

VILLAGE OF NORTH AURORA



VILLAGE OF NORTH AURORA
KANE COUNTY, ILLINOIS

ORDINANCE NO. 16-02-01-01

**AN ORDINANCE REGARDING SEIZURE AND IMPOUNDMENT OF VEHICLES
AND THE METHOD OF SELECTION AND APPROVAL OF TOWING SERVICES
TO BE USED BY THE VILLAGE OF NORTH AURORA**

Adopted by the
Board of Trustees and President
of the Village of North Aurora
this 1st day of February, 2016

Published in Pamphlet Form
by authority of the Board of Trustees of the
Village of North Aurora, Kane County, Illinois,
this 1st day of FEBRUARY, 2016

by Cynthia J. Torrace

Signed Lori J. Murray

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WHEREAS, the Village of North Aurora previously maintained a list of approved and authorized towing services to provide towing services at the request of the Village of North Aurora or the Village of North Aurora Police Department; and

WHEREAS, the list of towing services no longer contains a sufficient number of approved towing services; and

WHEREAS, the Village of North Aurora desires to create a fair and transparent process for the selection and approval of towing services to be used by the Village of North Aurora on a rotating basis.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of North Aurora, Kane County, Illinois, as follows:

SECTION 1 The recitals set forth above are adopted and incorporated herein as the material and significant findings of the President and the Board of Trustees as if fully stated herein.

SECTION 2 Title 8 (Health and Safety) Chapter 8.04 (Abandoned Vehicles) Section 8.40.200 is hereby repealed.

SECTION 3 Title 9 (Peace, Morals and Welfare) is hereby amended by adding Chapter 9.40 (Seizure and Impoundment of Vehicles) as follows:

Chapter 9.40 - Seizure and Impoundment of Vehicles

9.40.010 - Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Lienholder of record is any person having a lawfully recorded lien on a vehicle as registered with the Illinois Secretary of State.

Owner of record of a vehicle is the record title holder as registered with the Illinois Secretary of State.

Tow truck means a motor vehicle which has been altered or designed and equipped for and exclusively used in the business of towing vehicles by means of a crane, tow bar, tow line or dolly, or is otherwise exclusively used to render assistance to other vehicles.

Towing service means an company or provider whose primary business is the provision of tow truck services in response to a dispatch or request from the Police Department or any other municipal department.

Truck means any truck weighing over ten thousand (10,000) pounds.

9.40.020 - Purpose and intent.

It is the intent of this Chapter to prescribe the basic regulations for the operation of tow trucks in the removal of motor vehicles and trailers which as a result of an arrest are left on a public right-of-way, private parking lots, roadways, driveways (or similar locations) or which are illegally parked, abandoned, constitute an obstruction to traffic or snow removal operations, or constitute a public nuisance. It is the purpose of the Village board in enacting this Chapter to provide a fair and impartial means of distributing Village requests for towing services among qualified services, and to ensure that such services are prompt and are provided in the best interest of the public, as well as the interest of efficient removal of such vehicles. In enacting this Chapter, it is not the purpose of the board to regulate towing services other than those dispatched or requested by Village personnel.

9.40.030 - Roster.

All towing services selected and designated to provide towing services under this Chapter shall be listed on a roster to be kept by the Police Department. The roster of towing services shall, at all reasonable times, be open to public inspection. The maximum number of towing services on said roster shall not exceed six firms at any one time. The roster of towing services shall be effective for a period of two years commencing February 1, 2016.

9.40.040 - Eligibility.

A towing service shall become eligible to be listed on the roster and participate in the assignment of service calls by the Police Department if it meets the requirements set forth in this Chapter. No person or towing service shall be placed on the roster or operate a tow truck on tow roster calls if that person or towing service has been convicted under the laws of Illinois or any other state of an offense which under the laws of Illinois would be a felony theft of a vehicle or a felony offense under Article 1, Chapter 4 of the Illinois Vehicle Code, or has been fined by the Illinois Commerce Commission.

9.50.050 - Application.

Any towing service meeting the minimum eligibility requirements may submit a verified application to the Village to participate in police towing operations. The application shall be in a form provided by the city clerk, and shall elicit the following information:

A. Business operation:

1. Name of towing service. Indicate whether a corporation or partnership, list all parties having a financial interest in the towing service, including names and addresses, and number of years the business has been established.
2. Experience. List number of years and locations of participation in similar police towing services, together with any commendations or written complaints received from governmental agencies in conduct of the business within the last five years.
3. Stability. State business activities of the towing service aside from participation in police towing activities.

4. Attendants and drivers. List names and addresses of all attendants and drivers who will conduct the towing service, as well as number of years employed, training received by attendants and drivers, and experience of the personnel in the conduct of the business. Said list shall be updated within ten days on any new attendants and/or drivers being employed.
 5. Equipment. Describe available equipment to be used in towing services, particularly in terms of comparative qualities or capacities as related to minimum eligibility requirements.
 6. Communications. Describe the method of operation of the communications system between the place of business and operating tow trucks, as well as the means utilized for ensuring prompt dispatch of trucks upon receipt of call from the Police Department.
 7. Other facilities and personnel available. List all provisions for record keeping, backup personnel and auxiliary services which might be required to effectively carry out a high level of service to the public in the business of tow truck operations.
- B. Business location and storage lot:
1. Primary business location. List location of primary business operation, including dimensions and types of facilities available.
 2. Storage lot. List location of storage lots, zoning classification, dimensions thereof, relationship to primary business operation, and the type of protection provided at the lot(s).

9.40.060 - Review of applications.

It shall be the duty of the Police Chief or his designated agents to investigate all applications and renewals submitted under this Chapter and place all eligible firms on the roster. The Police Chief shall disapprove of any application or renewal if, after due investigation, he finds that the applicant does not meet the minimum requirements set forth in this Chapter. The Police Chief shall notify an applicant in writing if an application or renewal is disapproved and state the reasons for such disapproval.

9.40.070 – Non-assignment.

Any towing service listed on the roster shall not assign its place to other towing services nor assign any calls without written consent of the Police Chief.

9.40.080 - Tow trucks; minimum equipment standards.

Minimum equipment standards for tow trucks shall be as follows:

- A. Truck chassis: At least one rig of one-ton capacity with rear dual wheels. The police officer on the scene shall determine if greater capacity is needed and shall call upon any service capable of providing that capacity regardless of whether or not the company is on the roster of the Village or whether it is their period of time to receive police requests.
- B. Company Information: Company name, address or phone number on both sides of tow truck.
- C. Lights: Trucks must, at all times, be equipped with such headlights, taillights, red reflectors, stoplights, warning lights, etc., as required by state law, plus one white utility light (adjustable

or portable), and may be equipped with such other lights as the owner may desire which are not forbidden by law.

- D. Winch: To be power-driven by power takeoff from transmission equipped with safety dogs or equivalent braking devices.
- E. Additional equipment: Trucks must be equipped with oil dry, red flares, lanterns or reflectors, hand tools, crowbar, rope, broom, shovel, dustpan, fire extinguisher (dry chemical type), portable red taillight and stoplight for towed vehicles, equipment for opening locked vehicles and safety snubber chain. Each towing service shall have at least one set of dollies readily available at all times.

9.40.090 - Minimum business and storage lot requirements.

- A. Business and storage. The business and storage lot of a towing service must be a reasonable distance from public transportation and the storage lot must be in close proximity to the place of business, the storage lot must have adequate storage space (at least 50 feet by 100 feet or equivalent area) to accommodate 30 cars, either under cover or well fenced. The towing service must exercise ordinary care to keep stored vehicles and contents safe from theft.
- B. Hours. There shall be an attendant on call, capable of responding to police requests for towing 24 hours a day, seven days a week. An attendant shall be on call to be present or available for the recovery of 1) towed vehicles and 2) personal items from towed vehicles by an authorized party Monday through Friday from 7:00 a.m. to 5:00 p.m., except for New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- C. Records. Each garage shall keep a record of the vehicle and license number; date and time it was towed; location from which it was towed; name of officer ordering the towing; and whether the vehicle was impounded or towed at the owner's request.

9.40.100 - Dispatching requirements.

- A. All requests for towing service pursuant to this Chapter shall be made through the Police Department.
- B. When it becomes evident that there will be a delay in responding to a request for towing service, the towing service concerned shall advise the Police Department of this delay.
- C. Tow trucks shall be dispatched from the place of business, or a reasonable distance from the place of business, as determined by the Police Department. The Police Department may, from time to time, establish a policy with regard to distribution of requests for towing service among the successful applicants, provided that the policy is fair and equitable to all firms listed on the roster.

9.40.110 – Violations Authorizing Seizure and administrative penalty.

- A. Violations authorizing seizure. Except as provided in subsection 9.40.160.B, a motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the violations set forth in subsections 1-35 below, shall be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty in the amount of \$500.00, which shall be in addition to any towing and storage fees charged by the towing service as provided herein. The

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administrative penalty shall be assessed to cover costs associated with the investigation, arrest and detention of an offender, or the removal, impoundment, storage, and release of the vehicle. 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. Driving with suspended or revoked license, 625 ILCS 5/6-303, except that a vehicle shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing;
2. Driving under the influence of alcohol, drugs, any intoxicating compound or a combination of alcohol, drugs, or any intoxicating compound, 625 ILCS 5/11-501(a);
3. When a motor vehicle is operated by a person against whom a warrant has been issued by a Circuit Court in Illinois, failing to answer charges that the driver violated subsection (A)(1)a or (A)(1)b of the above or for a violation of 625 ILCS 5/6-101;
4. Fleeing or attempting to elude a police officer, third or subsequent offense 625 ILCS 5/11-204(c);
5. Aggravated fleeing or attempting to elude a police officer, 625 ILCS 5/11-204.1;
6. Leaving the scene, after involvement in a motor vehicle accident involving death or personal injury, 625 ILCS 5/11-401;
7. Reckless driving or reckless driving causing bodily harm to a child or school crossing guard, 625 ILCS 5/11-503(a), (b), (b-1), (c) and (d);
8. Aggravated reckless driving, 625 ILCS 5/11-503(c);
9. Reckless driving causing great bodily harm or permanent disability or disfigurement to a child or a school crossing guard, 625 ILCS 5/11-503(d);
10. Street racing, second or subsequent offense; pursuant to 625 ILCS 5/11-506;
11. Aggravated street racing, 625 ILCS 5/11-506(d)(3);
12. Illegal transportation of alcohol/driver, 625 ILCS 5/11-502(a);
13. The following firearms offenses:
 - a. Unlawful use of weapons, 720 ILCS 5/24-1;
 - b. Unlawful use or possession of weapons by felons or persons in the custody of the department of corrections facilities 720 ILCS 5/24-1.1;
 - c. Aggravated discharge of a firearm, 720 ILCS 5/24-1.2;
 - d. Aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm, 720 ILCS 5/24-1.2-5;
 - e. Reckless discharge of a firearm, 720 ILCS 5/24-1.5;
 - f. Aggravated unlawful use of a weapon, 720 ILCS 5/24-1.6;
 - g. Unlawful possession of firearms and firearm ammunition, 720 ILCS 5/24-3.1;
 - h. Unlawful sale or delivery of a firearm on the premises of any school, 720 ILCS 5/24-3.3;

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14. Indecent solicitation of a child, 720 ILCS 5/11-6
15. Aggravated assault, 720 ILCS 5/12-2
16. Aggravated battery, 720 ILCS 5/12-3.05;
17. Theft, 720 ILCS 5/16-1;
18. Theft of lost or mislaid property, 720 ILCS 5/16-2;
19. Theft from coin operated machine, 720 ILCS 5/16-5;
20. Tampering with or theft of communication services, 720 ILCS 5/16-18;
21. Retail theft, 720 ILCS 5/16-25;
22. Robbery, 720 ILCS 5/18-1;
23. Armed robbery, 720 ILCS 5/18-2;
24. Burglary, 720 ILCS 5/19-1;
25. Residential burglary, 720 ILCS 5/19-3;
26. Arson, 720 ILCS 5/20-1;
27. Aggravated arson, 720 ILCS 5/20-1;
28. Possession of explosives or explosive or incendiary devices, 720 ILCS 5/20-2;
29. Criminal damage to property; 720 ILCS 5/21-1;
30. Mob action, 720 ILCS 5/25-1;
- 31 The operation or use of a motor vehicle:
 - a. In the commission of, or in the attempt to commit, a violation of the Cannabis Control Act, 720 ILCS 550/1 et seq.;
 - b. In the commission of, or in the attempt to commit, a violation of the Illinois Controlled Substance Act, 720 ILCS 570/100 et seq.; or
 - c. While soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act 720 ILCS 550/1 et seq., or the Illinois Controlled Substance Act, 720 ILCS 570/100 et seq.;
32. The following sexual offenses:
 - a. Prostitution, 720 ILCS 5/11-14.
 - b. Solicitation of a sexual act, 720 ILCS 5/11-14.1.
 - c. Promoting prostitution, 720 ILCS 5/11-14.3.
 - d. Promoting juvenile prostitution, 720 ILCS 5/11-14.4.
 - e. Patronizing a prostitute, 720 ILCS 5/11-18.
 - f. Patronizing a juvenile prostitute, 720 ILCS 5/11-18.1.
33. The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1;

34. A violation of 720 ILCS 5/11-03 (reckless driving) while the vehicle is part of a funeral procession, or in a manner that interferes with a funeral procession; or
 - 35 A violation of 625 ILCS 5/6-10 (drivers must have licenses or permits), except where the violation is for a license which has been expired for 12 months or less, or for a license which is invalid because of curfew (as in the case of a graduated license).
- B. Imposition of administrative penalty. The following shall apply to the administrative penalty imposed for costs for seizure pursuant to subsection A above:
1. All administrative penalties and towing and storage charges shall be imposed on the registered owner of the motor vehicle or the agent of that owner.
 2. The fees shall be in addition to:
 - a. Any other penalties that may be assessed by a court of law for the underlying violation; and
 - b. Any towing or storage fees or both, charged by the towing company.
 3. The officers on the scene shall advise the owner of record of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged violation, as to whether such tow requires charging the penalty specified in subsection (a) hereof. If an administrative penalty is to be imposed, the penalty shall be paid directly to the Village, and payment shall be made at the Village Police Department.
 4. The towing or storage fees, or both, shall be collected by and paid to the towing service that tows and stores the impounded vehicles.
 5. The towing service shall keep detailed records regarding vehicles towed hereunder, rates charged, and fees paid. Said records shall be available for inspection by the Police Department upon two days request by the Police Department.
 6. In lieu of the Village imposing a fee upon a towing service providing services hereunder, the towing service shall (by applying to be placed on the roster and accepting placement thereon) perform the following services to Village police vehicles (located within Village boundaries) at the request of the Village:
 - a. provide tows of Village police vehicles that have broken down, and
 - b. provide the changing of flat tires for Village police vehicles (or tow said vehicles).

9.40.120 – Notice of Seizure and Impoundment.

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section 9.40.110.A, the police officer shall provide for the towing of the vehicle to a facility authorized by the Village. The police officer shall notify the registered owner or lessee of the vehicle and any lienholder of record, of the fact of the seizure and of the vehicle and of owner's right to request an administrative hearing, as provided for in Section 9.40.130. Said vehicle shall be impounded pending the completion of the administrative hearing, unless a cash bond is posted with the Village in the amount of \$500.00 and the towing and storage charges are paid.

9.40.130 - Preliminary and full hearing.

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- A. Hearing Officer. The Police Chief shall designate from time to time a person within the Police Department as a preliminary hearing officer and an attorney licensed to practice law in the State for at least a minimum of three (3) prior years as the Hearing Officer.
- B. Preliminary Hearing. Within 24 hours of any vehicle being seized and impounded pursuant to this Chapter, if requested by any owner of record, lessee, or any lienholder of record, the Preliminary Hearing Officer shall allow for preliminary hearing at which time said owner of record, lessee, or any lienholder of record may present any evidence said person desires which would demonstrate a defense to said seizure and impoundment. The preliminary hearing may be conducted in person, over the phone or by other communication method or combination of communication methods. If the Preliminary Hearing Officer determines that said evidence supports such a defense, the Police Department may release said vehicle without further process. If the Preliminary Hearing Officer determines that said evidence does not support such a defense, then the Preliminary Hearing Officer shall proceed to a full hearing as outlined in the subsection C below.
- C. Full Administrative Hearing. If the vehicle remains impounded, and absent a determination to release vehicle, a full administrative hearing shall be scheduled within 45 days from the date of the seizure and impoundment.
1. Notice of Administrative Hearing. Notice shall be given in writing within ten (10) days after a vehicle is seized and impounded by personal delivery or by certified mail, return receipt requested to the registered owner or lessee of the vehicle and any lienholder of record, stating the date, time, location of the administrative hearing and requesting a plea of guilty or not guilty.
 2. Guilty Plea. If the owner returns a guilty plea, the matter may be disposed of without administrative hearing on the basis of the guilty plea.
 3. Hearing. If the owner pleads not guilty or fails to respond, the administrative hearing will proceed as scheduled, unless continued by order of the hearing officer, no later than 45 days after the initial administrative hearing. All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible, but only if it is the type commonly relied upon by reasonably-prudent persons in the conduct of their affairs.
 4. Administrative Determination. After the hearing, the hearing officer(s) shall issue a written decision either sustaining or overruling the vehicle impoundment. If the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this section, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the Village for an administrative penalty in an amount not to exceed \$500.00 and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty to the Village (or to the towing firm as directed by the Village) plus fees to the towing firm for the towing and storage of the

vehicle. If the hearing officer finds that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond without fees.

5. Default. If the owner of record fails to appear at the hearing, the hearing officer shall enter a default order in favor of the Village.
6. Appeal. An owner may appeal the determination made by the Hearing Officer pursuant to the Administrative Review Law.

9.40.140 - Administrative Penalty.

If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing to the Village. If a cash bond has been posted pursuant to this section, the bond shall be applied to the penalty. Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this Chapter which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced by obtaining a judgment in the local Circuit Court and pursuing enforcement of the judgment. Except as provided otherwise in this section, a vehicle shall continue to be impounded until the penalty is paid to the Village and any applicable towing and storage fees are paid, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the vehicle is not retrieved within 35 days after an administrative hearing officer issues a written decision, the vehicle shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles, as set forth in Article II, Chapter 4 of the Illinois Vehicle Code.

9.40.150 - Vehicle Possession.

- A. Except as otherwise specifically provided by law, or as set forth in this Section, no owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under this Chapter until the administrative penalty and any fees or costs that are applicable have been paid.
- B. A person with a lien of record against an impounded vehicle may obtain possession of the vehicle if formal foreclosure proceedings have been initiated, provided that the lienholder agrees in writing to pay from the net proceeds of any foreclosure sale, the administrative penalty, plus the applicable fees and costs imposed under this Chapter.

9.40.160 - General regulations.

- A. This Chapter 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.
- B. This section shall not apply if the vehicle used in the violation of law was stolen at that time, and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered.
- C. Fees for towing and storage of a vehicle under this Chapter shall be those approved by the Chief of Police for all towers authorized to tow for the Police Department.

9.40.170 - Tow Truck Owner and Driver Duties and Obligations.

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The following duties and obligations shall apply in regard to the tow trucks, tow truck owners and to truck drivers:

- A. Removal of hazards; police to determine necessity of removing vehicles. After being dispatched by the Police Department to the scene, the tow truck operator shall cooperate with the police officers in removing hazards and illegally parked vehicles as requested. It is the duty of the police officers to determine when such a vehicle should be impounded or moved, and the tow truck operator shall abide by their decisions. Officers shall refer to Police Department policies (as amended from time to time) for said determinations.
- B. Identification of tow trucks. Only tow trucks bearing the name of the towing service called shall be dispatched to the scene of need.
- C. Conduct. All owners of towing services shall conduct their business in an orderly and businesslike manner and use every means to avoid any conflicts between any interested parties. The primary measure to be used by the Village in determining whether a towing service has violated this section will be the number and type of complaints received by the Village from the public. The Police Department is charged with the investigation of all complaints related to towing services.
- D. Protection of vehicles. Vehicles impounded by the police for special investigations, i.e., fingerprints, etc., shall be held in maximum security until cleared by the investigating officers. Contents of vehicles with a police hold shall not be removed until cleared by the investigating officers.
- E. Responsibility for employees' acts. The owners of a tow truck participating in towing assignments by the Police Department shall be responsible for the acts of their employees while on duty. Towing services shall be responsible for damage to vehicles while in their possession (with the exception of occurrences that are out of the reasonable control of the towing service).
- F. Periodic inspection of records, equipment, facilities. Towing services on the roster shall be subject to periodic checks of all towing service's records, equipment and storage facilities by police officers. A towing service that fails to produce tow records or allow for inspections of its equipment and facilities at the request of the police shall be immediately suspended from the roster until further investigation.
- G. Damage appraisals. All vehicles stored or impounded as a result of a tow ordered by the Police Department shall be made available for inspection to the owner of the vehicle or his representative, any insurance agent, insurance adjuster, or any body shop or car dealer, for the purpose of estimating or appraising damages, except vehicles with a police hold.
- H. Access to vehicles. Vehicles impounded or to be impounded by a towing service shall be accessible to Police Department personnel, and employees of the towing service shall be required to assist Police Department personnel in respect to the impounded vehicles upon request.

- I. Itemized statements, when required.
1. A person conducting towing services shall furnish an itemized statement of services performed, labor and special equipment used in completing the tow of a vehicle and the charges made therefor to and upon the request of:
 - a. The person requesting the towing service;
 - b. The registered owner of the vehicle towed;
 - c. The insurance carrier of either paragraph (1) or (2) above;
 - d. The duly authorized agent of paragraph (1), (2) or (3) above.
 2. A person conducting towing services shall furnish a copy of the statement to any person authorized by this section to receive the statement without demanding payment as a condition precedent. The Chief of Police or his designee shall have authority over determining who may have access to towed vehicles ordered by the Village during any dispute that may arise from this section.
- J. Vehicle repair or alteration, when permitted. A person conducting towing services shall refrain from making any repairs or alterations to a towed vehicle without first being authorized by the Village. Parts or accessories shall not be removed from a towed vehicle without authorization except as necessary for security purposes. Under such circumstances, the parts or accessories removed shall be listed on the itemized statement and stored in the business office. This section shall not be construed to prohibit persons conducting towing services from making emergency alterations necessary to permit the removal vehicles by the tow service.
- K. Facilities to conform to building code. Towing services' storage lots, buildings, fencing, driveways, etc., must conform to the building code requirements of the municipality in which the property is located.
- L. Zoning requirements. Business and storage lots of towing services must conform to the zoning regulations of the municipality in which the property is located.
- M. Storage lot capacity. At no time shall the storage lot of a towing service be filled to more than ninety percent (90%) capacity. Should the lot be filled greater than that limit, the Village may suspend towing until such time as the number of the vehicles in the lot is reduced to within the above-stated capacity.
- N. Deviation from roster. Any and all tow truck operators not selected and designated pursuant to this Chapter are prohibited from removing from the public streets and towing away any vehicles involved in the situations as set forth in this Chapter.
- O. Insurance.
1. Each towing service listed on the roster shall have, in full force and effect, during the period the service remains on the roster, public liability, property damage and fire and theft

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insurance coverage as follows. The Village shall be listed as an additional insured on each policy. Proof of such coverage shall be a minimum eligibility requirement.

- a. Comprehensive general liability must include the following industry standard forms of insurance:
 - 1) Premises/operation coverage;
 - 2) Products and completed operations coverage;
 - 3) Blanket contractual liability;
 - 4) Five hundred thousand dollars combined single limit, or \$500,000.00 bodily injury and \$250,000.00 property damage.
 - b. Comprehensive auto liability must include the following endorsements:
 - 1) All owned autos, hired-car coverage, and employers non-owned auto coverage;
 - 2) The policy shall not contain a radius restriction of less than 50 miles;
 - 3) Fifty thousand dollars on hook liability.
 - c. Garage keeper's legal liability or motor truck cargo: The towing service shall provide coverage for the vehicles in their custody. Either a motor truck cargo policy, listing all storage lots as terminal locations or garage keepers' legal liability shall be required. The minimum amount of coverage shall be no less than \$50,000.00.
 - d. Workers' compensation and employers' liability: Statutory limits for workmen's compensation and a \$100,000.00 employers' liability limit.
2. Each towing service shall supply the Village with a certificate of insurance, which indicates coverage for the above mentioned minimum insurance requirements and carries the provision that said insurance shall not be cancelled without giving the Village at least 30 days' notice of cancellation or material change. The certificate of insurance shall name the Village as additional insured.
- P. Village indemnification. If any service listed on the roster performs towing services in a manner not in accordance with the provisions contained in this Chapter, the Police Department is held harmless from any and all liability or damage arising therefrom and by participating in the roster, the towing service hereby indemnifies and holds harmless the Village and the Police Department and its employees, officers, agents and assigns (indemnitees), for any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any act or omission of the towing service, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, or any other claims which may arise out of or be in any way connected with the towing services operations performed under this Chapter.
- Q. Removal or suspension from roster.

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1. Any deviation from the requirements established in this Chapter, or failure at any time to provide reasonable, quick and efficient service may result in the temporary suspension for no more than thirty (30) days or removal of the name of such towing service from the roster upon the determination of the Police Chief.
2. The Police Chief shall provide the tow operator with written notice at least fifteen (15) calendar days prior to the effective date of the suspension/removal by delivering said notice to the tow operator's place of business. Said written notice shall include:
 - a. The effective date of the suspension/removal;
 - b. Whether the suspension/removal is temporary or permanent;
 - c. The allegations which form the basis of the suspension/removal;
 - d. The actions, if any, the tow operator may take to prevent the suspension/removal from occurring; and
 - e. The procedure which the tow operator must follow to request a hearing to appeal the suspension/removal;
 - f. That the towing service may request a hearing by submitting formal request for hearing in writing within seven (7) days from the date of the delivery of notice; and
 - g. If no hearing is requested, the suspension/removal shall stand.
3. If a hearing is requested, the Village Administrator shall act as hearing officer. The Village shall set a time for the hearing within three (3) business days of receipt the request (if the request is timely made). If the towing service is unavailable at the time provided by the Village, the Village may (in its discretion) reschedule the hearing, but the suspension/removal will continue until the hearing unless the Village is unable to provide an alternative hearing date within the next three (3) days after the initial hearing date.
4. The hearing shall be informal and provide both sides with the opportunity to present all evidence relevant to the suspension/removal. The hearing officer shall issue a written decision based upon a preponderance of the presented evidence within seven (7) days of the hearing. The opinion will be sent to the towing service's business address with a copy retained in the towing services application file. The Village or the towing service may contest the decision of the hearing officer in any manner provided by law.

SECTION 4. This Ordinance shall take immediate full force and effect from and after its passage, approval, publication and such other acts as required by law.

15th Presented to the Board of Trustees of the Village of North Aurora, Kane County, Illinois this day of FEBRUARY, 2016, A.D.

Passed by the Board of Trustees of the Village of North Aurora, Kane County, Illinois this 15th day of FEBRUARY, 2016 A.D.

Mark Carroll

yes

Laura Curtis

yes

VILLAGE OF NORTH AURORA

Chris Faber

yes

Mark Gaffino

yes

Mark Guethle

yes

Michael Lowery

yes

Approved and signed by me as President of the Board of Trustees of the Village of North Aurora,
Kane County, Illinois this 1st day of February, 2016, A.D.

Dale Berman

Dale Berman, Village President

ATTEST:

Lori Murray

Lori Murray, Village Clerk

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