

Chapter 437

VEHICLES

[HISTORY: Adopted by the Village Board of Trustees of the Village of Hixton as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Abandoned

[Adopted 10-6-1987 (Title 8, Ch. 4, Secs. 8-4-1 through 8-4-7, of the 1987 Code of Ordinances)]

§ 437-1. Abandoned vehicles; definitions.

A. Abandonment of vehicles prohibited. No person shall leave unattended any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Hixton for such time and under such circumstances as to cause the vehicle to reasonably appear to have been abandoned. Whenever any such vehicle has been left unattended on any street or highway in the Village of Hixton or upon private or public property without the permission of the property owner or other person charged with the lawful jurisdiction thereof for more than 72 hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.

B. Definitions. For purposes of this article, the following definitions shall be applicable:

STREET — Any public highway or alley and shall mean the entire width between the boundary lines of any public way where any part thereof is open to the public for purposes of vehicular traffic.

UNATTENDED — Unmoved from its location with no obvious sign of continuous human use.

VEHICLE — A motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.

C. Presumptions. For purposes of this article, the following irrebuttable presumptions shall apply:

- (1) A vehicle shall be presumed unattended if it is found in the same position 72 hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said 72 hours.
- (2) Any vehicle left unattended for more than 72 hours on any public street or public ground or left unattended for more than 72 hours on private property without the consent of the property owner is deemed abandoned and constitutes a nuisance, provided that the vehicle shall not be deemed abandoned under this subsection if left unattended on private property outside of public view and is enclosed within a building, or if designated as not abandoned by the Village Board or a law enforcement officer.

- D. Exceptions. This article shall not apply to a vehicle in an enclosed building or a vehicle stored on a premises licensed for storage of junk or junked vehicles and fully in compliance with Village zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

§ 437-2. Removal and impoundment of vehicles.

Any vehicle in violation of this article shall be removed and impounded until lawfully claimed or disposed of under the provisions of § 437-3.

§ 437-3. Removal, storage, notice or reclaiming of abandoned vehicles.

- A. Applicability. The provisions of this section shall apply to the removal, storage, notice, reclaiming or disposal of abandoned vehicles as defined in § 437-1. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- B. Removal.
- (1) Any law enforcement officer who discovers any motor vehicle, trailer, semitrailer or mobile home on any public street or highway or private or public property in the Village of Hixton which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
 - (2) Upon removal of the vehicle, the police officer shall notify the Village Board or its designee of the abandonment and of the location of the impounded vehicle.
- C. Storage and reclaiming. Any abandoned vehicle which is determined by the Village Board or a law enforcement officer to be abandoned shall be retained in storage for a period of 14 days after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Village Board or a law enforcement officer determines an abandoned vehicle to have a value of less than \$100, or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, it may be junked or sold by direct sale to a licensed salvage dealer after having been retained in storage for a period of seven days and after certified mail notice, as hereinafter provided, has been sent to the Wisconsin titled owner or secured party of record with the Wisconsin Motor Vehicle Division, provided that it is first determined that the vehicle is not reported stolen or wanted for evidence or other reason. All substantially complete vehicles in excess of 19 model years of age shall be deemed as having a value in excess of \$100. Any such vehicle 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 Village Board or a law enforcement officer to prove an ownership or secured party interest in said vehicle. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- D. Notice to owner or secured party. Certified mail notice, as referred to herein, shall notify the Wisconsin titled owner of the abandoned vehicle, if any, and/or the secured party of record with the Wisconsin Division of Motor Vehicles, if any, of the following:
- (1) That the vehicle has been deemed abandoned and impounded by the Village of

Hixton;

- (2) The determined value of the abandoned vehicle;
- (3) If the cost of towing and storage costs will exceed the determined value of the vehicle;
- (4) That if the vehicle is not wanted for evidence or other reason, the vehicle may be reclaimed upon the payment of all accrued charges, including towing, storage and notice charges, within 14 days of the date of notice, unless the vehicle has been determined to have a value less than \$100 or that the cost of towing and storage charges for impoundment will exceed the value of the vehicle, in which case the vehicle may be reclaimed within seven days upon the payment of the aforesaid charges; and
- (5) That the owner or aforesaid secured party may, upon request, be granted a hearing relating to the determinations made with respect to said vehicle within the period that such vehicles may be reclaimed.

§ 437-4. Disposal of abandoned vehicles.

Any abandoned vehicle impounded by the Village which has not been reclaimed or junked or sold by direct sale to a licensed salvage dealer pursuant to the provisions of this article may be sold by public auction sale or public sale calling for the receipt of sealed bids. A Class I Notice, including the description of the vehicles, the name(s) and address(es) of the Wisconsin titled owner and secured party of record, if known, and the time of sale, shall be published before the sale.

§ 437-5. Report of sale or disposal.

Within five days after the direct sale or disposal of a vehicle as provided for herein, the Village Board or a law enforcement officer 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 the vehicle, enabling the purchaser to obtain a regular certificate of title for the vehicle. The purchaser shall have 10 days to remove the vehicle from the storage area but shall pay a reasonable storage fee established by the Village for each day the vehicle remains 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 and the vehicle shall be deemed to be abandoned and may be sold again. Any listing of vehicles to be sold by the Village shall be made available to any interested person or organization which makes a written request for such list to the Village. The Village may charge a reasonable fee for the list.

§ 437-6. Owner responsible for impoundment and disposal costs.

- A. 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 covered from the sale of the vehicle may be recovered in a civil action by the Village against the owner.
- B. Payment of removal and impoundment costs is not required when the vehicle has been

impounded for purposes of law enforcement investigation.

§ 437-7. Conflict with other Code provisions.

In the event of any conflict between this article and any other provisions of this Code, this article shall control.

ARTICLE II

Junked

[Adopted 10-6-1987 (Title 8, Ch. 4, Sec. 8-4-8, of the 1987 Code of Ordinances)]

§ 437-8. Storage of automobiles restricted.

No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery or appliances shall be stored unenclosed outside a building upon private property within the Village for a period exceeding 10 days unless it is in connection with an authorized business enterprise located in a properly zoned area maintained in such a manner as to not constitute a public nuisance.

§ 437-9. Definitions.

As used in this article, the following terms shall have the meanings indicated:

DISASSEMBLED, INOPERABLE, JUNKED OR WRECKED MOTOR VEHICLES, TRUCK BODIES, TRACTORS, TRAILERS — Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or which are otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

INOPERABLE APPLIANCE — Any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

MOTOR VEHICLE — As defined in § 340.01(35), Wis. Stats.

UNLICENSED MOTOR VEHICLES, TRUCK BODIES, TRACTORS OR TRAILERS — Motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

§ 437-10. Exceptions.

This article shall not apply to any motor vehicle or motor vehicle accessories stored within an enclosed building or on the premises of a business enterprise operated in a lawful place and manner in a properly zoned area when necessary to the operation of such business enterprise, in a storage place or depository maintained in a lawful place and manner, or seasonal use vehicles such as snowmobiles, motorcycles, motor scooters and nonmotorized campers, provided such vehicles are stored in compliance with the Code of the Village of Hixton. Also excepted are motor vehicles registered pursuant to §§ 341.265 and 341.266, Wis. Stats. In other situations, the Village Board may issue temporary permits permitting an extension of not to exceed an additional 30 days' time to comply with this article where exceptional facts and circumstances

warrant such extension.

§ 437-11. Enforcement.

- A. Whenever the Village Board, its duly authorized representative or a law enforcement officer shall find any vehicles or appliances, as described herein, placed or stored in the open upon private property within the Village, they shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this article. If said vehicles or appliance is not removed within five days, the Village Board, its duly authorized representative or a law enforcement officer shall cause to be issued a citation to the property owner or tenant of the property upon which said vehicle or appliance is stored.
- B. If such vehicle or appliance is not removed within 20 days after issuance of a citation, the Village Board, its duly authorized representative or a law enforcement officer shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed in §§ 437-3 through 437-6 by the Village Board, its duly authorized representative or a law enforcement officer. Any cost incurred in the removal and sale of said vehicle or appliance shall be recovered from the owner. However, if the owner of the vehicle or appliance cannot readily be found, the cost of such removal shall be charged to the property from which it is removed, which charges shall be entered as a special charge on the tax roll.

§ 437-12. Violations and penalties.

Any person who shall interfere with the enforcement of any of the provisions of this article and shall be found guilty thereof shall be subject to a penalty as provided in Chapter 1, General Provisions, § 1-3. Each motor vehicle or appliance involved shall constitute a separate offense.

ARTICLE III

Unauthorized Off-Road Operation

[Adopted 10-6-1987 (Title 8, Ch. 1, Sec. 8-1-43, of the 1987 Code of Ordinances)]

§ 437-13. Purpose.

- A. The unauthorized off-road operation of motor vehicles has resulted in serious damage to public and private lands, including damage or destruction of vegetation, animal life and improvement to the lands; and
- B. The unauthorized off-road operation of motor vehicles has resulted in the permanent scarring of land and an increase in both erosion and air pollution; and
- C. The unauthorized off-road operation of motor vehicles has resulted in collisions and near collisions threatening the life and safety of the operators of such vehicles as well as of other persons; and
- D. The unauthorized off-road operation of motor vehicles has resulted in a loss of the privacy, quietude and serenity to which the owners and users of land are rightfully entitled.

§ 437-14. Definitions.

For purposes of this article, the terms below shall be defined as follows:

MOTOR VEHICLE — For purposes of this article, any vehicle which is self-propelled and shall include but not be limited to automobiles, trucks, jeeps, vans, motorcycles, motorbikes, go-karts, motorized three-wheeled vehicles, all-terrain vehicles, mopeds, snowmobiles, dune buggies and tractors. "Motor vehicle" shall not mean any airplane, railroad train, boat, wheelchair or bicycle. A vehicle which would otherwise be defined as a motor vehicle under this section shall not be so defined while:

- A. It is being operated solely for the purpose of construction or maintenance of an improvement to land or solely for access to construction or maintenance sites, provided such operation is by persons having legitimate business on such lands or sites;
- B. It is being operated by or at the direction of public employees or utility company employees as part of their employment duties.
- C. It is being operated by the holder of an easement or right of access on or over the land on which operation is occurring or the holder's employees or agents.

OFF-ROAD — Any location which:

- A. Is not a paved or maintained public street or alley; or
- B. Is not used or maintained by the owner or lessee of land as a driveway, parking lot or other way for motor vehicles; or
- C. Is a private trail for use only by the owner or his permittees for recreational or other vehicular use. Off-road shall not include any creek bed, riverbed or lake; provided, however, that this definition shall not apply to snowmobiles or other vehicles being operated on the ice covering such creek bed, riverbed or lake.

OPERATION — The physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.

UNAUTHORIZED — Without the express prior consent of the owner, lessee, manager or other person authorized to give consent by the owner or lessee of land. Authorization shall not be implied from a failure to post private or public land.

§ 437-15. Unauthorized off-road operation prohibited.

- A. The unauthorized off-road operation of a motor vehicle is prohibited.
- B. Except for authorized maintenance vehicles and snowmobiles operating in authorized areas pursuant to Chapter 401, Snowmobiles, it shall be unlawful to operate any minibike, go-kart, all-terrain vehicle or any other motor-driven craft or vehicle principally manufactured for off-highway use on the Village streets, alleys, parks, sidewalks, bikeways, parking lots or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

§ 437-16. Prohibited use of snowmobile trails.

Except as provided in § 437-14 in the definition of "motor vehicle" above, no person shall operate any motor vehicle other than a snowmobile on a snowmobile trail.