

Chapter 328

VEHICLES, ABANDONED AND JUNKED

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| § 328-1. Abandoned vehicles; definitions. | § 328-5. Report of sale or disposal. |
| § 328-2. Removal and impoundment. | § 328-6. Owner responsible for impoundment and disposal costs. |
| § 328-3. Removal, storage, notice, or reclaimer. | § 328-7. Conflict with other provisions. |
| § 328-4. Disposal. | § 328-8. Storage prohibited. |

[HISTORY: Adopted by the Village Board of the Village of Black Creek as Title 8, Ch. 4, of the 1987 Village Code. Amendments noted where applicable.]

§ 328-1. 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 Black Creek 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 Black Creek 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 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:

STREET — 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 travel.

UNATTENDED — Unmoved from its location with no obvious sign of continuous human use.

VEHICLE — A motor vehicle, trailer, semitrailer, or mobile home, whether or not such vehicle is registered under Wisconsin law.

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 72 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said 72 hours.
- (2) Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 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 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, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

§ 328-2. Removal and impoundment.

Any vehicle in violation of this chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of § 328-3.

§ 328-3. Removal, storage, notice, or reclaimer.

The provisions of this section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles.

A. 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 Village 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 Police Chief or his designee of the abandonment and of the location of the impounded vehicle.

- B. Storage and reclaimer. Any abandoned vehicle which is determined by the Police Chief or his designee to be abandoned shall be retained in storage for a period of 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 Division of Motor Vehicles, except that if the Police Chief or his designee determines an abandoned vehicle to have a value of less than \$100, 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 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 Division of Motor Vehicles, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. 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 Police Chief or his designee to prove an ownership or secured party interest in said vehicle.

- C. 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 Division of Motor Vehicles, if any, that the vehicle has been deemed abandoned and impounded by the Village; the determined value of the abandoned vehicle or if the cost of towing and storage charges will exceed the determined value of the vehicle; 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 14 days of the date of notice unless the vehicle has been determined to have a value less than \$100 or 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 days upon the payment of the aforesaid charges; and 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.

§ 328-4. Disposal.

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. Class I Notice, including the description of the vehicle, 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.

§ 328-5. Report of sale or disposal.

Within five 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.

§ 328-6. 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.

§ 328-7. Conflict with other provisions.

In the event of any conflict between this section and any other provisions of the Code, this chapter shall control.

§ 328-8. Storage prohibited.

- A. Definitions. Terms used in this section shall have the following meanings:

OWNER — Includes owner, owners, tenants, lessees, and/or occupants.

UNLICENSED MOTOR VEHICLE, TRUCK BODIES, TRACTORS OR TRAILERS — Motor vehicles, truck bodies, tractors, recreational vehicles or trailers,

utility trailers or any other vehicle for which registration is required under Ch. 341, Wis. Stats., which do not bear a lawful current license plate. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

VEHICLE — Includes an old, stripped, junked, and/or wrecked motor vehicle not in good and safe operating condition and any vehicle not registered for operation on the highways of the State of Wisconsin within the preceding twelve-month period.

- B. Nuisance. No disassembled, inoperable, unlicensed, junk or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, vehicle parts or tires, or appliances shall be stored upon private residential property or unenclosed upon nonresidential property within the Village of Black Creek for a period exceeding 30 days unless it is in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. Abatement of owner. The owner of any lot within this Village upon which a vehicle as hereinabove defined is stored or permitted to remain, and also the owner of any such vehicle, shall jointly and severally abate said nuisance by the prompt removal of such vehicle into completely enclosed buildings authorized to be used for such storage purposes if within the corporate limits of the Village, or otherwise to remove the same to a location outside the Village limits.
- D. Vehicles upon public property. Whenever the Building Inspector or the Chief of Police shall find any such vehicle placed or stored in the open upon public property within the corporate limits of the Village of Black Creek, such vehicle shall be removed to a junkyard or salvage yard and stored therein for a period of 30 days. At the end of said time, such junkyard or salvage yard shall dispose of such vehicle, unless it has previously been claimed by the owner.
- E. Vehicles upon private property. Whenever the Building Inspector or the Chief of Police shall find any such vehicle placed or stored in the open upon private property within the corporate limits of the Village of Black Creek, the owner of such property and the owner of the vehicle, if he can be located, shall be given a three-day written notice by certified mail to remove the same. If such vehicle is not removed within the time specified, the Chief of Police shall have it removed by a junk dealer or auto salvage dealer. The cost of removal by such dealer shall be billed jointly and severally to the owner of the property upon which the vehicle had been placed or stored and to the owner of the vehicle, if he can be located.
- F. Storage costs. If such vehicles are claimed by the owner, the junkyard or salvage yard shall charge a reasonable fee for handling and storing.
- G. The provision of Subsection B shall not apply to auto salvage yards and/or junkyards that are duly authorized under the Ordinances of the Village of Black Creek.
- H. Disposal of unclaimed vehicles. When any such vehicle has been removed and placed in storage by the Village as herein provided and such vehicle is not claimed within 33 days after such storage, it shall be sold by the Village. If the proceeds of such sale are insufficient to pay the costs for the removal and storage, said owners jointly and severally shall be liable to the Village for the balance of the costs. If the proceeds are in excess of costs, the balance shall be paid to said owners.

- I. Penalty. Any person violating Subsection B above shall, upon conviction thereof, be punishable as provided in § 1-4, General penalty, of Chapter 1, General Provisions. Each vehicle shall constitute a separate offense. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**