

## CHAPTER 4

### Abandoned and Junked Vehicles

#### SEC. 10-4-1 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 City of Menasha 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 city of Menasha 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 the Chief of Police.
- (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 City zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

#### SEC. 10-4-2 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 10-4-3.

#### SEC. 10-4-3 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 10-4-1.
- (b) **REMOVAL.**
  - (1) Any police officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the City of Menasha which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
  - (2) Upon removal of the vehicle, the police officer shall notify the Chief of Police or his designee of the abandonment and of the location of the impounded vehicle.
- (c) **STORAGE AND RECLAIMER.** Any abandoned vehicle which is determined by the Chief of Police or his designee 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 the Chief of Police or his designee 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 seven (7) days 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 the Chief of Police or his designee 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 City of Menasha;
  - (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. 10-4-4 DISPOSAL OF ABANDONED VEHICLES.

Any abandoned vehicle impounded by the City 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. 10-4-5 REPORT OF SALE OR DISPOSAL.**

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, the Chief of Police or his designee 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 City 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 City shall be made available to any interested person or organization which makes a written request for such list to the Police Department. The Police Department may charge a reasonable fee for the list.

**SEC. 10-4-6 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 City 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. 10-4-7 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. 10-4-8 JUNKED AUTOMOBILES REGULATED.**

- (a) No person, firm, partnership or corporation shall accumulate or store any junked automobile or parts thereof outside of any building on any real estate located within the corporate limits of the City of Menasha.
- (b) Storage of an unlicensed vehicle not in a building shall be considered prima facie evidence of operating a junk yard without a permit.
- (c) Section 1-1-7 is incorporated herein by reference as to penalties, however, nothing in this Section shall provide for penalties to be imposed which are greater than the State Statute permits and each day the junk as herein defined shall be stored contrary to provisions hereof shall constitute a separate and distinct offense.

- (d) The following conditions shall constitute prima facie evidence that a vehicle in public or private property in the City of Menasha constitutes a junk vehicle:
- 1) Unlicensed or improperly registered vehicles
  - 2) Broken or cracked windows or windshields
  - 3) Flat tires or vehicles without tires
  - 4) Vehicles without bumpers
  - 5) Vehicles that do not start or continue to run
  - 6) Vehicles that are in violation of any of the requirements of Wis. Admin. Code Trans 305
  - 7) Any other condition that can reasonably be construed as evidence that a vehicle is a junk vehicle

The preceding list is designed to demonstrate prima facie examples of junk vehicles and shall not be construed to be a limitation as to reasons that can be used to establish that a vehicle is a junk vehicle.

State Law Reference: Section 342.40, Wis. Stats.