

Ordinance (per Min 10-18-06)
~~Chapter~~ 113

ABANDONED, JUNKED VEHICLES AND APPLIANCES

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1. Definitions.

For purposes of this chapter, the following definitions shall be applicable:

- a. "Street" means 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.
- b. "Unattended" means unmoved from its location with no obvious sign of continuous human use.
- c. "Vehicle" means a motor vehicle, trailer, semi trailer or mobile home, whether or not such vehicle is registered under Wisconsin law.
- d. "Law Enforcement Officer" means any law enforcement person or other agency or person authorized by the Town of Mentor to enforce the Ordinances of the Town of Mentor.

2. Prohibited--Presumptions--Exceptions.

a. Abandonment of Vehicles Prohibited. No person shall leave unattended any motor vehicle, trailer, semi trailer or mobile home on any public street or highway or private or public property in the Town 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 Town 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. 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 seventy two (72) hours after issuance of a traffic ticket or citation and if such traffic ticket or citation remains placed upon the windshield during the seventy two (72) hours.

(2) Any vehicle left unattended for more than seventy two (72) hours on any public street or public ground or left unattended for more than seventy two (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 law enforcement officer.

c. 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 Town zoning regulations, or to a vehicle parked in a paid parking lot or space where the required fee has been paid.

3. 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 10.40.040 of this chapter.

4. 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 1 of this chapter.

b. Removal.

(1) Any law enforcement officer who discovers any motor vehicle, trailer, semi trailer or mobile home on any public street or highway or private or public property in the Town 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 Town Chairperson or his or her designee of the abandonment and of the location of the impounded vehicle.

c. Storage and Reclaimer. Any abandoned vehicle which is determined by the law enforcement officer or his or her designee 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, except that if the law enforcement officer or his or her designee 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 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 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 law enforcement officer or his or her designee to prove an ownership or secured party interest in the 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 Town;
- (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 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 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 the vehicle within the period that such vehicles may be reclaimed.

5. Inoperable, wrecked or discarded vehicles.

a. Storage Prohibited. No person owning or having custody of any partially dismantled, nonoperable, wrecked, junked or discarded motor vehicle shall allow such vehicle to remain on any public street or highway, parking lot or ramp longer than seventy two (72) hours after notification thereof by the law enforcement officer. Notification shall be accomplished by placing in a conspicuous place on the vehicle and by mailing or serving upon the owner or occupant in charge of the premises a written notice setting forth briefly the applicable provisions of this section and the date of the notice. Any vehicle so tagged which is not removed within seventy two (72) hours after notice is declared to be a public nuisance and may be removed as provided for by the Town of Mentor Ordinances.

b. Exemptions. This section shall not apply to a motor vehicle in an appropriate storage place or depository maintained in a lawful, place and manner authorized by the Town.

6. Disposal of abandoned vehicles.

Any abandoned vehicle impounded by the Town 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.

7. Report of sale or disposal.

Within five days after the direct sale or disposal of a vehicle as provided for herein, the law enforcement officer or his or her designee shall advise the State of Wisconsin Department of Transportation, Division of Motor Vehicles, of such sale or disposal on a form supplied by the 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 Town 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 Town shall be made available to any interested person or organization which makes a written request for such list to the law enforcement officer. The law enforcement officer may charge a reasonable fee for the list.

8. 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 Town 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.

9. Conflict with other code provisions.

In the event of any conflict between this chapter and any other provisions of this code, this chapter shall control.

10. Definitions.

As used in this chapter:

a. "Disassembled, inoperable, junked or wrecked motor vehicles, truck bodies, tractors or trailers" means 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.

b. "Inoperable appliance" means any stove, washer, refrigerator or other appliance which is no longer operable in the sense for which it was manufactured.

c. "Motor vehicle" means as defined in Section 340.01(35), Wis. Stats.

d. "Unlicensed motor vehicles, truck bodies, tractors or trailers" means motor vehicles, truck bodies, tractors, recreational vehicles or trailers which do not bear lawful current license plates.

11. Junked vehicles and appliances on private property.

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 Town 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.

12. Exceptions.

This chapter 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 in a non-nuisance 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 Town. Also excepted are motor vehicles registered pursuant to Sections 341.265 and 341.266, Wis. Stats. In other situations the Town board may issue temporary permits permitting an extension of not to exceed an additional thirty (30) days' time to comply with this chapter where exceptional facts and circumstances warrant such extension

a. Whenever the 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 Town, they shall notify the owner of the property on which the vehicle or appliance is stored of the violation of this chapter. If the vehicle, part thereof or appliance is not removed within five days, the law enforcement officer shall issue a citation to the property owner or tenant of the property upon which the vehicle or appliance is stored.

b. If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the law enforcement officer shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed above of this code by the law enforcement officer or his or her duly authorized representative. Any cost incurred in the removal and sale of the 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.

13. Enforcement.

a. Whenever the 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 Town, they shall notify the owner of the property on which the vehicle or appliance is stored of the violation of this chapter. If the vehicle, part thereof or appliance is not removed within five days, the police department shall issue a citation to the property owner or tenant of the property upon which the vehicle or appliance is stored.

b. If such vehicle or appliance is not removed within twenty (20) days after issuance of a citation, the law enforcement officer shall cause the vehicle or appliance to be removed and impounded, and it shall thereafter be disposed of as prescribed above of this code by the law enforcement officer or his or her duly authorized representative. Any cost incurred in the removal and sale of the 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.

14. Violation--Penalty.

Any person who shall violate or interfere with the enforcement of any of the provisions of this chapter and shall be found guilty thereof shall be subject to a penalty provided as follows:

First Offense: \$25.00 to \$200.00 forfeiture plus costs as provided for Civil Forfeitures in the Circuit Courts.

Second Offense within one (1) year of first offense: \$50.00 to \$500.00 plus costs as provided for Civil Forfeitures in the Circuit Courts.

Each motor vehicle or appliance involved shall constitute a separate offense.

Dated: 10-10, 2006

BY:

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Chris Collins _____

