

**ORDINANCE NO. 351-03.04**

**AN ORDINANCE REGULATING ABANDONED VEHICLES  
IN THE VILLAGE OF MENDON, ADAMS COUNTY, ILLINOIS**

BE IT ORDAINED by the Board of Trustees and the President of the Board of Trustees of the Village of Mendon, Adams County, Illinois, as follows:

SECTION 1. **Definitions.** For the purposes of this Ordinance, the following terms shall have the meanings herein ascribed, except as the context may otherwise require:

“**Abandoned vehicle**” means any motor vehicle or other vehicle, boat, trailer or mobile home which is in a state of disrepair, partially dismantled, wrecked or otherwise inoperable so as to render the vehicle incapable of being driven or used in its condition; or, any motor vehicle or other vehicle, boat, trailer or mobile home which has not been moved or used for seven (7) consecutive days or more and is apparently deserted. Any evidence that a motor vehicle has not been moved, under its own power (as distinct from being towed, pushed or pulled) for seven (7) consecutive days or more and does not have current license tag registration (“unregistered”), shall be prima facie evidence that the vehicle is abandoned within the meaning hereof. The term “abandoned vehicle” as aforesaid shall not be construed to include for the purposes of this Ordinance, any such vehicle, boat, trailer or mobile home which is kept in an enclosed building or on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprises.

“**Vehicle**” means every device in, upon or by which any person or property is or may be transported or drawn upon a street or highway, whether subject to or exempt from registration. It shall include, for purposes hereof, any motor vehicle or other vehicle, boat, trailer or mobile home.

SECTION 2. **Public Property.** The Board of Trustees finds that abandoned vehicles constitute a safety hazard and a public nuisance; are detrimental to the health, safety and welfare of the general public by harboring disease, providing breeding places for vermin, inviting plundering, creating fire hazards, and presenting physical dangers to children and others; produce scenic blights which degrade the environment and adversely affect land values and the proper maintenance and continuing development of the Village; and require local governmental attention in order to assure the expeditious removal of these abandoned vehicles.

The Board of Trustees declares, therefore, that it is the policy of the Village to prohibit the abandonment of vehicles and to enforce such prohibition by law.

SECTION 3. **Abandonment of Vehicles Prohibited.** It shall be unlawful to cause or permit any motor vehicle or other vehicle, boat, trailer or mobile home, or any part thereof, to be abandoned on private or public property, including without limitation any highway, street or

alley within the Village, or otherwise to be considered an abandoned vehicle. Any such abandoned vehicle is hereby declared a nuisance whether on public or private property, including, but not limited to, the property of the owner or possessor of the same.

SECTION 4. **Notification to Village.** When any abandoned vehicle comes into the temporary possession or custody of any person in this Village not the owner of such vehicle, such person shall immediately notify the Village of such abandoned vehicle. Upon receiving such notification or otherwise discovering an abandoned vehicle, such vehicle shall be disposed of in accordance with Section 5, or as otherwise allowed by law.

SECTION 5. **Disposition of Abandoned Vehicles.** Any vehicle abandoned in violation of this Ordinance shall be disposed of in accordance with this Section or as otherwise allowed by law.

(1) **Identifying and tracing vehicle ownership:** Upon receiving notification of or otherwise discovering an abandoned vehicle, the Village shall, if it does not already know the identity of the registered owner or other person legally entitled thereto, cause the vehicle and license registration records of the Secretary of State of the State of Illinois, or foreign state if applicable, to be searched utilizing the vehicle identification number and license plate year and number displayed on the vehicle, if any. The owner of such vehicle as disclosed from such search shall be the owner of such vehicle for the purposes of the disposition of such vehicle. The Village shall further cause the motor vehicles files of the Illinois State police to be searched by a directed communication to the Illinois State police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files shall be searched in accordance with State law by the Illinois State Police. When the registered owner or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of the State of Illinois or from the registration files of a foreign state, if applicable, the Village shall so notify the Illinois State police for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle.

(2) **Notification of owner:** When the identity of the owner or other person legally entitled to an abandoned vehicle is known or has been determined in accordance with Section 5(1) above, the Village shall cause such owner or other person to be given notice that such vehicle has been determined to be an abandoned vehicle in violation of this Ordinance and that unless such vehicle is removed within five (5) days from the date such notice is mailed, postage prepaid, by certified mail, the vehicle will be towed and impounded in accordance herewith, and the owner will be charged with having violated this Ordinance. The Village may cause, but is not required to personally serve such notice on such owner or other person, and need not establish whether such notice is actually received if mailed. In those instances where the certified notification specified herein has been returned by the postal authorities to the Village due to the addressee having moved, being unknown at the address obtained from the registration records of the State of Illinois, or having refused delivery, the sending of a second certified notice is not required. A copy of such notice shall also be served upon any lienholder if the same has been disclosed by

the title search required above. The notice required by this Section may be in substantially the following form:

Date: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Village has determined that a certain vehicle registered in your name (or to which you are legally entitled) is abandoned within the meaning of the Abandoned Vehicle Ordinance of the Village of Mendon. The vehicle was found and is now located at \_\_\_\_\_ in the Village of Mendon. It is described as follows:

Year of Manufacture: \_\_\_\_\_  
Manufacturer's Trade Name: \_\_\_\_\_  
Manufacturer's Series Name: \_\_\_\_\_  
Body Style: \_\_\_\_\_  
Color: \_\_\_\_\_  
Vehicle Identification Number: \_\_\_\_\_  
License Plate Year and Number: \_\_\_\_\_

This vehicle will be towed, impounded and disposed of by the Village of Mendon if the vehicle is not removed within five (5) days from the date of this notice. You may be charged with violating such ordinance and will be charged with the costs incurred by the Village in enforcement of the ordinance, including towing fees, attorney fees, court costs and Village employee time.

NOTE: Removal of the vehicle to another location (on the right-of-way or on private property) will *not* abate the nuisance unless the vehicle is kept in an enclosed building or removed to another lawful storage area.

In the event that you disagree with the determination that the vehicle is an abandoned vehicle, you are entitled to a hearing on this determination. You are required to file a written request for a hearing within five (5) days of the date of this notice with the Village of Mendon which will promptly review the matter with you and consider whatever pertinent information you wish to present. The decision of the Mayor is final unless you demand that the vehicle not be towed and impounded until a judicial hearing has been held on a charge of violation of the ordinance.

VILLAGE OF MENDON

By: \_\_\_\_\_

Mayor

When the identity of the owner or other person legally entitled to an abandoned vehicle is not known and has not been determined in accordance with the provisions hereof, and in addition to the notice required above when the identity of the owner or other person legally entitled to a vehicle is known, the Village shall cause a prominent notice to be placed on the abandoned vehicle stating that the vehicle has been determined to be abandoned in accordance with the abandoned vehicle ordinance of the Village of Mendon and that it will be towed and impounded unless removed within five (5) days from the date the notice was posted. The date the notice is posed shall be endorsed on the notice, the person posting such notice, and the telephone number of the Village of Mendon at which information may be obtained relative to the notice. The Village shall further cause the owner or party in possession on private property on which the vehicle is located to be informed that the vehicle will be towed and impounded after five (5) days. Such private property owner shall have all rights of review under this Ordinance if such private property owner is a person legally entitled to such vehicle. Notice to the owner or party in possession is informational only and not jurisdictional.

(3) **Review of determination:** When a vehicle has been determined to be an abandoned vehicle within the meaning of this Ordinance, the owner thereof or other person legally entitled thereto shall have the right to have such determination reviewed in accordance with this subsection.

(a) **Mayor:** Any owner of or other person legally entitled to a vehicle determined to be an abandoned vehicle within the meaning of this Ordinance may within five (5) days of the notification required under Section 4(b) be mailed or personally delivered, as the case may be, file a written request with the Village that review such determination stating the reason or reasons why such vehicle is not an abandoned vehicle within the meaning of this Ordinance. Within seven (7) days of such written request, the Mayor shall review such determination giving the owner or other person an opportunity to personally be heard and present whatever information as such owner or other person considers pertinent. After reviewing such determination, the Mayor shall render a written decision thereon which shall be promptly mailed, postage prepaid, to such owner or other person, or delivered personally as stated heretofore. The Mayor may designate a committee of Board Trustee or Trustees to assist with his or her duties under this section.

(b) **Judicial determination:** If the owner or other person legally entitled to a vehicle determined to be an abandoned vehicle within the meaning of this Ordinance does not agree with the decision of the Mayor, such person may, within seven (7) days after the decision of the Mayor is mailed to such owner or other person, file a written notice with the Village that such person does not agree with the decision made and further request that the vehicle not be towed or

impounded pending disposition of a charge of violation of this Ordinance. In that event, such person, if not already charged, shall be charged with violating this Ordinance and such vehicle shall not be towed and impounded until such charge has been disposed of. After such charge has been disposed of, finding such owner or other person guilty, such vehicle shall then be towed and impounded in accordance with this Ordinance unless such nuisance has been abated.

(c) **Stay of towing and impounding:** Pending any review of a determination that a vehicle is an abandoned vehicle within the meaning of this Ordinance, any such vehicle shall not be towed or impounded except as is permitted for emergency tows.

(4) **Towing and impounding of vehicles:** Subject to review of any determination pursuant hereto that a vehicle is an abandoned vehicle within the meaning of this Ordinance, such abandoned vehicle may be towed and impounded after a waiting period of five (5) days or more from the date the notification required pursuant to Section 5 has been mailed or delivered, as the case may be. The Mayor, or his or her designate, shall authorize a towing service to remove and take possession of the abandoned vehicle. The towing service shall safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner or any other person legally entitled to possession thereof, or until it is disposed of as provided in this Ordinance. When any vehicle is authorized to be towed away, the Village of Mendon shall keep and maintain a record of the vehicle towed, listing the color, year or manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of the tow, the location towed from, the location towed to, the reason for towing, and the name of the officer authorizing the tow. A record search of the vehicle shall also be made.

(5) **Reclaiming vehicles:** At any time before a vehicle is sold at public sale or disposed of as provided in this Ordinance, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Village of Mendon proof of ownership or proof of the right of possession of the vehicle. No vehicle shall be released to the owner thereof or other person entitled thereto until and unless such owner or other person has paid all towing, storage and processing charges assessed by this Ordinance on account of such vehicle.

(6) **Disposal of unclaimed vehicles:** Abandoned vehicles which have been towed and impounded shall be disposed of in accordance with this subsection.

(a) **Disposal with notice:** Whenever an abandoned vehicle, seven (7) years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of thirty (30) days after notice has been given by mail or delivered as provided in Section 5, the Village of Mendon shall cause such vehicle to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least

ten (10) days prior to the sale on the premises where the vehicle has been impounded. At least ten (10) days prior to the sale, the Village of Mendon, or the towing service 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 or other person known by the Village of Mendon or the towing service to be legally entitled to the possession of such vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle. Whenever an abandoned vehicle more than seven (7) years of age is towed or impounded, it may be sold as provided above or disposed of as junk only at the discretion of the Mayor, or his or her designate.

(b) **Disposal without notice:** When the identity of the registered owner or other person legally entitled to the possession of an abandoned vehicle of seven (7) years of age or newer cannot be determined in accordance with Section 5, the vehicle may be sold as provided in Section 5(6)(a), but without notice of the time and place of the sale being mailed to the registered owner or other person legally entitled to the possession of the vehicle. Whenever an abandoned vehicle more than seven (7) years of age is towed and impounded, it may be sold as provided above or disposed of as junk only at the discretion of the Mayor, or his or her designate.

(7) **Proceeds of sale:** When a vehicle located within the Village is authorized to be towed, impounded and disposed of as set forth in this Ordinance, the proceeds of the public sale or other disposition, after the deduction of towing, storage and processing charges, shall be deposited in the Village's treasury.

(8) **Village reports:** When a vehicle in the custody of the Village of Mendon is reclaimed by the registered owner or other legally entitled persons, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Ordinance, a report of the transaction shall be maintained by the Village of Mendon for a period of one (1) year from the date of the sale or disposal.

SECTION 6. **Costs.** The registered owner, person or party in possession on private property or other person legally entitled to an abandoned vehicle shall pay to the Village all towing, storage and processing costs. "Processing costs" shall include attorney fees, court costs, publication and notice fees and Village employee time.

SECTION 7. **Emergency Tows.** Notwithstanding anything in this Ordinance to the contrary, when a vehicle is creating a traffic hazard because of its position in relation to a highway, street or alley, its physical appearance is causing the impeding of traffic, or it otherwise presents a danger to the public health and safety on public or private property, the Mayor, or his or her designate, may authorize and direct the immediate towing and impounding of such vehicle without notice to the owner thereof or other person legally entitled thereto. Immediately thereafter, the owner or other person legally entitled thereto shall be identified and notified in

accordance with this Ordinance. The determination may also be reviewed and the vehicle disposed of in accordance with this Ordinance, provided that if it is concluded that such vehicle is not an abandoned vehicle within the meaning of this Ordinance, such vehicle shall be released without charge to the owner thereof or other person legally entitled thereto.

SECTION 8. **Immunity**. Any police officer, towing service owner, operator, officer or employee of the Village shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, 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 Ordinance. All necessary parties shall have the full right and authority to enter upon private property for the enforcement of this Ordinance when any vehicle is in view of the general public.

SECTION 9. **Nonexclusive**. The provisions hereof shall be considered in addition to any procedures established, otherwise by law or ordinance for the removal and disposition of abandoned vehicles.

SECTION 10. This Ordinance shall be in force and effect from and after its passage and approval.

SECTION 11. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance shall be, and the same are, to the extent of such conflict, hereby repealed.

ADOPTED: 7-7-03

APPROVED: 7-7-03

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Village President

ATTEST:

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Village Clerk

PUBLISHED: 7-16-03