

VILLAGE OF BLOOMINGDALE

ORDINANCE NO. 2010-07

AN ORDINANCE AMENDING CHAPTER 9
OF THE CODE OF ORDINANCES OF THE VILLAGE OF BLOOMINGDALE
CONCERNING TRAFFIC CONTROL

ADOPTED BY THE PRESIDENT AND
THE BOARD OF TRUSTEES OF THE
VILLAGE OF BLOOMINGDALE
THIS 8TH DAY OF MARCH, 2010.

Published in pamphlet form by
the President and Board of
Trustees of the Village of
Bloomington, DuPage County,
Illinois, this 8th day
of March, 2010.

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**AN ORDINANCE AMENDING CHAPTER 9
OF THE CODE OF ORDINANCES OF THE VILLAGE OF BLOOMINGDALE
CONCERNING TRAFFIC CONTROL**

WHEREAS, the Village previously established procedures for the removal and impounding of vehicles in certain circumstances under Sections 9-1-49, 9-1-50, 9-1-51, 9-1-52, and 9-1-53 of Chapter 9 of the Code of Ordinances of the Village of Bloomingdale; and

WHEREAS, it is appropriate to amend Sections 9-1-49, 9-1-50, 9-1-51, 9-1-52, and 9-1-53 of Chapter 9 of the Code of Ordinances of the Village of Bloomingdale to authorize the towing, removal and impounding of a vehicle, to provide for administrative fees and fines, to ascribe definitions for the terms used within those Sections, to specify certain violations for which motor vehicles may be subject to seizure and impoundment, and to stipulate post-tow hearing procedures in relation thereto and associated fees to partially offset the costs incurred by the Village in the conduct of such hearings held to contest the towing, removal and impounding of a vehicle in accordance with said Chapter 9, as amended.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF BLOOMINGDALE, DUPAGE COUNTY, ILLINOIS, pursuant to its home rule powers, as follows:

SECTION ONE: Sections 9-1-49, 9-1-50, 9-1-51, 9-1-52 and 9-1-53 of Chapter 9 of the Code of Ordinances of the Village of Bloomingdale are hereby amended in their entirety so that said sections shall hereafter be and read as follows:

9-1-49: IMPOUNDING OF VEHICLES

The Police Department of the Village is hereby authorized to cause a vehicle to be towed, without prior notice to the registered owner and lien holder thereof, if

applicable, from any public way to the Police Department vehicle storage lot, or such other place of safety, as determined and designated by the Police Department, when (i) a vehicle upon any public way is so disabled as to constitute an obstruction of traffic, (ii) a vehicle or the driver thereof is believed to have caused an offense identified hereinafter, (iii) a hazardous vehicle, as defined by this Chapter as determined and by the Village Police Department in its sole, reasonable discretion, (iv) a vehicle is discovered to be stolen, (v) a vehicle is illegally parked or appears to have been abandoned, as defined by this Chapter, and the registered owner and lien holder thereof, if applicable, cannot be identified because the license plates and vehicle identification number have been removed or otherwise made illegible, or (vi) an emergency arises necessitating the removal of a vehicle from any public way, as determined by the Police Department in its sole, reasonable discretion. When a vehicle is towed and removed from either public or private property in accordance with this Chapter, the registered owner of such vehicle will be responsible for all applicable towing and storage costs.

- (a) [RESERVED]
- (b) [RESERVED]
- (c) [RESERVED]
- (d) [RESERVED]
- (e) [RESERVED]
- (f) Administrative Penalties/Vehicle Possession.

A vehicle may be seized, towed and impounded by the Village Police Department without prior notice to the registered owner and lien holder thereof, if applicable, when such vehicle or the operator thereof is believed to have caused any of the following violations. The Village shall not be liable for any damage to any vehicle which occurs as a result of the towing and storage of any vehicle under the provisions of this Chapter. In addition to all applicable towing and storage costs, an administrative penalty of \$500.00 shall be imposed on the registered owner (but not a vehicle lien holder or vehicle leasing company, in which case the lessee of the vehicle shall be responsible) of any such vehicle towed or impounded as a consequence of the following violations. Such fee or bond posted in lieu thereof shall be subject to refund or return, as the case may be, in the event of a finding of no

violation at a hearing conducted to contest such violation as further prescribed in this Chapter.

(1)

- (i) 625 ILCS 5/6-303 (Driving While Driver's License, Permit or Privilege to Operate a Motor Vehicle is Suspended or Revoked), as amended, except where said violation is in regard to a person whose driver's license, permit or privilege to operate a motor vehicle is suspended only for a violation of the emissions inspection laws as set forth in 625 ILCS 5/13C-1, *et. seq.*, as amended;
- (ii) 625 ILCS 5/11-204 (Fleeing or Attempting to Elude a Peace Officer), as amended;
- (iii) 625 ILCS 5/11-401 (Motor Vehicle Accidents Involving Death or Personal Injuries), as amended;
- (iv) 625 ILCS 5/11-402 (Motor Vehicle Accident Involving Damage to Vehicle), as amended;
- (v) 625 ILCS 5/11-403 (Duty to Give Information and Render Aid), as amended;
- (vi) 625 ILCS 5/11-404 (Duty Upon Damaging Unattended Vehicle or Other Property), as amended;
- (vii) 625 ILCS 5/11-501 (Driving Under the Influence of Alcohol, Other Drug or Drugs, Intoxicating Compound or Compounds or any Combination Thereof), as amended; or
- (viii) 625 ILCS 5/11-501.8 (A person under age 21 driving with a blood alcohol level greater than 0.00- Zero Tolerance), as amended;
- (ix) 625 ILCS 5/11-503 (Reckless Driving or Aggravated Reckless Driving), as amended; or
- (x) 625 ILCS 5/11-506 (Street Racing), as amended; or
- (xi) The stopping of a vehicle driven by a person against whom a warrant has been issued by a circuit court for that person's failure to appear to answer charges that such person was
 - 1) operating a motor vehicle while that person's license was suspended or revoked in violation of 625 ILCS 5/6-303, as amended; or
 - 2) operating a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or

compounds or any combination thereof in violation of 625 ILCS 5/11-501, as amended.

(2)

- (i) 720 ILCS 5/11-6 (Indecent Solicitation of a Child), as amended;
- (ii) 720 ILCS 5/12-1 (Assault), as amended;
- (iii) 720 ILCS 5/12-2 (Aggravated Assault), as amended;
- (iv) 720 ILCS 5/12-3 (Battery), as amended;
- (v) 720 ILCS 5/12-4 (Aggravated Battery), as amended;
- (vi) 720 ILCS 5/12-4.2 (Aggravated Battery with a Firearm), as amended;
- (vii) 720 ILCS 5/12-4.3 (Aggravated Battery of a Child), as amended;
- (viii) 720 ILCS 5/12-4.6 (Aggravated Battery of a Senior Citizen) as amended;
- (ix) 720 ILCS 5/16A-3 (Retail Theft), as amended, when the value of the merchandise exceeds one hundred and fifty and no/100 dollars (\$150.00);
- (x) 720 ILCS 5/18-1 (Robbery);
- (xi) 720 ILCS 5/18-2 (Armed Robbery), as amended;
- (xii) 720 ILCS 5/19-1 (Burglary), as amended;
- (xiii) 720 ILCS 5/19-3 (Residential Burglary), as amended;
- (xiv) 720 ILCS 5/20-1 (Arson), as amended;
- (xv) 720 ILCS 5/20-1.1 (Aggravated Arson), as amended;
- (xvi) 720 ILCS 5/20-2 (Possession of Explosives or Explosive or Incendiary Devices), as amended;
- (xvii) 720 ILCS 5/21-1 (Criminal Damage to Property), as amended; or
- (xviii) 720 ILCS 5/25-1 (Mob Action), as amended.

(3)

- (i) 720 ILCS 570/401 (Manufacture or Delivery of a Controlled Substance), as amended;
- (ii) 720 ILCS 570/401.1 (Controlled Substance Trafficking), as amended; or
- (iii) 720 ILCS 570/402 (Possession of a Controlled Substance), as amended.

(4)

- (i) 720 ILCS 5504(d) (Possession of More than 30 Grams of Any Substance Containing Cannabis), as amended;
- (ii) 720 ILCS 550/5 (Manufacture or Delivery of Cannabis), as amended;
- (iii) 720 ILCS 550/5.1 (Cannabis Trafficking), as amended
- (iv) 720 ILCS 550/5.2 (Delivery of Cannabis on School Grounds), as amended; or
- (v) 720 ILCS 550/8 (Unauthorized Production or Possession of Cannabis Sativa Plant), as amended.

(5)

- (i) 720 ILCS 5/24-1 (Unlawful Use of Weapons), as amended;
- (ii) 720 ILCS 5/24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition) as amended; or
- (iii) 720 ILCS 5/24-3.3 (Unlawful Sale or Delivery of Firearms on the Premises of any School), as amended

Note: This subsection 9-1-49(f)(5) shall not apply when any of the exemptions set forth in 720 ILCS 5/24-2, as amended, are met.

(6)

- (i) 720 ILCS 5/11-14 (Prostitution), as amended;
- (ii) 720 ILCS 5/11-14.1 (Solicitation of a Sexual Act), as amended;
- (iii) 720 ILCS 5/11-15 (Soliciting for a Prostitute), as amended;
- (iv) 720 ILCS 5/11-15.1 (Soliciting for a Juvenile Prostitute), as amended;
- (v) 720 ILCS 5/11-18 (Patronizing a Prostitute), as amended; or
- (vi) 720 ILCS 5/11-18.1 (Patronizing a Juvenile Prostitute), as amended.

(7)

- (i) The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1 (Seizure) as amended;

or

- (ii) A violation of 625 ILCS 5/6-101 (Drivers Must Have Licenses or Permits), as amended, except where the violation is for a license which has been expired for less than twelve (12) months or for a license which is invalid because of curfew (as in the case of a graduated license).
- (iii) Any other felony violation, where the vehicle was used in the commission of a crime.

The administrative penalty imposed pursuant to this Section shall constitute a debt due and owing the Village. A vehicle towed and impounded pursuant to this Chapter shall remain impounded until:

- (i) The administrative penalty is paid to the Village, and all applicable towing fees at the prevailing rate charged for towing or moving the vehicle to a place of safety or authorized garage, as applicable, are paid to the towing agent; and, if applicable, storage charges at the prevailing rate at the garage in which said vehicle is stored are paid; in which case the owner of record shall be given possession of the vehicle; or
 - (ii) A bond in the amount of the administrative penalty is posted with the Police Department to satisfy the administrative penalty, and all applicable towing fees at the prevailing rate charged for towing or moving the vehicle to a place of safety or authorized garage, as applicable, are paid to the towing agent; and, if applicable, storage charges at the prevailing rate at the garage in which said vehicle is stored are paid, at which time such vehicle will be released to the owner of record thereof; or
 - (iii) The vehicle is deemed abandoned pursuant to Subsection 9-1-49(h) of this Chapter, in which case the vehicle shall be disposed of in the manner provided by law for the disposition of abandoned vehicles; or
 - (iv) A finding of impropriety is made at a post-tow impoundment hearing as to such towing and impoundment for which such administrative penalty was imposed in accordance with the provisions of this Chapter
- (g) Before the owner, or person entitled to possession, of any legally impounded vehicle shall be permitted to remove same from the custody of the Police Department, he shall:
- (i) Furnish evidence of his identity;
 - (ii) Show evidence of his ownership of the vehicle or right to

possession thereof;

- (iii) Sign a receipt for the vehicle;
- (iv) Show proof of having satisfied the Village's administrative penalty fee unless a finding of impropriety is made as to the towing for which such administrative penalty was imposed, all as set forth in subsection 9-1-49(f);
- (v) Pay all vehicle storage charge(s) at the prevailing rate at the garage in which the said vehicle is stored, if applicable, and furnish proof of such payment satisfactory to the Village; and
- (vi) Pay the prevailing rate charged for towing or moving the vehicle to a place of safety or authorized garage, as the case may be, and furnish proof of such payment satisfactory to the Village.

(h) **Definitions.**

For purposes of this Chapter, the following terms shall have the meanings stated in this Section. Any term not defined herein shall have the meaning ascribed to it in other ordinances of the Village, and if not defined in any other Village ordinances, it shall have the meaning ascribed to it by the Illinois Vehicle Code, 625 ILCS 5/1-100, *et seq.*

(i) **Abandoned vehicle means**

- 1) A vehicle parked or otherwise located on the public way
 - a) in such state of disrepair that it is incapable of being driven; or
 - b) that has been unmoved for a period of at least twenty-four (24) hours and, because of its condition or the period during which it has not been moved or some other circumstance, appears to have been, and will be presumed to have been, abandoned by its owner; or
- 2) A vehicle defined as abandoned, or capable of being towed, by any other ordinances of the Village, and which does not constitute a "hazardous vehicle" or "unlawful vehicle" as defined by this Section, and therefore is not subject to an immediate tow.

(ii) **Hazardous vehicle means:**

- 1) A vehicle that has been involved in an accident and is inoperable or cannot be immediately moved by the owner or operator of the vehicle; or
- 2) A vehicle that presents an immediate danger to the health or

and

welfare of the members of the public, as determined by the Police Department in its sole, reasonable discretion; or

- 3) An abandoned or inoperable vehicle on a public street, way or alley that is impeding the orderly flow of traffic or poses a potential danger to pedestrians and/or operators of vehicles, as determined by the Village in its sole, reasonable discretion; or
 - 4) A vehicle that must be moved to allow for proper municipal snow removal from a public street, way or alley, as determined by the Police Department in its sole, reasonable discretion; or
 - 5) A vehicle that is parked in a fire lane, no parking zone, loading zone, or other such area of prohibited or regulated parking on private property, provided that the Village has entered into a specific agreement with the owner of said property with respect to the enforcement of such violations.
- (iii) **Owner or registered owner** means a person who holds legal title to the vehicle or the right of possession of the vehicle.
- (iv) **Vehicle** means any device in, upon or by which any person or property is or may be transported or drawn upon a street, highway or any public way, except devices moved by human power, devices used exclusively upon stationary rails or tracks, and snowmobiles.
- (i) **Pre-Tow Notice and Hearing Procedures**
- (i) **Notice and Hearing**

Any vehicle that is subject to towing, other than a towing for which no prior notice is required in accordance with this Chapter, shall have a tow notice applied to it and a pre-tow warning notice shall be sent to the registered owner and the lien holder, if applicable. Such pre-tow warning notice shall include a description of the vehicle, the license plate and vehicle identification numbers (VIN), if available and legible, and notice that a hearing as to propriety of the towing will be granted, if requested. If, after ten (10) days, there has been no response to the pre-tow warning notice, the vehicle may be towed. A post-tow notice shall be sent to the owner and the lien holder, if applicable, no more than five (5) business days after the vehicle is towed, and shall include a copy of the Village's tow order. This notice must also include the opportunity for a post-tow hearing. If a hearing is requested after a vehicle is towed, it will be granted in accordance with the post-tow hearing procedures set forth in this Chapter. All notices shall be

served by certified mail, return receipt requested to the address of the registered owner and lien holder, if applicable, of the vehicle as recorded with the Secretary of State of Illinois. If the vehicle is registered in a state other than Illinois, the Village Police Department shall send appropriate notice in accordance with this Chapter to the address of the registered owner and lien holder, if applicable, as recorded in such other state's registry of motor vehicles.

(ii) Request for a Pre-Impoundment Hearing

Requests for pre-impoundment hearings are to be made to the Police Department and addressed to the Chief of Police. The request must be in writing and be served on the Police Department personally or by mail. Forms for such request shall be made available at the Police Department.

(iii) Nature of the Pre-Impoundment Hearing/Hearing Officer

The hearing shall be conducted by a hearing officer and be informal in nature. The rules of evidence shall not apply. The hearing will not be determinative of, or adjudicate, any citation issued, any criminal violation charged, or any ordinance violation charged relative to the proposed tow and impoundment. After receiving all relevant evidence, the hearing officer shall make a written decision based upon the preponderance of the evidence as to whether the tow and impoundment of the vehicle were authorized by this ordinance. The owner of the vehicle shall be provided with a copy of the written decision. The hearing officer shall have the authority under applicable laws of the State of Illinois to conduct such hearings. If a registered owner or lien holder requests a hearing, but fails to appear at such hearing, the hearing officer shall enter an order of default in favor of the Village in the amount of the hearing fee.

(iv) Scheduling of Pre-Impoundment Hearings

If a pre-impoundment hearing is requested, it will be granted within five (5) business days after the request for a hearing and held during normal business hours, unless the owner requests a later date convenient to all parties. The hearing shall take place at designated dates and time to be determined by the Police Department in conjunction with the hearing officer.

(j) Post-Tow Hearing Procedures

(i) Opportunity for Hearing

Provided that a pre-tow hearing was not first held, the registered owner and the lien holder, if applicable, of a vehicle impounded by or pursuant to the authority of the Village Police Department, as set forth in this Chapter, shall be provided the opportunity for a post-impoundment hearing to determine the validity of such impoundment and any administrative penalty, towing or storage charges. Notice of such opportunity for a hearing shall be provided within five (5) business days after a vehicle is seized, towed and impounded pursuant to this Chapter. Such post-tow notice shall include a description of the vehicle, the license plate and vehicle identification numbers (VIN), if available and legible, and notice that a hearing as to the propriety of the towing will be granted, if requested. All notices shall be served by certified mail, return receipt requested to the address of the registered owner and lien holder, if applicable, of the vehicle as recorded with the Secretary of State of Illinois. If the vehicle is registered in a state other than Illinois, the Village Police Department shall send appropriate notice in accordance with this Chapter to the address of the registered owner and lien holder, if applicable, as recorded in such other state's registry of motor vehicles. The hearing will not be determinative of, or adjudicate, any citation issued, any criminal violation charged, or any ordinance violation charged relative to the impoundment. The owner shall be deemed to have waived any right to a post-impoundment hearing unless a hearing is requested within fourteen (14) days of the mailing or delivery of the post-impoundment notice, as provided in this Section.

(ii) Request for a Post-Impoundment Hearing

Requests for post-impoundment hearings are to be made to the Village Police Department and addressed to the Chief of Police. The request must be in writing and be served on the Police Department personally or by mail. Forms for such request shall be made available at the Police Department.

(iii) Nature of the Hearing/Hearing Officer

The hearing shall be conducted by a hearing officer and be informal in nature. The rules of evidence shall not apply. The hearing will not be determinative of, or adjudicate, any citation issued, any criminal violation charged, or any ordinance violation charged relative to the impoundment. After receiving all relevant evidence, the hearing officer shall make a written decision based

upon the preponderance of the evidence as to whether the impoundment and/or towing of the vehicle were authorized by this ordinance. The owner of the vehicle shall be provided with a copy of the written decision. The hearing officer shall have the authority under applicable laws of the State of Illinois to conduct such hearings. If the hearing officer does not determine by a preponderance of the evidence that the impoundment and/or towing of the vehicle were authorized by this ordinance, the officer shall enter a finding in favor of the owner and order the immediate return of the vehicle and, if paid, administrative penalty, bond and/or hearing fee, as the case may be. If a registered owner or lien holder requests a hearing, but fails to appear at such hearing, the hearing officer shall enter an order of default in favor of the Village in the amount of the administrative penalty and hearing fee.

(iv) **Scheduling of Post-Impoundment Hearings**

If a post-impoundment hearing is requested, it will be granted within ten (10) business days after the request for a hearing and held during normal business hours, unless the owner requests a later date convenient to all parties. The hearing shall take place at designated dates and time to be determined by the Police Department in conjunction with the hearing officer.

(v) **Hearing Fee**

In addition to the administrative penalty imposed pursuant to this Chapter, any person found liable for such penalty following a hearing on a contested violation regarding same shall further be subject to a fee of \$50, which fee shall be (i) separate and distinct from the administrative penalty imposed for the towing and removal of a vehicle pursuant to this Chapter, and (ii) imposed not as a penalty, but instead to partially offset those costs incurred by the Village in the Village's conduct of such hearing.

9-1-50: PARKING IN PRIVATE PARKING LOTS:

It shall be unlawful for any person not entitled to do so to park a vehicle in a private parking lot, which has been established voluntarily or pursuant to the Bloomingdale Zoning Ordinance to provide off-street parking facilities for those parties authorized by the owner of said lot.

9-1-51 THE ABANDONMENT OF VEHICLES PROHIBITED:

It is unlawful for any person to cause an abandoned vehicle or any part thereof to remain on private or public property anywhere in the Village except on property of the

owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on public property may be towed and removed in accordance with the provisions of this Chapter. A vehicle or any part thereof so abandoned on private property may be authorized for removal by the Police Department upon a request of the owner of record of such property in that instance or pursuant to a private agreement previously entered into between such owner and the Village.

9-1-52 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES:

- (a) When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in the Village who is not the owner of the vehicle, such person shall immediately notify the Police Department. Upon receipt of such notification, the Police Department will authorize a towing service to remove and take possession of the vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Chapter.
- (b) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to a highway or street, or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or street, or private property adjacent to the highway by a towing service may be authorized by the Police Department.

9-1-53: DISPOSAL OF UNCLAIMED VEHICLES:

- (a) Any abandoned, lost, stolen or unclaimed vehicle of seven (7) years of age or newer that remains unclaimed by the registered owner, lien holder or other person legally entitled to the possession thereof for a period of 30 days after notice has been given in accordance with 625 ILCS 5/4-208 shall be sold as after notice is provided in accordance with 625 ILCS 5/4-208. When the identity of the registered owner, lien holder or other person legally entitled to the possession of an abandoned, lost, stolen or unclaimed vehicle of seven (7) years of age or newer cannot be determined by (i) the registration files of the State of Illinois or registration files of a foreign state, or (ii) the Illinois State Police, the vehicle may be sold as provided in 625 ILCS 5/4-208 without notice to such persons whose identity cannot be determined.
- (b) When an abandoned vehicle of more than seven (7) years of age is impounded as specified by this Chapter, it shall be kept in custody or storage for a minimum of ten (10) days for the purpose of (i) determining the identity of the registered owner, lien holder, or other

legally entitled persons, (ii) contacting the registered owner, lien holder, or other legally entitled persons by U.S. mail and certified mail, return receipt requested with a description of the vehicle, the license plate and vehicle identification number for a determination of disposition and (iii) an examination of the Illinois State Police stolen vehicle files for theft and wanted information. At the expiration of such ten (10) day period, without the benefit of disposition information being received from the registered owner, lien holder, or other legally entitled persons, the Police Department may authorize the disposal of the vehicle as junk or salvage.

- (c) Notwithstanding the foregoing, a vehicle classified as an antique vehicle may be sold to a person desiring to restore it.

SECTION TWO: This ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED this 8th day of March, 2010

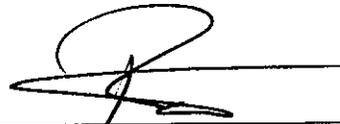
AYES: Trustees Von Huben, Czernek, Dolce, Bolen, Gebis and King

NAYS: None

ABSENT: None

ABSTAIN: None

APPROVED this 8th day of March, 2010.



Village President

ATTEST:


Village Clerk