of Trustees or from the Chief of Police or any member of the Village Police Department designated by him commanding such disposition of said inoperable motor vehicle by the date set forth by the Board of Trustees or Chief of Police or any member of the Village Police Department designated by him. All persons shall be afforded the opportunity for hearing on the matter.
- (E) Impoundment – The Chief of Police or any member of the Village Police Department designated by him is hereby authorized to remove or have removed an inoperable vehicle as defined herein. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with Section 39.03 through 39.09. The Chief of Police or any member of the Village Police Department designated by him may enter upon private property at all reasonable hours for the purpose of inspecting such vehicle, posting notice thereon, and removing and impounding such vehicle, and it shall be unlawful for any person to prevent the Chief of Police or his designee from entering on private property for purposes of carrying out his duties hereunder or to interfere with him in the lawful performance of his duties under the provisions of this Section. Statutory reference: Authority to declare inoperable motor vehicles as nuisance, 65 ILCS 5/11-40-3.

**SECTION 39.03 AUTHORITY TO IMPOUND; PROCEDURE.**

- (A) Except as provided in 625 ILCS 5/18a-100 et. seq., the owner or lessor of privately owned real property within this Village, or any person authorized by such owner or lessor, or the Village Police Department in the case of publicly-owned real property may cause any motor vehicle abandoned or left unattended upon such property without permission to be removed by a towing service without liability for the costs of removal, transportation, or storage or damage caused by such removal, transportation, or storage. The towing or removal of any vehicle from private property without the consent of the registered owner or other legally authorized person in control of the vehicle is subject to the compliance with the following conditions and restrictions:
- (1) Any towed or removed vehicle must be stored at the site of the towing service's place of business. The site must be open during business hours, and for the purpose of redemption of vehicles, during the time that the person or firm towing such vehicle is open for towing purposes.
  - (2) The towing service shall within 30 minutes of completion of such towing or removal, notify the Village Police Department of such towing or removal, and the make, model, color, and license

plate number of the vehicle, and shall obtain and record the name of the person at the Village Police Department.

- (3) If the registered owner or legally authorized person entitled to possession of the vehicle shall arrive at the scene prior to actual removal or towing of the vehicle, the vehicle shall be disconnected from the tow truck and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one-half the posted rate of the towing service as provided in Section 39.03(A)(6) below, for which a receipt shall be given.
- (4) The rebate of payment of money or any other valuable consideration from the towing service or its owners, managers, or employees to the owners or operators of the premises from which the vehicles are towed or removed, for the privilege of removing or towing those vehicles, is prohibited.
- (5) Except for property appurtenant to and obviously a part of a single-family residence, and except for instances where notice is personally given to the owner or other legally authorized person in control of the vehicle that the area in which that vehicle is parked is reserved or otherwise unavailable to unauthorized vehicles and they are subject to being removed at the owner's or operator's expense, any property owner or lessor, prior to towing or removing any vehicle from private property without the consent of the owner or other legally authorized person in control of that vehicle, must post a notice meeting the following requirements:
  - (a) The notice must be prominently placed at each driveway access or curb cut allowing vehicular access to the property within five feet from the public right-of-way line. If there are no curbs or access barriers, the sign must be posted not less than one sign each 100 feet of lot frontage.
  - (b) The notice must indicate clearly, in not less than two-inch high light reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense.
  - (c) The notice must also provide the name and current telephone number of the towing service towing or removing the vehicle.
  - (d) The sign structure containing the required notices must be permanently installed with the bottom of the sign not less than four feet above ground level, and must be continuously maintained on the property for not less than 24 hours prior to the towing or removing of any vehicle.
- (6) Any towing service that tows or removes vehicles and proposes to require the owner, operator, or person in control of the vehicle to pay the costs of towing and storage prior to redemption of the vehicle must file and keep on record with the Village Police Department a complete copy of the current rates to be charged for such services, and post at the storage site an identical rate schedule and any written contracts with property owners, lessors, or persons in control of property which authorize them to remove vehicles as provided in this Section
- (7) No person shall engage in the removal of vehicles from private property as described in this Section, without filing a notice of intent in the Village, and such notice shall be filed at least seven days before commencing such towing.
- (8) No removal of a vehicle from private property shall be done except upon express written instructions of the owners or persons in charge of the private property upon which the vehicle is said to be trespassing.

- (9) Vehicle entry for the purpose of removal shall be allowed with reasonable care on the part of the person or firm towing the vehicle. Such person or firm shall be liable for any damages occasioned to the vehicle if such entry is not in accordance with the standards of reasonable care.
- (10) When a vehicle has been towed or removed pursuant to this Section, it must be released to its owner or custodian as soon as reasonably possible after requested, if such request is made during business hours. Any vehicle owner or custodian or agent shall have the right to inspect the vehicle before accepting its return, and no release or waiver of any kind which would release the towing service from liability for damages incurred during the towing and storage may be required from any vehicle owner or other legally authorized person as a condition of release of the vehicle. A detailed, signed receipt showing the legal name of the towing service must be given to the person paying towing or storage charges at the time of payment, whether requested or not.
- (a) This Section shall not apply to law enforcement, fire fighting, rescue, ambulance, or other emergency vehicles, which are marked as such, or to property owned by a governmental entity.
- (b) When an authorized person improperly causes a motor vehicle to be removed, such person shall be liable to the owner or lessee of the vehicle for the cost of removal, transportation, and storage, any damage resulting from the removal, transportation, and storage, attorney's fees and court costs.
- (c) Any towing or storage charges accrued shall be payable by the use of any major credit card, in addition to being payable in cash.
- (11) Towing companies shall also provide insurance coverage for areas where vehicles towed under the provisions of this Chapter will be impounded or otherwise stored, and shall adequately cover loss by fire, theft, or other risks. (65 ILCS 5/4-203)
- (B) When an abandoned, lost, stolen, or unclaimed vehicle comes into the temporary possession or custody of a person in this Village not the owner of the vehicle, that person shall immediately notify the Village Police Department. Upon receipt of such notification, the police will authorize a towing service to remove and take possession of the abandoned, lost, stolen, or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, and maintain a record of the two as set forth in Section 38.03(C) following until the vehicle is claimed by the owner or other person legally entitled to possession thereof or until it is disposed of as provided by this Chapter. (625 ILCS 5/4-202)
- (C) When a vehicle is authorized to be towed away, the Village Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, license plate year and number, and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow. (625 ILCS 5/4-204)

#### **SECTION 39.04 NOTICE TO BE GIVEN TO REGISTERED OWNER, STATE POLICE.**

- (A) When the Village Police Department authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder, or other legally-entitled person, it will cause the vehicle registration records of the State to be searched by the Secretary of State for the purpose of obtaining the required ownership information.
- (1) The Village Police Department will cause the stolen motor vehicle files of the State Police to be searched for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches

will be returned to the Village Police Department for use in sending notice by certified mail to the registered owner, lienholder, or other legally-entitled person advising where the vehicle is held, requesting a disposition be made, and setting forth public sale information.

- (2) Notification shall be sent no later than ten (10) days after the date the Village Police Department impounds or authorizes the impounding of a vehicle, provided that if the Village Police Department is unable to determine the identity of the registered owner, lienholder, or other person legally-entitled to ownership of the impounded vehicle within a ten-day period after impoundment, then notification shall be sent no later than two days after the date the identity of the registered owner, lienholder, or other person legally-entitled to ownership of the impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder, or other legally-entitled persons are set forth in Section 90.06(B). (625 ILCS 5/4-205)
- (B) When the registered owner, lienholder, or other person legally-entitled to the possession of a vehicle cannot be identified from the registration files of this State or other State, if applicable, the Village Police Department shall notify the State Police for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the Village Police Department for notification purposes as set forth in this Section. (625 ILCS 5/4-206)

#### **SECTION 39.05 RECLAIMING OF VEHICLE BY OWNER.**

Any time before a vehicle is sold at public sale or disposed of as provided in Section 39.06(A) following, the owner, lienholder, or other person legally entitled to its possession may reclaim the vehicle by presenting the Village Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing and storage charges have been paid. (625 ILCS 5/4-207)

#### **SECTION 39.06 DISPOSAL OF UNCLAIMED VEHICLE.**

- (A) Disposal of unclaimed vehicles with notice.
- (1) When an abandoned, lost, stolen, or unclaimed vehicle seven years of age or newer remains unclaimed by the registered owner, lienholder, or other person legally entitled to its possession for a period of 30 days after notice has been given as required by Section 39.04 preceding, the Village Police Department or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuilder, or scrap processor under State law. Notice of the time and place of the sale shall be posted in a conspicuous place for at least ten days prior to the sale on the premises where the vehicle has been impounded. At least ten days prior to the sale, the Village Police Department where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, and other persons known by the Village Police Department or towing service to be legally entitled to the possession of the vehicle to be sold and what steps must be taken by any legally-entitled person to reclaim the vehicle.
  - (2) In those instances where the certified notification specified in Section 39.04 has been returned by the postal authorities to the Village Police Department or towing service due to the addressee having moved, or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice will not be required. (625 ILCS 5/4-208)
- (B) Disposal of unclaimed vehicles without notice.
- (1) When the identity of the registered owner, lienholder, or other person legally entitled to the possession of an abandoned, lost, or unclaimed vehicle of seven years of age or newer cannot be

determined by any means provided for in this Chapter, the vehicle may be sold as provided in Section 39.06(A) without notice to any person whose identity cannot be determined.

- (2) When an abandoned vehicle of more than seven years of age is impounded as specified by this Chapter, it will be kept in custody for a minimum of ten days for the purpose of determining the identity of the registered owner and lienholder; contacting the registered owner and lienholder by U.S. Mail, public service, or in person for a determination of disposition; and for an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the ten-day period, without the benefit of disposition information being received from the registered owner or lienholder, the Village Police Department will authorize the disposal of the vehicle as junk.
  - (3) An exception to the above is provided for if in the opinion of the police officer processing the vehicle, it has a value of \$200.00 or more and can be restored to safe operating condition. In this event, the Village Police Department may authorize its purchase as salvage and the Secretary of State may issue a salvage certificate.
  - (4) A vehicle classified as an antique vehicle may, however, be sold to a person desiring to restore it. (625 ILCS 5/4-209)
- (C) Titling vehicles after public sale; removal of liens. When an applicant for a certificate of title under this Chapter presents to the Secretary of State proof that he has purchased or acquired a vehicle at a public sale as authorized by this Chapter and such fact is certified to by the Village Police Department of this Village, the Secretary of State shall issue a certificate of title for the vehicle upon receipt of the statutory fee and a properly executed application for a certificate of title. The title issued by the Secretary of State under this Section shall be free of any lien that existed against the vehicle prior to the time the vehicle was acquired by the applicant under this Chapter. (625 ILCS 5/4-212)

#### **SECTION 39.07 VILLAGE POLICE DEPARTMENT TO KEEP RECORDS.**

When a vehicle in the custody of the Village Police Department is reclaimed by the registered owner, lienholder, or other legally-entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Chapter, a report of the transaction will be maintained by the Village Police Department for a period of one year from the date of the sale or disposal. (625 ILCS 5/4-210)

#### **SECTION 39.08 DISPOSITION OF PROCEEDS OF SALE.**

When a vehicle located within the Village is authorized to be towed away by the Village Police Department and disposed of as set forth in this Chapter, the proceeds of the public sale or disposition after the deduction of towing, storage, and processing charges shall be deposited in the treasury of the Village. (625 ILCS 5/4-211)

#### **SECTION 39.09 LIABILITY.**

A police officer or the Village Police Department, or the 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, or his legal representative; lienholder; or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Chapter. (625 ILCS 5/4-213)

**SECTION 39.99 PENALTY.**

Any person who violates or aids and abets in a violation of this Chapter shall be subject to the general penalty provision, Section 1.06, of this Municipal Code and shall be required to pay all towing, storage, and processing charges of such abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense.