

VILLAGE OF BURNHAM

ORDINANCE NO. 2012-O-002

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF BURNHAM, ILLINOIS BY AMENDING SECTIONS OF CHAPTER 94 AND BY ADDING SECTION 94-90 TO CHAPTER 94

PASSED BY THE
VILLAGE PRESIDENT (MAYOR) AND BOARD OF TRUSTEES OF
THE
VILLAGE OF BURNHAM

THIS 14th DAY OF February, 2012

PUBLISHED IN PAMPHLET FORM
BY AUTHORITY OF THE VILLAGE PRESIDENT (MAYOR) AND
BOARD OF TRUSTEES OF THE VILLAGE OF BURNHAM, COOK
COUNTY, ILLINOIS THIS 8th DAY OF February, 2012

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**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
VILLAGE OF BURNHAM, ILLINOIS BY AMENDING
SECTIONS OF CHAPTER 94 AND BY ADDING SECTION 94-
90 TO CHAPTER 94**

WHEREAS, the Village of Burnham, Cook County, Illinois, (the “Village”) has elected by Referendum on March 11, 1980 to become a home rule unit, and accordingly, pursuant to the provisions of the Constitution of the State of Illinois of 1970, particularly Article VII, Section 6(a) thereof, the Village is a home rule unit; and

WHEREAS, pursuant to the powers of a home rule unit set forth in Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970, the Village may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of public health, safety, morals, and welfare, to license, to tax and to incur debt; and

WHEREAS, the use of a motor vehicle in the commission of offenses within the corporate limits of the Village has disrupted the peace and tranquility of the Village, increased the public burden upon law enforcement and harmed the quality of life within the Village; and

WHEREAS, the Corporate Authorities of the Village deem it advisable to amend Chapter 94 of the Code of Ordinances, Village of Burnham, Illinois to

safeguard the safety and welfare of the residents of the Village by forbidding and preventing the commission of specified offenses with the use of a motor vehicle within the corporate limits of the Village and by prescribing penalties and seizure and impoundment of a motor vehicle use in the commission of said specified offenses; and

WHEREAS, the Corporate Authorities of the Village deem it advisable to amend the Code of Ordinances, Village of Burnham, Illinois by amending Sections 94-18, 94-32, 94-61, 94-62, 94-67, 94-68, 94-87, 94-88, and 94-212 and by adding Section 94-90 to Chapter 94 in order to be in compliance with the statutory administrative fees, procedures, and specified offenses for seizure and impoundment of a motor vehicle prescribed by Public Act 097-0109 effective January 1, 2012.

BE IT ORDAINED by the Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, in the exercise of its home rule powers, as follows:

Section 1. The Village President (Mayor) and Board of Trustees of the Village of Burnham, Cook County, Illinois, hereby find that all of the recitals contained in the preambles of this Ordinance are true, correct and complete and do hereby incorporate them into this Ordinance by this reference as if they were set forth verbatim in this section.

Section 2. Section 94-18. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-18. Penalty for violation of specific provision(s) of the Illinois Vehicle Code.

(a) A person charged with an offense under 625 ILCS 5/11-501(a) of the Illinois Vehicle Code, including any of its subsections, shall be prosecuted for and shall be subject to penalties imposed in class A misdemeanor cases of a fine up to \$1,000.00 and/or imprisonment not to exceed one year.

(b) A person charged with an offense under 625 ILCS 5/6-101(a), or 625 ILCS 5/6-101(b), or 625 ILCS 5/6-303(a) of the Illinois Vehicle Code shall be prosecuted for and shall be fined upon conviction not less than \$100.00 nor more than \$1,000.00 or sentenced to imprisonment in a penal institution other than a penitentiary for a period of not more than six months, or be both fined and imprisoned for each offense. A separate offense shall be deemed committed on each day during or which a violation occurs or continues.

(c) Use of motor vehicle in violation of section 94-18(a) or Sec. 94-18(b);
impoundment.

(1) A motor vehicle that is used in violation of 625 ILCS 5/6-101(a) if the period of expiration is greater than one year, or 625 ILCS 5/6-101(b) if the period of expiration is greater than one year, or 625 ILCS 5/6-303(a) if the

suspension is not for an unpaid citation (parking or moving) or is not due to failure to comply with emission testing, or 625 ILCS 5/11-501(a), of the Illinois Vehicle Code, including any of its subsections, shall be subject to seizure and impoundment under this subsection. The owner of such motor vehicle or the agents of that owner shall be liable to the village for an administrative fee of \$500.00 and to the person, firm, or entity that tows and stores the impounded motor vehicle for all towing and storage charges for the impounded motor vehicle charged by the towing company. This subsection shall not apply:

a. upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded, or

b. If the motor vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the motor vehicle.

(2) Whenever a police officer has cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the motor vehicle to a facility authorized by the village. When the motor vehicle is towed, the police officer shall notify the owner, lessee, or person indentifying himself or herself as the owner or lessee of the motor vehicle, or any person who is found to be in control of the motor vehicle at the time of the alleged offense of the fact of the seizure and of the motor

Sec. 94-32. Impoundment.

(a) Definition. For the purposes of this section, the term "owner" means the registered owner of a motor vehicle as recorded by the Secretary of State.

(b) Impoundment of motor vehicle; release of motor vehicle.

(1) Whenever a police officer has cause to believe that a motor vehicle is subject to impoundment, that is the motor vehicle was used in the commission of any crime described in section 94-18(a), or section 94-18(b), or section 94-61(a), or section 94-62(a), or section 94-88(a), or section 94-90, the police officer shall provide for the towing of the motor vehicle to a facility authorized by the village.

(2) At the time the motor vehicle is towed, the village shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the motor vehicle, or any person who is found to be in control of the motor vehicle at the time of the alleged offense of the fact of the seizure and of the vehicle owner's or lessee's right to an administrative hearing. The village shall also provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the motor vehicle or a lienholder posts with the village a bond equal to the administrative fee of \$500.00 and pays for all towing and storage charges.

(3) The owner of a motor vehicle, lessee of a motor vehicle, or any lienholder of record of a motor vehicle seized and impounded pursuant to this section may obtain immediate release of the motor vehicle by posting a cash bond with the village equal to the administrative fee of \$500.00 and by paying to the person, firm, or entity that towed and stored the impounded motor vehicle all towing and storage charges for impounded motor vehicle charged by the towing company without his waiving his right to an administrative hearing pursuant to subsection (c) of this section to challenge whether a violation of this chapter for which seizure and impoundment applies has occurred.

(c) Within ten (10) days after a motor vehicle is seized and impounded pursuant to this section, the village shall notify the owner of the motor vehicle, lessee of the motor vehicle, or any lienholder of record of the motor vehicle either by personal service or by first class mail, postage prepaid, to the interested party's address as registered with the Secretary of State, of the date, time and location of an administrative hearing to challenge whether a violation of this chapter for which seizure and impoundment applies has occurred. The notice shall state that the motor vehicle will remain impounded pending completion of an administrative hearing, unless the owner of the motor vehicle or lessee of the motor vehicle, or a lienholder of record posts with the village a bond equal to the administrative fee of \$500.00 and pays to the person, firm or entity that towed and stored the impounded

motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. The administrative hearing date must be scheduled and convened no later than 45 days after the date of the mailing of the notice of hearing. The administrative hearing shall be recorded. The administrative hearing shall be conducted by a hearing officer. All interested persons shall be given a reasonable opportunity to be heard at the administrative hearing. All interested persons appearing at the administrative hearing may be represented by counsel at their own expense. The formal rules of evidence will not apply at the administrative hearing, and hearsay evidence shall be admissible. At the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the motor vehicle impoundment. The hearing officer shall waive the administrative fee of \$500.00 upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded. Unless the hearing officer overturns the basis for the motor vehicle impoundment, no impounded motor vehicle shall be released until all administrative fees and towing and storage charges are paid. If, at the conclusion of the administrative hearing, the basis for the motor vehicle impoundment is sustained by the hearing officer, any administrative fee posted to secure the release of the impounded motor vehicle shall be forfeited to the village. If, at the conclusion of the administrative hearing, the hearing officer determines by a preponderance of the evidence that the

motor vehicle was used in the commission of any of the violations described in section 94-18(a), or section 94-18(b), section 94-61(a), or section 94-62(a) or section 94-88(a), or section 94-90 and that none of the exceptions described in subsection 94-18(c)(1)a. or subsection 94-18(c)(1)b, or section 94-61(c)(1)(a), or section 94-61(c)(1)(b), or subsection 94-62(f)(1)a, or subsection 94-62-(f)(1)(b), or subsection 94-88(d)(1)a, or subsection 94-88(d)(1)b, or subsection 94-90(c)(1)a, or subsection 94-90(c)(1)b applies, the hearing officer shall enter a written decision sustaining the motor vehicle impoundment finding the owner of the impounded motor vehicle or the agents of that owner civilly liable to the village for an administrative fee in the amount of \$500.00 and to the person, firm, or entity that towed and stored the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company and requiring the motor vehicle to continue to be impounded until the owner of the motor vehicle or the agents of the owner pays the administrative fee of \$500.00 to the village and pays to the person, firm, or entity that towed and stored the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. If the owner of the motor vehicle, lessee of the motor vehicle, or any lienholder of record of the motor vehicle fails to appear at the administrative hearing, the owner of the motor vehicle, lessee of the motor vehicle, or any lienholder of record of the motor vehicle shall be deemed to have waived his or her

right to an administrative hearing and the hearing officer shall issue a written default decision in favor of the village requiring the payment to the village of an administrative fee of \$500.00 and requiring the motor vehicle to continue to be impounded until the owner of record or the agents of that owner pays to the village the administrative fee of \$500.00 and to the person, firm, or entity that towed and stored the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. If, at the conclusion of the administrative hearing, the hearing officer finds by a preponderance of the evidence that no such violation occurred, the hearing officer shall issue a written decision overruling the motor vehicle impoundment and for the immediate return of the owner's, lessee's, or lienholder's motor vehicle or cash bond; provided, if the motor vehicle was seized and impounded pursuant to section 62-197(b), the motor vehicle shall not be returned unless and until the village receives notice from the appropriate state, or where applicable, federal officials, that:

- (1) Forfeiture proceedings will not be instituted;
- (2) Forfeiture proceedings have concluded and there is a settlement or a court order providing that the motor vehicle shall be returned to the owner of record.

(d) Hearing Officer.

(1) The administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in this State for a minimum of 3 years.

(2) The hearing officer shall be appointed by the Village President.

(3) The hearing officer is empowered to administer oaths and to secure by subpoena both the attendance and testimony of witnesses and the production of relevant books and papers.

(e) Administrative fee and fees for towing and storage.

(1) All administrative fees and towing and storage charges shall be imposed on the registered owner of the motor vehicle or the agents of that owner.

(2) The administrative fee imposed under this section shall be in addition to:

a. any other penalties that may be assessed by a court of law for the underlying violations; and

b. any towing or storage fees or both, charged by the towing company.

(3) The fees shall be uniform for all similarly situated motor vehicles.

(4) The administrative fee of \$500.00 shall be collected by and paid to the village.

(5) The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded motor vehicle.

(6) The administrative fee of \$500.00 shall be waived by the village upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded

(f) All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law.

(g) Unclaimed impounded motor vehicle(s).

Impounded motor vehicles not retrieved from the towing facility or storage facility within 35 days after the administrative hearing officer issues a written decision shall be deemed abandoned and disposed of in accordance with the provisions of Article II of Chapter 4 of the Illinois Vehicle Code.

(h) Enforcement of administrative fee.

Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this section 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 in the same manner as a judgment entered by a court of competent jurisdiction.

(i) Fees for towing and storage. Fees for towing and storage of a motor vehicle under this section shall be the same as those charged pursuant to subsection 94-715(e).

Section 4. Section 94-61. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-61. License required; to be carried and exhibited on demand.

(a) Required. No person, except those expressly exempted by Section 6-102 of the Illinois Vehicle Code, shall drive any motor vehicle on any street, alley, highway or other public way in the village, unless such person has a valid license or permit, or a restricted driving permit, issued under the provisions of the Illinois Vehicle Code.

(b) Carried and exhibited. Every licensee or permittee shall have his driver's license in his immediate possession at all times when operating a motor vehicle in the village and, for the purpose of indicating compliance with this requirement, shall display such license or permit if it is in his possession upon demand made, when in uniform or displaying a badge or other sign of authority, by a police officer.

State law reference-Similar provisions, 625 ILCS 5/6-101, 5/6-112.

(c) Use of vehicle in violation of Sec. 94-61(a); impoundment.

(1) A motor vehicle that is use in the violation of section 94-61(a) shall be subject to seizure and impoundment under this subsection. The owner of such motor vehicle or the agents of the owner of such motor vehicle shall be liable to the village for an administrative fee of \$500.00 and to the person, firm, or entity that tows and stores the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. This subsection shall not apply:

a. upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded or

b. If the motor vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the motor vehicle.

(2) Whenever a police officer has cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the motor vehicle to a facility authorized by the village. When the motor vehicle is towed, the police officer shall notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the motor vehicle, or any person who is found to be in control of the motor vehicle at the time of the alleged offense of the fact of the seizure and of the motor vehicle owner's or lessee's right to request an administrative hearing to be conducted under

section 94-32. However, such motor vehicle shall be released by the arresting police officer prior to towing if:

a. the motor vehicle was not owned by the person under arrest and the lawful owner requesting such a release possesses a valid operator's license, proof of ownership for the motor vehicle, proof of insurance and would not, as determined by the arresting police officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code; or

b. the motor vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such motor vehicle, provided, however, that the other person possesses a valid operator's license, proof of insurance for the motor vehicle and would not, as determined by the arresting officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code.

(3) The provisions of section 94-32 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

Section 5. Section 94-62. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-62. Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any other combination thereof.

(a) A person shall not drive or be in actual physical control of any vehicle within the village while:

(1) The alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in section 94-64;

(2) Under the influence of alcohol;

(3) Under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving safely;

(4) Under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving;

(5) Under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving; or

(6) There is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, 720 ILCS 550/1 et seq., a controlled substance listed in the Illinois Controlled Substance Act, 720 ILCS 570/100 et seq., an intoxicating compound listed in the Use of Intoxicating Compounds Acts, 720

ILCS 690/0.01 et seq, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, 720 ILCS 646/1 et. seq.

State law reference-Similar provisions, 625 ILCS 5/11-501(a).

(b) The fact that any person charged with violating this section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge for violating this section.

State law reference-Similar provisions, 625 ILCS 5/11-501(b).

(c) Except as provided under subsection (d) of this section, every person convicted of violating this section shall be guilty of a class A misdemeanor and, in addition to any other criminal or administrative action, for any second conviction of violating this section or a similar provision of a law of another state or local ordinance committed within five years of a previous violation of this section or a similar provision of a local ordinance shall be mandatorily sentenced to a minimum of 48 consecutive hours of imprisonment or assigned to a minimum of 100 hours of community service as may be determined by the court. Every person convicted of violating this section or a similar provision of a local ordinance shall be subject to a mandatory minimum fine of \$500.00 and a mandatory five days of community service in a program benefiting children if the persona committed a violation of subsection (a) of this section or a similar local ordinance while

transporting a person under age 16. Every person convicted a second time for violating this section or a similar provision of a local ordinance within five years of a previous violation of this section or a similar provision of a law of another state or local ordinance shall be subject to a mandatory minimum fine of \$500.00 and ten days of mandatory community in a program benefiting children if the current offense was committed while transporting a person under age 16. The imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

State law reference-Similar provisions, 625 ILCS 5/11-501(c).

(d) Every person convicted of violating this section who had a child under age 16 in the vehicle at the time of the offense shall have his or her punishment under this section enhanced by two days of imprisonment for a first offense, ten days of imprisonment for a second offense, 30 days of imprisonment for a third offense, and 90 days of imprisonment for a fourth or subsequent offense, in addition to the fine and community service required under subsection (c). The imprisonment or assignment under this subsection shall not be subject to suspension nor shall the person be eligible for probation in order to reduce the sentence or assignment.

State law reference-Similar provisions, 625 ILCS 5/11-501(c-3).

(e) The secretary of state shall revoke the driving privileges of any person convicted under this section.

State law reference-Similar provisions, 625 ILCS 5/11-501(g).

(f) Use of motor vehicle in violation of Sec. 94-62(a); impoundment.

(1) A motor vehicle that is use in the violation of section 94-62.(a) shall be subject to seizure and impoundment under this subsection. The owner of such motor vehicle or the agents of the owner of such motor vehicle shall be liable to the village for an administrative fee of \$500.00 and to the person, firm, or entity that tows and stores the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. This subsection shall not apply:

a. upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded or

b. If the motor vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the motor vehicle.

(2) Whenever a police officer has cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the motor vehicle to a facility authorized by the village. When the motor vehicle is towed, the police officer shall notify the

owner, lessee, or person identifying himself or herself as the owner or lessee of the motor vehicle, or any person who is found to be in control of the motor vehicle at the time of the alleged offense of the fact of the seizure and of the motor vehicle owner's or lessee's right to request an administrative hearing to be conducted under section 94-32. However, such motor vehicle shall be released by the arresting police officer prior to towing if:

a. the motor vehicle was not owned by the person under arrest and the lawful owner requesting such a release possesses a valid operator's license, proof of ownership for the motor vehicle, proof of insurance and would not, as determined by the arresting police officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code; or

b. the motor vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such motor vehicle, provided, however, that the other person possesses a valid operator's license, proof of insurance for the motor vehicle and would not, as determined by the arresting officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code.

(3) The provisions of section 94-32 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

Section 6. Section 94-67 of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-67. Reckless driving.

(a) A person commits reckless driving if he or she:

(1) drives any vehicle with a willful or wanton disregard for the safety of persons or property; or

(2) knowingly drives a vehicle and uses an incline in a roadway, such as a railroad crossing, bridge approach, or hill, to cause the vehicle to become airborne.

(b) Every person convicted of reckless driving shall be guilty of a class B misdemeanor.

State law reference-Similar provisions, 625 ILCS 5/11-503(a).

Section 7. Section 94-68. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-68. Street racing.

(a) No person shall engage in street racing on any street or highway in the Village.

(b) No owner of any motor vehicle shall acquiesce in or permit his or her motor vehicle to be used by another for the purpose of street racing.

(c) For the purpose of this section, the following words shall have the meanings ascribed to them:

"Acquiesce" or "permit" means actual knowledge that the motor vehicle was to be used for the purpose of street racing.

"Street racing" means:

(1) The operation of 2 or more vehicles from a point side by side at accelerating speed in competitive attempt to outdistance each other; or

(2) The operation of one or more vehicles over a common selected course, each starting at the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit; or

(3) The use of one or more vehicles in an attempt to outgain or outdistance another vehicle; or

(4) The use of one or more vehicles to prevent another vehicle from passing; or

(5) The use of one or more vehicles to arrive at a given destination ahead of another vehicle or vehicles; or

(6) The use of one or more vehicles to test the physical stamina or endurance of drivers over long-distance driving routes.

(d) Any person who is convicted of a violation of subsection (a) shall be guilty of a class C misdemeanor, and the driver's license of such person shall be revoked in the manner provided by Section 6-205 of the Illinois Vehicle Code, 625 ILCS 5/6-205.

State law reference-Similar provisions, 625 ILCS 5/11-506.

Section 8. Section 94-87. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-87. Fleeing or attempting to elude police officer.

(a) Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a peace officer directing such driver or operator to bring his vehicle to a stop, willfully fails or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer, is guilty of a class B misdemeanor. The signal given by the peace officer may be by hand, voice, siren, red or blue light; provided, however, that the officer giving such signal shall be in police uniform, and, if driving a vehicle, such vehicle shall display illuminated oscillating, rotating or flashing red or blue lights which when used in conjunction with an audible horn or siren would indicate the vehicle to be an official police vehicle. Such requirement shall not preclude the use of amber or

white oscillating, rotating or flashing lights in conjunction with red or blue oscillating, rotating or flashing lights as required by Section 12-215 of Chapter 12 of the Illinois Vehicle Code.

(b) Upon receiving notice of such conviction the secretary of state may forthwith suspend the driver's license of the person so convicted for a period of not more than six months for a first conviction and not more than 12 months for a second conviction.

State law reference-Similar provisions, 625 ILCS 5/11-204.

Section 9. Section 94-88. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-88. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.

(a) Any person who drives or is in actual physical control of a motor vehicle on any highway of this village at a time when such person's driver's license, permit, or privilege so to do or the privilege to obtain a driver's license or permit is revoked or suspended as provided by the Illinois Vehicle Code or under the law of another state, except as may be specifically allowed by a judicial driving permit issued prior to January 1, 2009, monitoring device driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to the Illinois Vehicle Code or under the law of another state shall be guilty of a class A misdemeanor.

(b) The Secretary of State upon receiving a report of the conviction of any violation under this section indicating a person was operating a motor vehicle during the time when the person's driver's license, permit or privilege was suspended by the Secretary of State or the drivers licensing administrator of another state, except as specifically allowed by a probationary license, judicial driving permit, restricted driving permit or monitory device driving permit, the Secretary shall extend the period of suspension for same period of time as the originally imposed suspension unless the suspension has already expired, in which case, the Secretary of State shall be authorized to suspend such person's driving privileges for the same period of time as the originally imposed suspension.

The Secretary of State upon receiving a report of the conviction of any violation under this section indicating a person was operating a motor vehicle when the person's driver's license, permit or privilege was revoked by the Secretary of State, or the driver's license administrator of any other state, except as specifically allowed by a restricted driving permit issued pursuant to the Illinois Vehicle Code or the law of another state, the Secretary of State shall not issue a driver's license for an additional period of one year from the date of such conviction indicating such person was operating a vehicle during such period of revocation.

(c) Any person convicted of violating this section shall serve a minimum term of imprisonment of ten consecutive days or 30 days of community service when the person's driving privilege was revoked as a result of:

(1) a violation of 625 ILCS 5/11-501, or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a vehicle while under the influence of alcohol, any other drug or any combination thereof; or

(2) a violation of 625 ILCS 5/11-401(b), or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension or revocation under Section 11-501.1 of the Illinois Vehicle Code.

Such sentence of imprisonment or community service shall not be subject to suspension in order to reduce such sentence.

State law reference-Similar provisions, 625 ILCS 5/6-303.

(d) Use of vehicle in violation of Sec. 94-88(a); impoundment, exceptions.

(1) A motor vehicle that is use in the violation of section 94-88(a) if the suspension is not for an unpaid citation (parking or moving) or not due to the failure to comply with emission testing shall be subject to seizure and impoundment under this subsection. The owner of such motor vehicle or the agents

of the owner of such motor vehicle shall be liable to the village for an administrative fee of \$500.00 and to the person, firm, or entity that tows and stores the impounded motor vehicle all towing and storage charges for the impounded motor vehicle charged by the towing company. This subsection shall not apply:

a. upon verifiable proof that the motor vehicle was stolen at the time the motor vehicle was impounded or

b. If the motor vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the motor vehicle.

(2) Whenever a police officer has cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the motor vehicle to a facility authorized by the village. When the motor vehicle is towed, the police officer shall notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the motor vehicle, or any person who is found to be in control of the motor vehicle at the time of the alleged offense of the fact of the seizure and of the motor vehicle owner's or lessee's right to request an administrative hearing to be conducted under section 94-32. However, such motor vehicle shall be released by the arresting police officer prior to towing if:

a. the motor vehicle was not owned by the person under arrest and the lawful owner requesting such a release possesses a valid operator's license, proof of ownership for the motor vehicle, proof of insurance and would not, as determined by the arresting police officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code; or

b. the motor vehicle is owned by the person under arrest, and the person under arrest gives permission to another person to operate such motor vehicle, provided, however, that the other person possesses a valid operator's license, proof of insurance for the motor vehicle and would not, as determined by the arresting officer, indicate a lack of ability to operate a motor vehicle in a safe manner, or who would otherwise, by operating such motor vehicle, be in violation of the Illinois Vehicle Code.

(3) The provisions of section 94-32 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

Section 10. Section 94-212. of the Code of Ordinances, Village of Burnham, Illinois is hereby amended to read as follows:

Sec. 94-212. Driving 40 miles per hour or more in excess of applicable limit.

A person who drives a vehicle upon any public street, highway, roadway or alley of the village at a speed that is 40 miles per hour or more in excess of the

applicable maximum speed limit established under this division commits a class A misdemeanor.

State law reference-Similar provisions, 625 ILCS 5/11-601.5.

Section 11. The Code of Ordinances, Village of Burnham, Illinois is hereby amended by a section to be numbered 94-90, which section reads as follows.

Sec. 94-90. Use of motor vehicle in violation of additional specific offenses under Illinois Vehicle Code.

(a) It shall be unlawful for any person to operate or use a motor vehicle within the corporate limits of the village in the commission of, or in an attempt to commit any one of the following offenses of the Illinois Vehicle Code:

(1) Operation or use of a motor vehicle without ever having been issued a driver's license or permit in violation of Section 6-101 of the Illinois Vehicle Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or

(2) Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of the Illinois Vehicle Code; or

(3) Section 11-204.1 Aggravated fleeing or attempting to elude a peace officer, 625 ILCS 5/11-204.1; or

(4) Driving under the influence of alcohol or other drug or drugs, intoxicating compound or compounds or any combination thereof under Section 11-501 of the Illinois Vehicle Code during a period in which his or her driving privileges are revoked or suspended where the revocation or suspension was for driving under the influence of alcohol or other drug or drugs, intoxicating compound or compounds or any combination thereof, Section 11-5-1 of the Illinois Vehicle Code, paragraph (b) of Section 11-401 of the Illinois Vehicle Code, or for reckless homicide as defined in Section 0-3 of the Criminal Code of 1961; or

(5) Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof and has been previously convicted of reckless homicide or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person was previously convicted of committing a violation of driving under the influence of alcohol or other drug or drugs, intoxicating compound or compounds or any combination thereof and was involved in a motor vehicle accident that resulted in death, great bodily harm, or permanent disability or disfigurement to another, when the violation was a proximate cause of the death or injuries; or