

CHAPTER 24
MISCELLANEOUS PROVISIONS

- 24.01 "OPT OUT" of Administrative Review Procedures
- 24.02 Disposal of Abandoned Property

24.01 "OPT OUT" OF ADMINISTRATIVE REVIEW PROCEDURES

- 1) The Town of Delavan hereby elects not be governed by Chapter 68, Wisconsin Statutes. This election includes but is not limited to, administrative review and appeals, legislative review, judicial review, and all other provisions of Chapter 68, Wisconsin Statutes.

Adopted April 17, 2001, Ordinance No. 229

24.02 DISPOSAL OF ABANDONED PROPERTY

1) DEFINITIONS

- (a) **ABANDONED** as used herein shall mean property not claimed by the rightful owner or person having a legal interest therein for a term of thirty (30) days or more after coming into the possession or control of the Town, by virtue of any authority provided under federal or state law or the authority set forth in this Municipal Code.
- (b) **PROPERTY** as used herein shall mean personal property of any nature.

2) DUTY OF TOWN

- (a) Whenever the Town shall take possession of any property which shall be deemed to be abandoned, the Town shall take reasonable steps to secure and maintain such property.

3) NOTICE REQUIRED

- (a) The Town shall immediately notify the Town Clerk in writing of the Town having taken possession of any property hereunder, which shall include a description of said property. Thereupon, the Town shall attempt with reasonable diligence to ascertain the identity of the owner, lien holder if applicable, or any party having an interest in said property.
- (b) **NOTICE TO ASCERTAINABLE INTERESTED PARTY**
 - i. In the event the Town is able to identify the owner, lien holder if any, or person having a legal interest in property that is in the possession or control of the Town, the Town shall notify such

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person(s) by certified mail of the following:

1. A reasonable description of the property; and
2. Where the property is located; and
3. A statement indicating costs of securing or storage of said property; and
4. Notice that such person(s) may claim such property upon payment of said costs; and
5. Failure to claim said property within thirty (30) days from the date of the notice shall be deemed a waiver of any claim to such property, and may result in the disposal of the described property as provided herein; and
6. Disposal of the property shall not preclude the Town from pursuing civil remedies against the owner of the property for any costs incurred by the Town.

(c) **UNASCERTAINABLE OWNER OF PROPERTY**

- i. If after the exercise of reasonable diligence, the Town is unable to ascertain the identity of the owner, lien holder if any, or person having a legal interest in the property in the possession, control of the Town, or if notice as set forth herein to said owner or other person is impractical, unfeasible or notice cannot reasonably be given, the Town may dispose of abandoned property as set forth herein.

4) DISPOSAL OF ABANDONED PROPERTY

- (a) The Town, in its sole discretion, may dispose of any abandoned property, that has not been claimed as provided herein, as follows:

- i. By public sale or auction, notice of which shall be posted where other municipal notices are otherwise posted not less than five (5) days before such sale or auction. The notice of sale shall describe the property to be sold and the location where it can be viewed by interested purchasers prior to the actual sale.
- ii. By private sale if the Town 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

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address of the person taking possession of the property. Such inventory shall be kept as a public record for a period not less than two (2) years from the date of disposal of the property.

iii. Property having little or no commercial value may be destroyed or otherwise disposed of by the Town subject to the provisions herein. However, records of any such disposal shall be maintained as set forth in Subsection 4) (a) (ii), above.

iv. **EXCEPTIONS**

1. Dangerous weapons and ammunition shall be disposed of in accordance with Section 968.20, Wisconsin Statutes.
2. This ordinance shall apply to the disposal of motor vehicles, except to the extent that any provisions of Sections 342.34, 342.40 and Chapter 342, Wisconsin Statutes, may apply.
3. Hazardous materials such as unclaimed flammable, explosive, or incendiary substances, materials or devices posing a danger to life or property in their storage, transportation or use may be disposed of without sale or notice to any owner, lien holder, or party claiming any interest therein. However, record of such disposal shall be maintained in accordance with Subsection (4) (a) (ii) above.

5) PROCEEDS FROM SALE

- (a) If the disposal is in the form of sale or auction, all receipts therefrom, after deducting the necessary expenses of keeping the property and conducting the sale shall be paid into the Town Treasury.

6) RIGHT TO PURSUE OWNER FOR COSTS

- (a) Costs of keeping property, sale of property or disposal of property, not recovered from a sale, auction or disposal may be recovered in a civil action by the Town.

7) APPLICATION FOR PROCEEDS OF SALE

- (a) At any time within one (1) year after the sale of property as provided herein, any person claiming ownership of such property or a financial interest therein may present a claim to the Town Board setting forth such facts as are necessary to establish such ownership or interest, and that the failure of the claimant to reclaim the property prior to the sale was not the result of the neglect or fault of claimant. If the Town Board is satisfied as to the justice of such claim, it may allow the same, but in no case shall the amount allowed exceed the sum paid into the Town Treasury as a result of the sale of neither such property nor the amount of interest of the claimant therein.

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