

SHEBOYGAN COUNTY ORDINANCE NO. 02 (2012/13)

Re: **Repealing and Re-creating Abandoned Property Ordinance**

WHEREAS, Sheboygan County's Abandoned Vehicle Ordinance at Chapter 33 of the County Code needs updating in light of legislative changes, and

WHEREAS, the abandoned vehicle ordinance as currently written does not give the Sheriff as much discretion in handling abandoned vehicle situations as is desirable, and

WHEREAS, Wis. Stat. § 66.139 allows local governments to enact ordinances for the disposal of abandoned property other than vehicles, and Sheboygan County has not yet done so, and

WHEREAS it is in the best interests of Sheboygan County to repeal and re-create Chapter 33 of the Sheboygan County Code;

NOW, THEREFORE, the County Board of Supervisors of the County of Sheboygan does ordain as follows:

Section 1. **Repealing and Re-Creating Chapter 33.** Chapter 33 of the Sheboygan County Code of Ordinances is hereby repealed and re-created as follows:

**CHAPTER 33
ABANDONED PROPERTY**

33.01 **AUTHORITY.** This Chapter is enacted pursuant to the authority of Wis. Stat. §§ 66.0139 and 342.40.

33.02 **VEHICLE ABANDONMENT PROHIBITED.** No person shall leave unattended any motor vehicle, trailer, semitrailer, or mobile home on any public highway or private or public property for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Except as otherwise provided in this Section, whenever any vehicle has been left unattended without the permission of the property owner for more than forty-eight (48) hours, the vehicle may be deemed as abandoned and may be deemed to constitute a public nuisance. A motor vehicle shall not be considered an abandoned motor vehicle when it is out of ordinary public view or when designated as not abandoned by the Sheriff or designee.

33.03 **VEHICLE IMPOUNDING AND JUNKING.** Any vehicle in violation of this Chapter may be impounded until lawfully claimed or disposed of under Section 33.06 of this Code except that if it is deemed by the Sheriff or designee that the cost of towing and storage charges for the impoundment would exceed the value of the vehicle, the vehicle may be junked or sold by the County prior to expiration of the impoundment period upon determination by the Sheriff or designee that the vehicle is not stolen or otherwise wanted for evidence or other reason. Notwithstanding the

foregoing, all substantially complete vehicles in excess of nineteen (19) model years of age shall be disposed of in accordance with Section 33.06 of this Code.

33.04 VEHICLE TOWING. Any Sheriff's deputy who discovers any motor vehicle, trailer, semitrailer, or mobile home on any public highway or private or public property which has been deemed abandoned may cause the vehicle to be removed to a suitable place of impoundment. Upon removal of the vehicle the deputy shall notify the Sheriff or designee of the abandonment and of the location of the impounded vehicle. Upon causing the removal of the motor vehicle by a towing service, the deputy shall, within twenty-four (24) hours of ordering the removal, notify the towing service of the name and last-known address of the registered owner and all lienholders of record of the vehicle, unless the County has entered into a towing services agreement which requires the County to provide notice to such owner and lienholders of the towing.

33.05 COSTS OF TOWING AND IMPOUNDMENT. 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 recovered from the sale of the vehicle may be recovered in a civil action by the County against the owner. Whether or not the County recovers the cost of towing and enforcement, unless the County has entered into an agreement with a towing service to the contrary, the County shall be responsible to the towing service for requisitional towing service and reasonable charges for impoundment, if provided, by the towing service, and for disposal costs under Section 33.03 of this Code if such services are provided by a towing service.

33.06 DISPOSAL OF ABANDONED VEHICLES. Any vehicle which is deemed abandoned by the Sheriff or designee and not disposed of under Section 33.03 of this Code shall be retained in storage for a minimum period of ten (10) days after certified mail notice has been sent to the owner and lienholders of record to permit reclamation of the vehicle after payment of accrued charges. Such notice shall set forth the year, make, model, and serial number of the abandoned motor vehicle, the place where the vehicle is being held, and shall inform the owner and any lienholders of their right to reclaim the vehicle. The notice shall state that the failure of the owner or lienholders to exercise their rights to reclaim the vehicle under this Section shall be deemed a waiver of all right, title, and interest in the vehicle and its contents and a consent to the sale of the vehicle. The notice shall state that the owner may reclaim personal property from the vehicle without payment of accrued charges. Each retained vehicle and any personal property contained therein not reclaimed by its owner or lienholder may be sold. The County may dispose of the property by sealed bid or auction sale or as otherwise determined

by the County to yield the best price subject to the other provisions of this Chapter. At any sale the highest bid for any such motor vehicle shall be accepted unless the same is deemed inadequate by the County, in which event all bids may be rejected. If all bids are rejected or no bid is received, the County may either re-advertise the sale, adjourn the sale to a definite date, sell the motor vehicle at a private sale, or junk the vehicle, in its discretion. Any interested person may offer bids on each abandoned vehicle to be sold. In addition to any other advertising and public notice of the sale that the County deems appropriate, a public notice shall be posted at the office of the Sheriff. The posting of the notice at the Sheriff's Department shall be in the same form as the certified mail notice sent to the owner or lienholders of record. Upon sale of an abandoned vehicle, the County shall supply the purchaser with a completed form designed by the Department of Transportation 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 Sheriff for each day the vehicle remains in storage after the 2nd 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 County shall be made available to any interested person or organization which makes a written request for such list. The County may charge a reasonable fee for the list. Within five (5) days after the sale or disposal of a vehicle as provided in this Section, the County shall advise the Department of Transportation of the sale or disposition on a form supplied by the Department of Transportation.

- 33.07 PENALTY. In addition to the recovery of the cost of impounding and disposing of the vehicle, as set forth in this Chapter, any owner who abandons a vehicle in violation of Section 33.02 of this Chapter shall, upon conviction thereof, forfeit not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00). For purposes of this Chapter, "owner" includes the lessee of a vehicle if the vehicle is registered or required to be registered by the lessee under Wis. Stat. Ch. 341. An owner whose vehicle has been stolen shall not be deemed to have abandoned the vehicle for purposes of this Chapter.
- 33.08 DISPOSAL OF PERSONAL PROPERTY. Except as otherwise noted, the Sheriff shall act as the manager of abandoned or unclaimed personal property. Sheboygan County may, by any means determined to be in the best interest of the County, dispose of any personal property other than cash that has been abandoned or remains unclaimed for a period of thirty (30) days after the County has taken possession of the property. The Sheriff may authorize the disposal of such property by any of the following means: Sale at public auction; sale through an auction

service; acceptance of an offer to purchase in response to a request for competitive bids or proposals; private sale; donation to a County Agency, Board, Commission, Department, or Office; donation or sale to a City, Town, or Village located within Sheboygan County; donation to a charitable organization; or destruction of the property where appropriate. If the disposal is in the form of a sale, all receipts from the sale after deducting the necessary expenses of keeping the property and conducting the sale shall be paid into the County treasury. If the property is not disposed of in a sale open to the public, the Sheriff shall maintain an inventory of such property; a record of the date and method of disposal including the consideration received for the property if any and the name and address of the person taking possession of the property. Such inventory shall be kept as a public record for a period of not less than two (2) years from the date of disposal of the property.

33.09 DISPOSAL OF CASH.

(1) Except as provided in Subsection (2) below, personal property consisting of cash which has been abandoned or which remains unclaimed for a period of thirty (30) days after the County takes possession of the property shall be turned over to the County Treasurer and credited to the miscellaneous general revenues account general fund. If the property appears to be or is reported stolen, the County shall attempt to return it to the rightful owner.

(2) Abandoned or unclaimed personal property consisting of cash which was seized by a county-wide multi-jurisdictional task force during an investigation or arrest relating to illegal gambling or the purchase and sale of controlled substances or which has been found to be contraband in a judicial proceeding shall be turned over to the County Treasurer and placed in the Sheriff's Department contraband account to be used for the multi-jurisdictional task force.

33.10 DISPOSAL OF ABANDONED OR UNCLAIMED FLAMMABLE, EXPLOSIVE, OR INCENDIARY SUBSTANCES, MATERIALS, OR DEVICES. Any Sheriff's deputy may safely dispose of abandoned or unclaimed flammable, explosive, or incendiary substances, materials, or devices posing a danger to life of property in their storage, transportation, or use immediately after taking possession of the substances, materials, or devices without a public auction. If the substance, material, or device appears to be or is reported stolen, the County officer shall attempt to return it to the rightful owner if it has a commercial value in the normal course of business usage and does not pose an immediate threat to life or property.

33.11 ABANDONED, UNCLAIMED, OR SEIZED WEAPONS OR AMMUNITION. The County shall retain or dispose of any abandoned, unclaimed, or seized dangerous weapon or ammunition under Wis. Stat. § 968.20.

33.12 LOCAL OPTION FOR VEHICLE ABANDONMENT JURISDICTION. Except as to vehicles upon County highways or upon other County property, any municipality within the County that has enacted, or may in the future event, an Ordinance covering part or all of the matters covered by this Chapter shall have exclusive enforcement jurisdiction over such matters and this Chapter shall have no effect within that Municipality.

Section 2. **Effective Date.** The herein Ordinance shall take effect upon enactment.

Respectfully submitted this 19th day of June, 2012.

LAW COMMITTEE

Thomas Epping
Thomas V. Epping, Chairperson

Michael Vandersteen
Michael J. Vandersteen, Vice-Chairperson

Mark S. Winkel
Mark S. Winkel, Secretary

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