

"AN ORDINANCE PROHIBITING ABANDONED VEHICLES
AND REGULATING THEIR REMOVAL AND DISPOSAL"

Ordinance No. 25

The Town Board of the Town of Oakland, Jefferson
County, Wisconsin, DO ORDAIN as follows:

Ordinance 1, Section 2 of the Oakland Municipal Code
shall be and is hereby repealed and Ordinance 25 of the Oakland
Municipal Code shall be created to read as follows:

1. Purpose. Pursuant to the authority granted by sec.
342.40(3), Wis. Stats., it is the purpose of this section to pro-
vide for the disposal of abandoned or junk vehicles which are
discarded or otherwise permitted to remain on public property or
private property within the Town of Oakland.

2. Declaration. The Town Board hereby finds that aban-
doned vehicles, as defined in this section, which are located on
public property or private property within the Town of Oakland
are detrimental to the safety, morals, health, and general wel-
fare of the citizens of the Town and are a detriment to the eco-
nomic welfare of the Town by producing a scenic blight which is
adverse to the maintenance and continuing development of the
Town, and such vehicles are declared to be a public nuisance and
a safety and health hazard.

3. Definitions. For the purpose of this section, the
following terms shall have the following meanings:

a. "Vehicle" means any motor vehicle as defined in
the Wisconsin Statutes, automobile, motorcycle, truck,
trailer, semi-trailer, truck-tractor, bus, school bus,
house car, motorbicycle, wagon, farm machinery, every
device in, upon, or by which any persons or property
are or may be transported, every type of equipment on
wheels, and any vehicle which is so defined by the Wis-
consin Statutes.

b. "Abandoned" when used in conjunction with the
term vehicle, means:

(1). Any vehicle located on public property or
private property which does not have lawfully af-
fixed thereto or displayed thereon a valid, unex-
pired license plate which permits its operation
upon the highways of the State of Wisconsin or a
valid unexpired "Municipal License" as hereinafter
defined.

(2). Any vehicle or part thereof which is left on public property continuously without being moved for a period of 48 hours or more.

(3). Any vehicle or part thereof located on public property illegally or in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or other vehicle traffic on a public right-of-way, street, or highway.

(4). Any vehicle or part thereof which has remained on private property without the consent of the owner or person in control of such private property, for a continuous period of 48 hours or more.

(5). Any "inoperative motor vehicle", which is defined to be any motor driven vehicle that cannot move under its own power due to defective or missing parts and has remained in such condition for a period of not less than 30 consecutive days.

(6). Any vehicle which has been removed by a towing service or a public agency upon request of an officer enforcing a statute or ordinance other than this section, the violation of which may require the removal and impoundment of said vehicle, and which vehicle once impounded is not claimed or redeemed by the owner or the owner's agent within 30 days of its removal.

c. "Parts" means all component parts of a vehicle which are in a state of disassembly, or are assembled with other vehicle component parts, but which, in their state of assembly, do not constitute a complete vehicle.

d. "Public Property" means any public right-of-way, street, highway, alley, part, parking lot, or any other state, county, or municipally owned property.

e. "Private Property" means all privately owned property which is not classified within the definition of public property.

f. "Person" means all natural persons, firms, partnerships, and corporations.

g. "Owner" means the last known record title holder to a vehicle according to the records of the Wisconsin Motor Vehicle Department.

h. "Municipal License" is a license granted by the Town Clerk of the Town of Oakland for vehicles which are not inoperative but which do not have a valid, unexpired state license plate.

4. Exceptions. Notwithstanding subsection 3 hereof, the following shall not be included in the definition of abandoned vehicles:

a. Any "special interest vehicles", and "parts cars", as defined by section 341.266 of the Wisconsin Statutes, provided that the same are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means; provided, however, this exception shall not grant any rights or privileges to use any private property in violation of any town, state, or federal ordinance, law, or regulation, including zoning ordinances and statutes.

b. Any "homemade vehicles", "reconstructed vehicles", and "parts cars" as defined by sec. 341.268 of the Wisconsin Statutes, provided that such vehicles are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means; provided, however, this exception shall not grant any rights or privileges to use any private property in violation of any town, state, or federal ordinance, law, or regulation, including zoning ordinances and statutes.

c. Any vehicle which is located on private property with the consent of the owner of said property or the person in control of said property and which vehicle is screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means; provided, however, this exception shall not grant any rights or privileges to use any private property in violation of any town, state, or federal ordinance, law, or regulation, including zoning ordinances and statutes.

d. Any vehicle which is not in an inoperative condition and which is specifically adapted or constructed for operation on privately-owned raceways.

e. Any vehicle which is not in inoperative condition and which is stored as the personal property of a member of the armed forces of the United States who is on active duty assignment.

f. Any vehicle which is not in an inoperative condition and which is located on a vehicle sale lot, at a

commercial vehicle servicing facility, or upon premises duly licensed or zoned as a junk yard, auto graveyard, or scrap processing facility.

5. Municipal License. The Town Clerk of the Town of Oakland is hereby authorized to grant a "municipal license" for motor vehicles which are not inoperative and which do not have a valid, unexpired state license plate. Such municipal license shall be granted for a period of not more than one year, shall require a license fee in an amount to be set by the Town Board, and may contain such conditions upon its storage and placement on private property as the Town Clerk may deem reasonable and appropriate. Notwithstanding the foregoing, such municipal license shall not authorize the holder thereof to operate said motor vehicle except upon the private property on which it is stored.

6. Prohibition. No person shall abandon a vehicle on any public property or private property.

7. Presumption of Abandonment. There is hereby created a prima facie presumption that the owner of an abandoned vehicle is responsible for the abandonment and is thereby liable for all of the costs and forfeitures incidental to the abandonment, removal, storage, and disposal of such vehicle.

8. Penalty. Any person found to be in violation of this chapter shall be subject to a forfeiture of not less than \$25.00 and not more than \$200.00. Each day or part thereof of violation may be considered a separate violation of this section. Notwithstanding the foregoing, the court of competent jurisdiction may waive any or all of such forfeiture in the event the person who is found to have violated this section removes any and all such abandoned vehicle or parts thereof within a period not to exceed 10 days from the initial determination of such abandonment. In addition to or in lieu of the foregoing forfeiture, the court may direct that any abandoned vehicle or part thereof be impounded until lawfully claimed or disposed of under subsection 9 hereof except that if it is deemed by the court that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle or part, the vehicle or part may be junked or sold by the Town prior to expiration of the impoundment; upon notification by the town constable or his designee that the vehicle or part is not stolen or otherwise wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be disposed of in accordance with subsection 9 hereof.

9. Removal, Storage, Notice, Reclaimer, or Disposal of Abandoned Vehicles. The provisions of this subsection shall apply to the removal, storage, notice, reclaimer, or disposal of abandoned vehicles or parts.

a. Removal. If so directed by the court per subsection 8 hereof, any member of the police department or its designee may cause the abandoned vehicle or part thereof to be removed to a suitable place of impoundment. The police department or its designee shall maintain files which identify the location of all such impounded vehicles or parts.

b. Storage and Reclaimer. Any abandoned vehicle or parts not disposed of under subsection c hereof shall be retained in storage for a minimum period of 10 days after certified mail notice, as hereinafter provided, has been sent to the owner and lienholders of record to permit reclamation of the vehicle or parts after payment of accrued charges. Any abandoned vehicle or parts 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 department to prove an ownership or lienholder interest in said vehicle or parts.

c. Notice to Owner or Lienholders of Record. Pursuant to section 342.40(3), Wisconsin Statutes, certified mail notice, as referred to herein, shall notify the owner of the abandoned vehicle or parts, if any, and/or the lienholders of record, if any, of the year, make, model, and serial number of the abandoned vehicle or parts and the place where the vehicle or parts are being held and shall inform the owner or any lienholder of their right to reclaim the vehicle or parts. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this subsection shall be deemed a waiver of all right, title, and interest in the vehicle and parts and a consent to the sale of the vehicle or parts and that the vehicle or parts have been deemed abandoned and impounded by the Town of Oakland; and if the "determined value" of the abandoned vehicle or parts or the cost of towing and storage charges will exceed the determined value of the vehicle or parts; that if the vehicle or parts are not wanted for evidence or other reason, the vehicle or parts may be reclaimed upon the payment of all accrued charges, including towing, storage, and notice charges, within 10 days of the date of the mailing of the notice, unless the police department has determined that the cost of towing and storage charges for impoundment will exceed the value of the vehicle or parts.

d. Disposal of Abandoned Vehicles. Any abandoned vehicle or parts impounded by the Town of Oakland which

have not been reclaimed or junked or sold by direct sale by a licensed salvage dealer pursuant to the provisions hereof, may be sold by public auction, sale, or public sale calling for the receipt of sealed bids pursuant to section 342.40(3)(c), Wisconsin Statutes. Class 1 notice, including the description of the vehicle, the name and address of the owner and lienholders of record, if known, as well as the information contained in the notice sent to the owners and lienholders of record, and the time of sale, shall be published before the sale, at which sale the highest bid for any such motor vehicle shall be accepted unless it is deemed inadequate by the police department, in which case all bids may be rejected. If all bids are rejected or no bid is received, the police department may readvertise the sale, adjourn the sale to a definite date, sell the vehicle or parts at a private sale, or junk the vehicle or parts. Any interested person may offer bids on each abandoned vehicle or parts to be sold.

e. Removal of Purchased Vehicles. The purchaser shall have 10 days to remove the vehicle or parts from the storage area, but shall pay storage fee for each day the vehicle or parts remain in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle or parts and the vehicle or parts shall be abandoned and may be sold again.

f. Report of Sale or Disposal. Within 5 days after the direct sale or disposal of a vehicle or parts as provided in this subsection, the police department 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 said vehicles.

g. Owner Responsible for Impoundment and Disposal Costs. The owner of any abandoned vehicle or parts, except a stolen vehicle or parts, is responsible for the abandonment and all costs of impounding and disposing of the vehicle. Costs not recovered from the sale of the vehicle or parts may be recovered in a civil action by the Town against the owner.

10. Emergency Removal. Notwithstanding anything to the contrary contained in this section, the police department is hereby authorized to remove and store any vehicle or parts which it reasonably determines to be abandoned, without such determination by the court, if the department determines that the vehicle

or parts are located on public property illegally or in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or other vehicle traffic on public property or in such a manner as to constitute an immediate health or safety hazard, whether located on public property or private property. Prior to such removal, the police department shall attempt, if time permits, to take photographs of the vehicle or parts to be removed. Following such removal and impoundment, the procedures specified herein for a court determination of abandonment shall be initiated.

11. Severability. Should any provision, clause, or phrase of this section be held invalid or unconstitutional for any reason, such holding shall not affect the validity of the section as a whole or any part thereof other than the part so declared invalid or unconstitutional.

12. Effect on Existing Violations. The repeal of the existing ordinance on abandoned vehicles and the adoption of this section shall not affect the prosecution of any cases under the prior ordinance.

Dated this 16th day of February, 1987.

TOWN OF OAKLAND,
TOWN BOARD, by:

Raymond C. Hovick
Town Chairman

Attest:

Quincy J. Messersmith
Town Clerk

Passed: 2/16/87

Vote:

Ayes: 3 Noes: 0

Published: February 19, 1987.