

DEKALB POLICE DEPARTMENT

Subject: **Abandoned Vehicles**

Policy #: **403.7**

Effective Since: 8-21-03
84

Originally Issued As: General Order # 28 of 1-4-

Revision Effective: 1-1-19

FTO Training Task: # 30

Reference Material: 625 ILCS 5/4-200; City Ordinance 12.01 and 51.15

ILEAP Standards Covered: OPR.06.12(b)-(e)

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PURPOSE: The purpose of this policy is to outline the department's procedures for processing abandoned vehicles.

POLICY: As described in 625 ILCS 5/4-301, "abandoned vehicles constitute a safety hazard and a public nuisance. They are detrimental to the health, safety, and welfare of the general public by harboring disease and vermin, inviting plunder, creating fire hazards, and presenting physical dangers to children and others. They are a scenic blight, which degrades the environment and adversely affects land values." It is the policy of the department to enforce state and local regulations governing the abandonment of vehicles and to require vehicle owners to remove or dispose of such vehicles whenever possible, with regard to the due process rights of vehicle owners.

DEFINITIONS:

Abandoned Vehicle: 625 ILCS 5/1-101.05, "Any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any vehicle that has not been moved or used for 7 consecutive days or more and is apparently deserted."

City of DeKalb Municipal Ordinance 12.01, Nuisances Declared; within section (10) is "inoperable or abandoned automobiles and a motor vehicle not currently licensed by the State of Illinois or other state or county, exposed to the view of the general public and not either enclosed in a building or structure, or located on the sales lot of a licensed automobile dealer."

Antique Vehicle: 625 ILCS 5/1-102.1, "A motor vehicle that is more than 25 years of age or a bona fide replica thereof and which is driven on the highways only going to and returning from an antique auto show or an exhibition, or for servicing or demonstration, or a fire-fighting vehicle more than 20 years old which is not used as fire-fighting equipment but is used only for the purposes of exhibition or demonstration."

Hazardous dilapidated motor vehicle: 65 ILCS 5/11-40-3.1, "Any motor vehicle with a substantial number of essential parts, as defined by Section 1-118 of the IVC, either damaged, removed, or altered or otherwise so treated that the vehicle is incapable of being driven under its own motor power or, which by its general state of deterioration, poses a threat to the public's health, safety, and welfare..."

Inoperable Motor Vehicle: 65 ILCS 5/11-40-3, "Any motor vehicle from which, for a period of at least 7 days or any greater period fixed by ordinance, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power..."

Owner: the registered owner, co-owner, lienholder, or other person legally entitled to the possession of a vehicle.

PROCEDURE:

I. Identifying Abandoned Vehicles

- A. Vehicles may meet the definitions of an abandoned vehicle if:
 - 1. The vehicle is obviously inoperable due to missing its engine, parts, or wheels; or
 - 2. The vehicle is incapable of being driven under its own motor power; or
 - 3. The vehicle has not been moved or used for 7 consecutive days.
- B. Officers are encouraged to identify abandoned vehicles to begin the removal process.
- C. Citizens frequently contact the department to report an abandoned vehicle. Officers should meet with the complainant whenever requested or possible and record the complainant's information and any information pertinent to the vehicle on the tow sheet.

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- D. Upon inspecting a vehicle believed or reported to be abandoned, the officer should check the registration and/or VIN through LEADS/NCIC to determine:
 - 1. If the vehicle has been reported stolen.
 - 2. The identity of the last registered owner.
 - a. If the vehicle is stolen, it should be towed to a police impound lot, and the owner and reporting agency should be notified.
 - b. If the vehicle is obviously or apparently abandoned, the abandoned vehicle process can begin.

II. **Processing Abandoned Vehicles-Reporting Officer 's Responsibilities :**

- A. Officers may begin the process of abandoned vehicles on any public roadway or public property. [ILEAP OPR.06.12(c)]
- B. Abandoned vehicles on private property are subject to removal by the discretion of the land owner, through a pre-arranged tow agreement, or through abatement by the City's Code Enforcement. Otherwise, obviously abandoned vehicles on private property in view of the general public, but not on the property of the vehicle owner, are potentially subject to this department's abandoned vehicle process, pursuant to 625 ILCS 5/4-201(b). [ILEAP OPR.06.12(d)]
- C. Vehicles determined to be a hazardous dilapidated motor vehicle in 65 ILCS 5/11-40-3.1 (see Definitions, page 1 of this Policy), may be removed and impounded from both public or private property, pursuant to 625 ILCS 5/4-201(b).
- D. **Immediate, emergency tows** : pursuant to 625 ILCS 5/4-203(d), "when an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction."
- E. **If a vehicle is believed or reported to be abandoned, the responding officer should:**
 - 1. Advise telecommunications to assign a report number in CAD.
 - 2. Place an orange tow notice sticker on a side window of the vehicle that faces the street. The tow sticker should contain the following information:
 - a. That an abandoned vehicle will be towed if not removed in **7 days**.
 - b. Reason for Tow (check the appropriate box).
 - c. Case (RD) Number.
 - d. Officer's name or badge number.
 - e. Date of notice.
 - 3. The tires should be marked with spray paint: mark the **tread portion** (not the sidewall) of the tire where it comes in contact with the street, marking a front tire toward the front of the vehicle, and a rear tire toward the rear of the vehicle.
 - 4. If the vehicle is illegally parked, a parking ticket can be issued.
 - 5. Complete a tow case report, filling in all pertinent items. Be sure to list damaged or missing items, the name of the complainant if applicable, and other items that indicate the vehicle is abandoned and/or inoperable.
 - 6. If the registered owner lives in the vicinity of the vehicle, attempt personal contact with the owner to advise them of the pending tow. If contact is made, note it on the tow report.

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7. If the registered owner is unable to be contacted in person, a telephone contact should be attempted. If personal telephone contact is made, note the contact and phone number on the tow report.
8. If unable to contact the registered owner in person or by direct telephone contact (not just a message) of the pending tow, the reporting officer shall complete and send a Notice of Vehicle to be Towed form via U.S. mail, to the registered owner. This is an extra measure the department uses (not required by state statute) to ensure every reasonable attempt to notify the vehicle's owner has been made.
9. The reporting officer should make a copy of the Notice of Vehicle to be Towed and include it with the tow report.

[ILEAP OPR.06.12(b)]

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- III. **Processing Abandoned Vehicles-Abandoned Vehicle Officer's Responsibilities :**
- A. A designated officer or Community Service Officer may be assigned to the processing of abandoned vehicles. The abandoned vehicle officer(s) should follow these guidelines, as provided for in 625 ILCS 5/4-200 through 5/4-215.
 - B. **Check the reports of abandoned vehicles :**
 - 1. If the vehicle has been moved, submit a follow-up report indicating such.
 - 2. If the vehicle has not been moved after the allotted 7-day period, the vehicle may be towed for abandonment.
 - 3. Note that City Ordinance 51.15 allows for the removal of vehicles parked upon public property for a consecutive 24-hour period; however, the department follows the State-defined 7-day period for unmoved abandoned vehicles except in exigent circumstances.
 - 4. Vehicles towed for abandonment are usually towed to the impound lot of the City's contracted tow agent.
 - 5. Vehicles towed for abandonment are subject to police inventory, as provided for in Policy 406.1. The inventory may be used to help determine the vehicle's owner, lienholder, or other legally entitled persons.
 - C. **Search LEADS/NCIC records for the registered owner ;** pursuant to 625 ILCS 5/4-205:
 - 1. Contact the Secretary of State for a search of registration records to obtain owner information (through the Police Inquiry Unit).
 - 2. Cause the stolen vehicle files of the State Police and NCIC to be searched.
 - 3. If the owner cannot be identified, the State Police must be notified for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. This is performed with the assistance of a telecommunicator through a manual lookup request. (625 ILCS 5/4-206)
 - D. A citation for Vehicle Abandonment, 625 ILCS 5/4-201, may be issued to the registered owner of an abandoned vehicle, at the discretion of the officer.
 - E. **Notification to vehicle owner ,** 625 ILCS 5/4-205(b):
 - 1. For vehicles towed as abandoned, notice shall be sent no later than 10 business days after impoundment.
 - 2. If the owner's identity is unknown within the first 10 days, notice shall be sent no later than 2 days after determining the owner's identity.
 - 3. For vehicles aged seven years or newer, a First Notice should be completed and sent via certified mail.
 - 4. For vehicles over seven years of age, a First and Final notice should be completed and sent via certified mail.
 - 5. Such notice shall be sent by certified mail to the owner, lienholder, or other legally entitled persons, 625 ILCS 5/4-208(b)
 - 6. If the vehicle displays dealer plates, such notice must be sent to the dealer and the registered owner, lienholder, or other legally entitled persons, 625 ILCS 5/4-208(c).
 - 7. A copy of the notice should be included with the tow report.
 - F. **Second Notification to vehicle owner,** for vehicles aged seven years or newer to be sold at auction, 625 ILCS 5/4-208(b):
 - 1. A Second Notice must be sent to the owner, lienholder, or other legally entitled persons at least 10 days prior to the auction of an unclaimed abandoned vehicle.

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2. The Second Notice should include the location, date, and time of the auction, as well as contact information for claiming the vehicle.
 3. If the First Notice was returned by the Post Office as undeliverable, the Second Notice does not need to be sent, 625 ILCS 5/4-208(d).
 4. A copy of the Second Notice should be included with the tow report.
- G. **Owners Claiming Vehicles** : a vehicle owner may reclaim a vehicle, pursuant to 625 ILCS 5/4-207:
1. Anytime prior to it being sold at public sale or disposed of;
 2. After showing proof of ownership to the police agency; and
 3. After paying all towing, storage, and processing fees.
 - a. If towed to the City's contracted tow operator's impound lot, fees are paid directly to them.
 - b. If towed to a City-owned impound lot, fees are paid to the City.
 - c. City tow fees are determined as provided for in the current tow contract between the City and its designated tow operator. City impound storage fees are as listed in City Ordinance Chapter 35.
 - i. During business hours, fees are paid at the Records counter.
 - ii. After business hours, a supervisor may accept the payment and secure it in Records for processing.
 - iii. In all cases, have the owner sign the tow sheet, claiming the vehicle.
 - iv. In all cases, be sure the owner receives a receipt, and include a copy of the receipt with the follow-up report.
- H. 625 ILCS 5/4-209, **Process for abandoned vehicles over seven years of age** , after notification has been sent and the vehicle has not been claimed after impoundment for a minimum of **10 days** :
1. A yellow "To Be Junked" sticker may be affixed on the vehicle;
 2. Authorize disposal of the vehicle as junk or salvage.
 3. Complete the certificate of purchase.
 4. A hazardous dilapidated vehicle, regardless of age, may be junked.
 5. A vehicle classified as an antique vehicle may be sold to a person desiring to restore it; all other vehicles over seven year of age towed by order or authorization of the Police Department must be disposed of by junk or salvage certificate.
 6. The above procedure applies to vehicles whose ownership has not been able to be determined after a minimum of ten days, following a search for ownership records as outlined in Paragraph C.
- I. 625 ILCS 5/4-208, **Process for abandoned vehicles aged seven years or newer** , after first and second notification has been sent and the vehicle has not been claimed after impoundment for a minimum of **30 days** :
1. Authorize the sale of the vehicle at public auction to a licensed auto parts recycler, re-builder, or scrap processor.
 2. Time and place of auction must be posted for 10 days on the premises where the vehicle has been impounded.
 3. Complete the certificate of purchase.
 4. The above procedure applies to vehicles whose ownership has not been able to be determined after a minimum of 30 days, following a search for ownership records as outlined in Section C.
- J. **Hearings for persons contesting vehicle abandonment** ; if a vehicle owner contacts an abandoned vehicle officer or supervisor claiming that the vehicle was not abandoned, that officer should:

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1. Gather the information the vehicle owner wishes to provide.
2. Explain the applicable laws and abandoned vehicle process and the facts involving the vehicle in question.
3. Advise that the vehicle can be claimed at any time before a certificate of purchase for junking or upon auction is issued.
4. If the owner still wishes to formally contest vehicle abandonment, a shift supervisor should review the case. Upon obtaining the facts involving the vehicle and the information the vehicle owner has provided, the shift supervisor may:
 - a. Release the vehicle without requiring tow charges if there is sufficient evidence to show the vehicle was not abandoned or towed in error.
 - b. If there is sufficient evidence to show the vehicle was abandoned, explain to the owner that the vehicle was abandoned as defined in the IVC and the appropriate action was taken.
 - c. If the owner wishes to contest vehicle abandonment in court, the shift supervisor should instruct the abandoned vehicle officer to:
 - i. Place a hold on the abandoned vehicle process;
 - ii. Issue the owner a citation for Vehicle Abandonment and assign the earliest possible court date;
 - iii. Await the disposition of the court before taking further steps in the abandoned vehicle process; the vehicle can be released to the owner upon owner payment for applicable tow and storage charges.
 - d. If the court finds that the vehicle was in fact abandoned, the abandoned vehicle process can continue if the vehicle is still impounded.
 - e. If the court finds that the vehicle was not abandoned, the vehicle can be released to the owner without requiring tow charges; or, if the vehicle was already claimed by the owner, tow fees should be reimbursed to the owner.
- K. As provided for in 625 ILCS 5/4-201(c), and 5/4-205(c), a towing service (not the Police Department) may begin to process an unclaimed vehicle in their impound lot as abandoned after ten days, following the procedures set forth in the IVC. For police-ordered tows, such as vehicles towed for parking violations or upon the arrest of the driver, that are not claimed at the tow operator's impound yard, it is the responsibility of the towing company to initiate and complete the abandoned vehicle process.
- L. **Administrative Tows:** Vehicles are subject to the administrative tow process as outlined in Chapter 35 of the Municipal Code. In these cases, the tow vendor may not initiate the abandoned vehicle process until an official release of the vehicle hold is issued by the Police Department.
- M. **Records:** All vehicles towed at the direction of the police department will be recorded in a report and/or CAD entry and ongoing records will be maintained in the appropriate file. Tow reports and other reports pertaining to the towing of vehicles will be filed in records in the same manner as original case reports. Tows with an administrative hold are additionally documented on an electronic log. [ILEAP OPR.06.12(e)]
- N. Abandoned Vehicle Officers must maintain records of abandoned vehicles being junked or sold at auction for a minimum of one year, as required in 625 ILCS 5/4-210.

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- O. **Limited Liability**, 625 ILCS 5/4-213: When a vehicle is processed and sold or disposed of as provided for in the IVC, the law enforcement officer, law enforcement agency, and towing operator shall not be held liable for damages.

Policy originally issued 8-21-03; this revision becomes effective on 1-1-19 by authority of the Chief of Police.

NOTE: This policy and procedure summarizes the department's position on this specific matter. This policy is for general direction and guidance primarily designed for use by the department's members. This policy is for internal use only and does not create or enlarge an officer's liability in any way. This policy shall not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy, if proven, can only form the basis of an internal departmental complaint and then only in a non-judicial administrative setting.