

CHAPTER 1
GENERAL TRAFFIC PROVISIONS

- 9-1-1 Speed Limits
- 9-1-2 Stop Intersections, Yield Intersections
- 9-1-3 Yield Intersections (Repealed by Ord. 423, 3-2-87)
- 9-1-4 Driving Under Influence of Liquor or Drugs
- 9-1-5 Compression/Release Engine Brake Use Prohibited
- 9-1-6 Seizure and Impoundment of Motor Vehicles
- 9-1-7 Reclaimed Vehicles, Expenses
- 9-1-8 Penalty

9-1-1 **SPEED LIMITS** 7-3-78

Pursuant to a traffic investigation conducted by the Police Department of the Village and under the supervision and direction of the Chief of Police and upon adoption by resolution of such recommendation by the President and Board of Trustees, it shall be unlawful for any person to drive any motor vehicle on any street in the Village not under the jurisdiction of the Illinois State Department of Public Works and Buildings, or McHenry County, within the Village, at a speed in excess of twenty five (25) miles per hour, or in an alley at a speed in excess of fifteen (15) miles per hour.

It shall be unlawful for any person to drive any vehicle on any street, road or highway under the jurisdiction of the Illinois State Department of Public Works and Buildings, or McHenry County, at a speed greater than that posted.

9-1-2 **STOP INTERSECTIONS** Amended, 2007-08-810

Pursuant to 625 ILCS 5/11-208, the Village authorities may require that all vehicles stop before entering or crossing a highway or roadway or may designate any intersection as a stop intersection and require all vehicles to stop at one or more entrances to such intersections.

The Village authorities shall exercise their authority to so designate an intersection by the passage of an ordinance stating in particular which intersections shall be designated as stop intersections and by specifying what direction of travel shall be affected by the stop intersection.

The Chief of Police shall cause to be posted a stop sign in the location needed to notify and direct traffic in conformance with the ordinances passed pursuant to this Section.

The designation of stop signs set forth in the ordinances shall be effective only upon the posting of the stop sign in conformance with the resolution. Upon the posting of the proper sign, the designation of stop may be enforced by prosecuting the proper citation in 625 ILCS 5/11-901 through 625 ILCS 5/11-908.

As stated in 625 ILCS 5/11-202, it is a petty offense for any person to fail to obey a stop designation.

Pursuant to 625 ILCS 5/11-302, stop signs are hereby designated at the following intersections in the Village:

Traffic on	Stops at
Bigelow Avenue	Industrial Drive
Industrial Drive	Bigelow Avenue

9-1-3 Reserved

9-1-4 **DRIVING UNDER THE INFLUENCE OF LIQUOR OR DRUGS**

No person who is under the influence of intoxicating liquor may drive or be in actual physical control of any vehicle within this Village.

No person who is under the influence of any narcotic drug or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle may drive or be in actual physical control of any vehicle within this Village. The fact that a person charged with a violation of this Section is or has been entitled to use such drug under the laws of this State does not constitute a defense against any charge or violation of this Section.

9-1-5 **COMPRESSION/RELEASE ENGINE BRAKE USE PROHIBITED** 2000-01-663

- A. No person shall operate or cause to be used or operated within the Village any compression/release engine brake on any vehicle for any reason. For purposes of this Section 9-1-5, compression/release engine brake is defined as any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air which results in excessive, loud, unusual or explosive noise from such vehicle, or otherwise known as jake-braking.
- B. Penalty: Any person, firm or corporation violating this Section 9-1-5 shall be fined not less than \$500 and be responsible for the Village's cost of prosecution.

9-1-6 **SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES** 2010-11-859

- A. Definitions: For the purposes of this Section, and the interpretation and enforcement thereof, the following terms, phrases, words and their derivations shall have the meanings given herein, unless the context in which they are used shall indicate otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The words shall and will are mandatory and may is permissive. Words not defined shall be given their common and ordinary meaning.
 - 1. Hearing Officer: A licensed attorney, who is not an officer or employee of the Village, designated by the Chief of Police.

2. Owner of Record: The record titleholder to a motor vehicle as registered with the Illinois Secretary of State or any other applicable governmental agency.

B. Public Nuisance Declared: A motor vehicle, operated with the permission, express or implied, of the owner of record, shall be declared a public nuisance and shall be subject to seizure and impoundment under this Section where such motor vehicle is used in the commission of any of the violations set forth in this Section 9-1-6-B or when the commission of any of the violations set forth in this Section 9-1-6-B makes impoundment of the motor vehicle reasonably necessary as a community caretaking function so the motor vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. It shall not be necessary for criminal charges to be filed, prosecuted and/or proven in order to demonstrate that one or more of the following violations has/have been committed:

1. Section 8-4-1 (Disorderly Conduct) of this Code, as amended.
2. Section 8-4-2 (Weapons) of this Code, as amended;
3. 625 ILCS 5/6-303 (Driving While Drivers 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 5/13B-1, *et seq.* and 5/13C-1, *et seq.*, as amended;
4. 625 ILCS 5/11-204 (Fleeing or Attempting to Elude a Peace Officer), as amended;
5. 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;
6. 625 ILCS 5/11-503 (Reckless Driving or Aggravated Reckless Driving), as amended;
7. 625 ILCS 5/11-504 (Drag Racing), as amended, or the stopping of a person against whom a warrant has been issued by a circuit court for failing to appear to answer charges that the person was (a) operating a motor vehicle while that person's license was suspended or revoked or (b) operating a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof;
8. 720 ILCS 5/11-6 (Indecent Solicitation of a Child), as amended;
9. 720 ILCS 5/12-2 (Aggravated Assault), as amended;
10. 720 ILCS 5/12-4 (Aggravated Battery), as amended;
11. 720 ILCS 5/12-4.2 (Aggravated Battery with a Firearm), as amended;
12. 720 ILCS 5/12-4.3 (Aggravated Battery of a Child), as amended;
13. 720 ILCS 5/12-4.6 (Aggravated Battery of a Senior Citizen), as amended;
14. 720 ILCS 5/16A-3 (Retail Theft), as amended, when the value of the merchandise exceeds \$150.00;
15. 720 ILCS 5/18-1 (Robbery), as amended;
16. 720 ILCS 5/18-2 (Armed Robbery), as amended;
17. 720 ILCS 5/19-1 (Burglary), as amended;
18. 720 ILCS 5/19-3 (Residential Burglary), as amended;
19. 720 ILCS 5/20-1 (Arson), as amended;
20. 720 ILCS 5/20-1.1 (Aggravated Arson), as amended;
21. 720 ILCS 5/20-2 (Possession of Explosives or Explosive or Incendiary Devices), as amended;

22. 720 ILCS 5/21-1 (Criminal Damage to Property), as amended;
23. 720 ILCS 5/25-1 (Mob Action), as amended;
24. A violation of 720 ILCS 570/401 (Manufacture or Delivery of a Controlled Substance), as amended;
25. 720 ILCS 570/401.1 (Controlled Substance Trafficking), as amended;
26. 720 ILCS 570/402 (Possession of a Controlled Substance), as amended;
27. 720 ILCS 550/4(d)-(g) (possession of any substance containing cannabis);
28. 720 ILCS 550/5 (Manufacture or Delivery of Cannabis), as amended;
29. 720 ILCS 550/5.1 (Cannabis Trafficking), as amended;
30. 720 ILCS 550/5.2 (Delivery of Cannabis on School Grounds), as amended;
31. 720 ILCS 550/8 (Unauthorized Production or Possession of Cannabis Sativa Plant), as amended;
32. 720 ILCS 5/24-1 (Unlawful Use of Weapons), as amended;
33. 720 ILCS 5/24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition), as amended;
34. 720 ILCS 5/24-3.3 (Unlawful Sale or Delivery of Firearms on the Premises of any School), as amended; however, this subsection shall not apply when any of the exemptions set forth in 720 ILCS 5/24-2, as amended, are met;
35. 720 ILCS 5/24-1.1, Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of Department of Corrections Facilities;
36. 720 ILCS 5/11-14 (Prostitution), as amended;
37. 720 ILCS 5/11-14.1 (Solicitation of a Sexual Act), as amended;
38. 720 ILCS 5/11-15 (Soliciting for a Prostitute), as amended;
39. 720 ILCS 5/11-15.1 (Soliciting for a Juvenile Prostitute), as amended;
40. 720 ILCS 5/11-18 (Patronizing a Prostitute), as amended;
41. 720 ILCS 5/11-18.1 (Patronizing a Juvenile Prostitute), as amended;
42. The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1 (Seizure), as amended;
43. 625 ILCS 5/6-101 (Drivers Must Have Licenses or Permits), as amended; (a) Except a person who had a valid driver's license that is expired for less than six months; (b) except a person who is less than 17 years of age operating a motor vehicle on any street or highway when in violation of the Child Curfew Act (720 ILCS 550/0.01 *et seq.*)
44. 720 ILCS 5/24.1.1 (Aggravated Discharge of a Firearm);
45. 720 ILCS 5/24-1.5 (Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm);
46. 720 ILCS 5/24.1-5 (Reckless Discharge of a Firearm);
47. Any violation of a similar Village ordinance as those set forth in this Section; or
48. Any other circumstances under which the vehicle may be towed pursuant to this Code, the Police Department Operating Procedures or the Police Department's Administrative Procedures.

C. Seizure and Impoundment of Motor Vehicles:

1. Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall

cause the motor vehicle to be removed or towed to a facility authorized by the Village. When the motor vehicle is removed or towed, the police officer shall notify the person identifying himself or herself as the owner of record of the motor vehicle or any person who is found to be in control of the motor vehicle at the time of the alleged violation(s), if there is such a person, of the fact of the seizure and of the motor vehicle owner of record's right to request a preliminary hearing as provided in this Section. Said motor vehicle shall be impounded pending the completion of the hearings provided for in this Section, unless the owner of record of the motor vehicle posts with the Village a cash bond as set forth in Section 9-1-6-D.

2. A police officer who has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Section shall first ascertain whether the seizure and impoundment is necessary and reasonable under the circumstances. If in the judgment of the police officer then present, a person authorized by the owner of record or the operator of the motor vehicle is present and capable to provide for the lawful immediate removal of the motor vehicle, and said motor vehicle is not required to be held as evidence in regard to the violation, the police officer shall allow that individual to promptly remove the motor vehicle without it being subject to seizure and impoundment if seizure and impoundment of the motor vehicle is discretionary or seizure and impoundment of the motor vehicle is contemplated pursuant to Section 9-1-6-B.

D. Posting a Bond: If a bond in the amount of \$500 is posted with the Village, the impounded motor vehicle shall be released to the owner of record, upon the payment by the owner of record of the towing and storage costs to the applicable towing company. If an administrative fee is imposed pursuant to Section 9-1-6-F2, the bond shall be applied to said fee; provided, in the event that a violation of this Section is not proven, the bond shall be returned to the person posting the bond. All bond money posted pursuant to this Section shall be held by the Village until a hearing officer issues a decision, or, if there is judicial review pursuant to Section 9-1-6-K, until a reviewing court issues a final decision.

E. Preliminary Hearing: Where the owner of record of a motor vehicle seized under the provisions of this Section makes a request, in writing and filed with the Chief of Police or designee, for a preliminary hearing within 24 hours after the seizure of the motor vehicle, the Chief of Police or designee must conduct a preliminary hearing within 24 hours after the request for a preliminary hearing is received by the Village; provided that if the date for the preliminary hearing falls on a Saturday, Sunday or legal holiday, the preliminary hearing will be held on the next business day following the Saturday, Sunday or legal holiday. For purposes of this Section 9-1-6-E, the following shall apply:

1. All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing.
2. The formal rules of evidence shall not apply at the preliminary hearing, and hearsay testimony shall be allowed if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

3. If, after the conclusion of the preliminary hearing, the Chief of Police or designee determines that there is probable cause to believe that the motor vehicle was used as provided in Section 9-1-6-B, the Chief of Police or designee shall order the continued impoundment of the motor vehicle, unless the owner of record of the motor vehicle posts a cash bond with the Village in the amount of \$500.00, and pays the towing and storage costs to the applicable tow company, as set forth in Section 9-1-6-D.
4. If the Chief of Police or designee determines that there is not probable cause to believe that the motor vehicle was used as provided in Section 9-1-6-B, the motor vehicle shall be returned to the owner of record of the motor vehicle without any fees or other costs, but the owner of record shall be responsible to pay any towing or storage charges to the applicable tow company.
5. The Chief of Police shall have discretion to settle an impoundment made pursuant to this Section for a reduced administrative fee of \$250 upon a finding that unique circumstances exist warranting a reduced administrative fee.

F. Plea Hearing/Evidentiary Hearing:

1. Notice of Hearing: Within 10 days after a motor vehicle is impounded pursuant to this Section, the Village shall notify the owner of record of the date, time and location of a plea hearing that shall be conducted, pursuant to this Section 9-1-6-F. Such notice shall be sent by certified mail, return receipt requested, to the owner of record as shown on the records of the Illinois Secretary of State. Notice by certified mail need not be given when the owner of record has been personally served with notice, in written form, of the time, date and location of the plea hearing. The plea hearing shall be conducted by a hearing officer, designated by the Village Administrator. The owner of record shall appear at a plea hearing and enter a plea of guilty or not guilty. If a guilty plea is entered, or if the owner of record fails to appear, the cause shall be disposed of at that time, with an order/default order in favor of the Village, which order/default order shall require the payment to the Village of an administrative fee of \$500 and towing and storage costs to the applicable tow company, and the continued impoundment of the motor vehicle until the owner of record pays to the Village the administrative fee and towing and storage costs to the applicable towing company. If the owner of record pleads not guilty, an evidentiary hearing shall be scheduled and held no later than 45 days after the motor vehicle was impounded, unless continued by the hearing officer. All interested persons shall be given a reasonable opportunity to be heard at the evidentiary hearing. At any time prior to the evidentiary hearing date, the hearing officer may, at the request of either the Village or the owner of record, direct witnesses to appear and give testimony at the evidentiary hearing. The formal rules of evidence shall not apply at the evidentiary hearing, and hearsay evidence shall be admissible if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

2. If, after the evidentiary hearing, the hearing officer determines, by a preponderance of the evidence, that the motor vehicle was used in connection with a violation set forth in Section 9-1-6-B, the hearing officer shall enter an order finding the owner of record of the motor vehicle civilly liable to the Village for the administrative fee of \$500 and require the motor vehicle to continue to be impounded until the owner of record pays the administrative fee to the Village, plus applicable towing and storage costs to the applicable tow company. If a cash bond has been posted pursuant to Section 9-1-6-D or Section 9-1-6-E3, the bond shall be applied to the administrative fee. If the owner of record fails to appear at the evidentiary hearing, the hearing officer shall enter a default order in favor of the Village, which order shall require the payment to the Village of the administrative fee and towing and storage costs to the applicable tow company, and the continued impoundment of the motor vehicle until the owner of record pays to the Village the administrative fee and towing and storage costs to the applicable towing company. The administrative fee shall be a debt due to the Village and the Village may seek to obtain a judgment on the debt and enforce such judgment as provided by law. If the hearing officer finds no such violation occurred, the hearing officer shall order the immediate return of the owner of record's motor vehicle without any fee or other costs, or, if a cash bond had previously been posted, the cash bond shall be returned.
3. At the evidentiary hearing, the violation citation shall be prima facie evidence that the violation was committed as provided in the citation, and the burden of proof shall be upon the owner of record to prove that the violation was not committed.

G. Disposition of Impounded Motor Vehicles:

1. If the administrative fee and other applicable fees are not paid within 30 days after the administrative fee is imposed against an owner of record who defaults by failing to appear at the hearing provided in Section 9-1-6-F, or who admits guilt at the plea hearing, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provide by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100, *et seq.* as amended. In all other cases, if the administrative fee and applicable towing and storage costs to the applicable tow company are not paid within 30 days after the expiration of time by which administrative review of the hearing officer's determination may be sought pursuant to Section 9-1-6-K, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provide by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100, *et seq.*, as amended.
2. Except as otherwise specifically provided by law, no owner of record, lien holder or other person shall be legally entitled to take possession of a motor vehicle impounded under this Section until the administrative fee and towing and storage costs to the applicable tow company imposed pursuant to this Section have been paid. However, whenever a person with a lien of record against an impounded motor vehicle has commenced foreclosure proceedings, possession of the motor vehicle shall be given

to that person if he or she agrees in writing to refund to the Village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative fee, plus the applicable towing and storage costs.

3. Costs for towing and storage of a motor vehicle pursuant to this Section shall be those approved by the Chief of Police for all tow companies authorized to tow for the Police Department.

H. Applicability of Other Laws: This Section is in addition to and shall not replace or otherwise abrogate any existing state or federal laws or any ordinance that relates to the seizure or impoundment of motor vehicles, and any fee provided for in this Section shall be in addition to any and all penalties that may be assessed or imposed by a court for any criminal charges. This Section shall not apply: (1) if the motor vehicle used in the violation was stolen at the time of the violation and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered; (2) if the motor vehicle is operated as a common carrier as defined by applicable law and the violation occurs without the knowledge of the person in control of the motor vehicle; or (3) if the motor vehicle is subject to successful forfeiture proceedings under 725 ILCS 150/1, *et seq.* as amended (Drug Asset Forfeiture Procedure Act); 720 ILCS 5/36-1, *et seq.* as amended (Seizure and Forfeiture of Vessels, Vehicles and Aircraft); or other state or federal forfeiture laws.

I. Use of Fees Collected: All fees collected by the Village pursuant to this Section shall be deposited and used for Village traffic safety and enforcement expenditures.

J. General Regulations:

1. This Section shall not replace or otherwise abrogate any existing state or federal laws or Village ordinance pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.
2. This Section is not applicable if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered.
3. Fees for towing and storage of a vehicle under this Section shall be those approved by the Chief of Police for all towers authorized to tow for the Police Department.

K. Administrative Review: Any owner of record, lien holder or other person with a legal interest in the motor vehicle, shall have the right to appeal the decision of the hearing officer to the 22nd Judicial Circuit Court, pursuant to the Administrative Review Act, 735 ILCS 5/3-101, *et seq.*, as amended. Any respondent seeking review of a final decision shall be required to reimburse the Village for the costs of preparing and certifying the record of proceedings. Failure of the respondent to reimburse the Village shall be grounds for the dismissal of a complaint for administrative review pursuant to 735 ILCS 5/3-109. In the event the review-

ing court reverses the findings, decision and order of the Administrative Law Judge, the Village will reimburse the respondent for the costs for preparing and certifying the record of proceedings.

- L. Administrative Fee Refund: A finding of “not guilty” following a trial in the 22nd Judicial Circuit Court for the underlying violation wherein the motor vehicle was impounded, shall entitle the owner of record to a full and complete refund of any administrative fee imposed under this Section. However, the owner of record must request the refund in writing and shall include in the request a certified disposition of “not guilty” following a trial from the 22nd Circuit Court Clerk. An order of dismissal or a negotiated disposition on the underlying charge(s) shall not result in a refund of the administrative fee.

9-1-7 **RECLAIMED VEHICLES, EXPENSES** 2010-11-860

Any vehicle impounded by the Village shall not be released to the owner, lien holder or other person until proof of ownership or right to possession of the vehicle is presented to the Police Department and a towing charge of \$500 has been paid. If the Village stores the vehicle on Village property a storage charge shall be paid to the Village, effective 24 hours after the vehicle has been impounded. The charge for said storage shall be \$55 per day. The Village shall not be responsible for any vehicle damage or theft.

9-1-8 **PENALTY**

Unless otherwise provided, any person, firm or corporation violating any section of this Chapter 1 shall be fined not less than \$25 nor more than \$750 for each offense and be responsible for the Village's cost of prosecution. Each 24 hour period shall be considered a separate violation.