

- (2) Off-Road shall mean 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 creekbed, riverbed or lake provided, however that this Subsection shall not apply to snowmobiles or other vehicles being operated on the ice covering such creekbed, riverbed or lake.
- (3) Operation shall mean the physical manipulation or activation of any of the controls of a motor vehicle necessary to put it in motion.
- (4) Motor Vehicle shall mean, for purposes of this Section, 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 employee or agents.

(c) **Unauthorized Off-Road Operation Prohibited.**

- (1) The unauthorized off-road operation of a motor vehicle is prohibited.
- (2) Except for authorized maintenance vehicles and snowmobiles or all-terrain vehicles operating in areas authorized by the Village Board, 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 help open to the public. The operator shall at all times have the written consent of the owner before the operation of such craft or vehicle on private lands.

SEC. 10-4-3 MINI-BIKES AND SELF PROPELLED VEHICLES REGULATED.

- (a) Definitions. The following definitions shall be applicable in this Section:
1. Mini-Bike. Any motorized vehicle primarily used for transportation or sport, including but not limited to, motorcycles, off-the-road trail bikes and motorized bicycles.
 2. Self-Propelled Vehicles. Any motorized vehicle primarily used for off-the-road use, including but not limited to, go-carts, all-terrain vehicles and all other vehicles not registered pursuant to Chapter 341 of the Wisconsin Statutes, but not snowmobiles.
 3. Motorized Vehicle. Any self-propelled device in, upon or by which any person or property is or may be transported.

4. Highway. All public ways and thoroughfares and bridges on the same. It includes the entire highway right-of-way width, not limited to the actual traveled portion, but also includes the shoulders, ditches and other areas adjacent thereto.

(b) **Operation of Mini-Bikes, and Self Propelled Vehicles.** No person shall operate a mini-bike or self-propelled vehicle in the Village of Nichols in the following manner:

(1) At the rate of speed that is unreasonable or imprudent under the circumstances.

(2) In any careless way so as to endanger the person or property of another.

(3) While under the influence of intoxicating liquor, fermented malt beverages, narcotics or other controlled substances.

(4) In such a way that the exhaust of the motor makes an excessive or unusual noise.

(5) Without a functioning muffler.

(6) Upon any public highway, street, or alley, or upon any sidewalk or parkway in the Village of Nichols unless such vehicle is registered as required by Chapter 341 of the Wisconsin Statutes, and its operation and operator are specifically permitted to operate the said vehicle by the Wisconsin Statutes.

(7) Upon any slide, ski, or skating area, except for the purposes of serving the area or crossing the places where marked.

(8) Upon any lands owned, operated or leased by the Village of Nichols.

(9) Upon a cemetery, burial ground, school or church property, without the express consent of the owner.

(c) **Liability of Parent or Guardian.** No parent or guardian of any child under the age of eighteen (18) years shall authorize or permit such child to violate any of the provisions of this Section. Any child under the age of eighteen (18) years who shall operate a mini-bike or self-propelled device shall be presumed to be operating said vehicle under the authority of a parent or guardian.

(d) **Penalties.** Any person who shall violate this Section shall, upon conviction thereof, forfeit for each offense not less than Twenty-five Dollars (\$25.00) nor more than Two Hundred Dollars (\$200.00), together with the costs of prosecution and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail not to exceed thirty (30) days.

CHAPTER 5

Abandoned and Junked Vehicles

10-5-1	Abandoned Vehicles; Definitions
10-5-2	Removal and Impoundment of Vehicles
10-5-3	Removal, Storage, Notice of Reclaimer of Abandoned Vehicles
10-5-4	Disposal of Abandoned Vehicles
10-5-5	Report of sale or Disposal

- 10-5-6 Owner Responsible for Impoundment and Disposal Costs
- 10-5-7 Conflict with Other Code Provisions
- 10-5-8 Junked Vehicles and Appliances on Private Property

SEC. 10-5-1 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 Nichols 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 Nichols 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 forty-eight (48) hours, the vehicle shall be deemed abandoned and constitutes a public nuisance.
- (b) **Definitions.** For purposes of this Chapter, the following definitions shall be applicable:
 - 1. Vehicle shall mean a motor vehicle, trailer, semitrailer or mobile home, whether or not such vehicle is registered under Wisconsin Law.
 - 2. Unattended shall mean unmoved from its location with no obvious sign of continuous human use.
 - 3. Street shall mean 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.
- (c) **Presumptions.** For purposes of this Section, the following irrebuttable presumptions shall apply:
 - 1. A vehicle shall be presumed unattended if it is found in the same position forty-eight (48) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during said forty-eight (48) hours.
 - 2. Any vehicle left unattended for more than forty-eight (48) hours on any public street or public ground or left unattended for more than forty-eight (48) 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 law enforcement officer.
- (d) **Exceptions.** This Section 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.

SEC. 10-5-2 REMOVAL AND IMPOUNDMENT OF VEHICLES.

Any vehicle in violation of this Chapter shall be removed and impounded until lawfully claimed or disposed of under the provisions of Section 10-5-3.

SEC. 10-5-3 REMOVAL, STORAGE, NOTICE OR RECLAIMER OF ABANDONED VEHICLES.

- (a) **Applicability.** The provisions of this Section shall apply to the removal, storage, notice, reclaimer or disposal of abandoned vehicles as defined in Section 10-5-1.
- (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 Nichols which has been abandoned shall cause the vehicle to be removed to a suitable place of impoundment.
 2. Upon removal of the vehicle, the law enforcement officer shall notify the Village of the abandonment and of the location of the impounded vehicle.
- (c) **Storage and Reclaimer.** Any abandoned vehicle which is determined by the Village Board, or its designee, or a law enforcement officer to be abandoned shall be retained in storage for a period of fourteen (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, and/or secured party of record with the Wisconsin Motor Vehicle Division, except that if the Village Board, or its designee, or a law enforcement officer, determines an abandoned vehicle to have a value of less than One Hundred Dollars (\$100.00), 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 (7) 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 nineteen (19) model years of age shall be deemed as having a value in excess of One Hundred Dollars (\$100.00). 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 its designee, or a law enforcement officer, to prove an ownership or secured party interest in said vehicle.
- (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 Motor Vehicle Division, if any, of the following:
- (1.) That the vehicle has been deemed abandoned and impounded by the Village of Nichols;
 - (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 fourteen (14) days of the date of notice, unless the vehicle has been determined to have a value of less than One Hundred Dollars (\$100.00) 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 (7) days upon the payment of the aforesaid charges; and

- (5.) That the owner of 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.

SEC. 10-5-4 DISPOSAL OF ABONDEND 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 Chapter 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.

SEC. 10-5-5 REPORT OF SALE OR DISPOSAL.

Within five (5) days after the direct sale or disposal of a vehicle as provided for herein, the Village Board, or its designee, or a law enforcement officer, shall advise the State of Wisconsin Department of Transportation 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 ten (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 (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 Village shall be made available to any interested person or organization which makes a written request for such list.

SEC. 10-5-6 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.

SEC. 10-5-7 CONFLICT WITH OTHER CODE PROVISIONS.

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

SEC. 10-5-8 JUNKED VEHICLES AND APPLIANCES ON PRIVATE PROPERTY.

- (a) **Storage of Automobiles Restricted.** No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck bodies, tractors, trailers, farm machinery, vehicle parts or tires, or appliances shall be stored upon private residential property or unenclosed within a building upon nonresidential property within the Village of Nichols for a period exceeding ten (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.

(b) **Definitions.**

- (1) The term "disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors, trailers" as used in this Section is defined as follows: 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 is 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.
- (2) The term "unlicensed - motor vehicles, truck bodies, tractors or trailers" as used in this Chapter is defined as follows: motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.
- (3) The term "motor vehicle" is defined in Sec. 340.01(35), Wis. Stats.
- (4) The term "inoperable appliance" is defined as any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

(c) **Exceptions.** This Section 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 ordinances of the Village. Also excepted are motor vehicles registered pursuant to Sections 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 thirty (30) days' time to comply with this Section where exceptional facts and circumstances warrant such extension.

(d) **Enforcement.**

- (1) Whenever the Village Board, its authorized designee, or a law enforcement officer, shall find any vehicles, vehicle parts or tires, or appliances, as described herein, placed or stored in the open upon private property within the Village, it shall notify the owner of said property on which said vehicle or appliance is stored of the violation of this Section. If said vehicles, part thereof or appliance is not removed within five (5) days, the Village Board, its authorized designee, 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.
- (2) If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the Village Board, its authorized designee, 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 Sections 10-5-3 through 10-5-6 by the Village Board, its authorized designee, or a law enforcement officer. Any cost incurred in the removal

Abandoned and Junked Vehicles

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.

- (e) **Penalty.** Any person who shall interfere with the enforcement of any of the provisions of this Section and shall be found guilty thereof shall be subject to a penalty as provided in Section 1-1-6. Each motor vehicle or appliance involved shall constitute a separate offense.

State Law Reference: Sec. 342.40, Wis. Stats.