

ORDINANCE NO. 20-01
VILLAGE OF FLANAGAN

**AN ORDINANCE DECLARING CERTAIN INOPERABLE
MOTOR VEHICLES TO BE A NUISANCE**

[AN ORDINANCE REPLACING ORDINANCE 2016-09 OF THE SAME TITLE]

WHEREAS, the Village of Flanagan has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety and welfare of its citizens; and,

WHEREAS, this Ordinance is adopted pursuant to the provisions of the Illinois Municipal Code (Act) 65 ILCS 5/11-40-3 allowing municipalities, under certain circumstances, to declare inoperable motor vehicles a nuisance and 65 ILCS 5/11-60-2 to define, prevent, and abate nuisances; and,

WHEREAS, consistent with the above authority, the Village of Flanagan has previously adopted various provisions regarding nuisances within the Village, and desires to enact this ordinance out of concern for inoperable motor vehicles being a potential fire risk and environmental pollutant from oil, gasoline, and other fluid leakage; attracting debris, trash, rodents, and vermin; acting as an attractive nuisance for children; and potentially acting as an alternative sleeping arrangement for the homeless;

NOW, WHEREFORE, BE IT ORDAINED BY THE VILLAGE OF FLANAGAN that there is established as new ORDINANCE DECLARING CERTAIN INOPERABLE MOTOR VEHICLES TO BE A NUISANCE as follows:

**ORDINANCE DECLARING CERTAIN INOPERABLE
MOTOR VEHICLES TO BE A NUISANCE**

- A. **Inoperable motor vehicles a nuisance.** All inoperable vehicles and machinery or equipment related thereto, whether on public or private property and in view of the general public, are hereby declared to be a nuisance.
- B. **Inoperable motor vehicle defined.** As used in this chapter, "inoperable motor vehicle" means any motor vehicle and machinery or equipment related thereto, from which for a period of at least seven (7) days, the engine, wheels, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged or otherwise in a condition that the vehicle is incapable of being driven under its own motor power.

There shall be a rebuttable presumption that if a motor vehicle is not moved within a seven (7) consecutive day period, is not duly licensed by the Secretary of State,

or is not insured pursuant to the state's Mandatory Insurance Law that said motor vehicle is inoperable.

An "inoperable motor vehicle" shall not include:

1. A motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations. "Temporarily" is defined as less than six (6) days;
2. A motor vehicle that is kept within a building when not in use;
3. An operable historic vehicle over twenty-five (25) years of age with properly licensed antique or other applicable vehicle plates issued by the State of Illinois; or
4. A motor vehicle on the premises of a place of business lawfully engaged in the wrecking or junking of motor vehicles.

C. Notice.

1. Inoperable, abandoned, lost, stolen, or unclaimed vehicles located on public or private property may be towed, without pre-tow notice to the owner or other legally entitled persons of record, if it impedes the efficient movement of traffic or endangers public safety.
2. Inoperable, abandoned, lost, stolen, or unclaimed vehicles that do not present an obstruction or hazard may not be towed or removed without first affording the owner a notice and opportunity for hearing. The notice shall state that the vehicle is presumed inoperable and the Village of Flanagan requires that within seven (7) calendar days the vehicle be made operable, removed from the Village, or lawfully enclosed so that it is not visible by the general public. If the violation persists beyond seven (7) days after the original notice was mailed, served or posted if no responsible party is present, the responsible party may be subject to the penalties provided in this ordinance. Notice shall take the following form:
 - a. Where the vehicle is properly registered and licensed, notice shall be sent to the owner via certified mail or served upon the owner.
 - b. Where the vehicle displays license plates, a registration decal, or an ascertainable vehicle identification number, notice shall be sent via certified mail or served to the last registered owner listed in state vehicle registration records.

c. Where the vehicle does not carry license plates, a registration decal, or ascertainable vehicle identification number, or where the owner cannot be located by routine search of state motor vehicle registration records, a representative of the Village of Flanagan or the Livingston County Sheriff's Department shall post notice on the vehicle in a conspicuous place for no less than seven (7) days or send notice to the occupant of the property on which it's located by certified mail, return receipt requested.

3. The above notices shall apprise the owner:

a. That unless the vehicle is removed within seven (7) days, the vehicle shall be subject to a fine of not less than one hundred fifty dollars (\$150.00) nor more than seven hundred fifty (\$750.00) for each offense;

b. That unless the vehicle is removed within seven (7) days, the vehicle may be towed, stored, and/or disposed of with the owner responsible for all expenses;

c. The reason for the tow;

d. That a hearing will be provided, upon request, before the Board of Trustees to determine the validity of the tow or seek an extension of time to remove the vehicle; and

e. That hearings may be arranged by contacting the Village of Flanagan.

D. Penalties. Any owner or responsible party receiving a notice of violation who does not remedy the nuisance within seven (7) calendar days shall be guilty of a violation of this ordinance. Any person or party in violation of the provisions hereof shall be subject to payment of a fine of not less than one hundred fifty dollars (\$150.00) nor more than seven hundred fifty (\$750.00) for each offense. If the violation persists beyond seven (7) days after the original notice was mailed, then each day the violation occurs or continues shall be deemed a separate offense. Upon expiration of the seven (7) day period following the issuance of notice, the Village may file a complaint in Livingston County Circuit Court for an ordinance violation or for other judicial relief.

E. Offer to remove. Subject to the appropriation and availability of funds in any situation involving an inoperable nuisance vehicle, a representative of the Village of Flanagan or the Livingston County Sheriff's Department, either before or after issuing the requisite notice,

may offer to remove the nuisance vehicle at no expense to the owner of the vehicle or property on which it sits, provided the following terms are met:

1. The owner of the vehicle agrees to sign over title to the vehicle to the Village of Flanagan or its designee at no charge;
2. The owner of the vehicle and owner or lessee of the property on which it sits sign an agreement waiving all rights in and to the vehicle and agree to hold the Village and all its officers, employees, and agents harmless in connection with the removal of the vehicle;
3. The owner of the vehicle authorizes a representative or designee of the Village of Flanagan or Livingston County Sheriff's Department to contact a towing service and arrange for the transfer of title, tow, and disposal of the nuisance vehicle.

F. **Repeal of prior ordinances.** This ordinance shall supersede any ordinances or motions or parts of ordinances or motions in conflict with any part herein, and any such ordinance or motions or parts of such ordinances are hereby repealed.

G. **Severability.** If any section, paragraph, or provision of the ordinance shall be held invalid or unenforceable for any reason, such invalidity or unenforceability shall not affect any of the remaining provisions of this ordinance.

H. **Publication.** The Secretary of the Village of Flanagan is hereby directed to publish this ordinance in pamphlet form with publication taking place no later than thirty (30) days following the adoption of this ordinance. The provisions of this ordinance shall be in full force and effect ten (10) days after publication as provided by law (65 ILCS 5/1-2-4).

PASSED AND APPROVED by the Board of Trustees of the Village of Flanagan, Livingston County, Illinois this 17 day of March, 2020.

AYES:

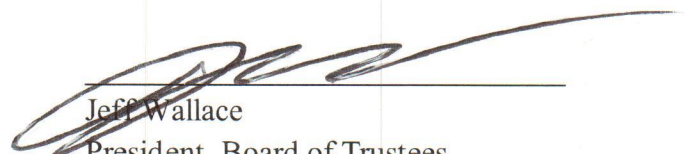
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NAYES:

0

ABSENT:

0



Jeff Wallace
President, Board of Trustees
Village of Flanagan

IL (SEAL)

ATTEST:



Andrea Reed, Village Clerk
Village of Flanagan

APPENDIX A

NOTICE TO REMOVE INOPERABLE VEHICLE

DATE OF ISSUANCE: _____

NAME OF REGISTERED OWNER: _____

ADDRESS: _____

You are hereby notified that the below-described vehicle is presumed to be an inoperable motor vehicle and a nuisance pursuant to the Village of Flanagan Ordinance 2020-____. This inoperable motor vehicle must be removed within seven (7) calendar days of the date of this notice, or you may be subject to fines of not less than one hundred fifty dollars (\$150.00) but not more than seven hundred fifty (\$750.00) for each offense. Each day the violation continues beyond the seven (7) day notice period is considered a separate offense.

Unless the vehicle is removed within seven (7) calendar days, the vehicle may be towed, stored, and/or disposed of, and you may be responsible for all towing, storage, and disposal expenses. The reason for the tow is that the inoperable motor vehicle is considered a public nuisance.

Following expiration of the seven (7) day period, the Village of Flanagan may file a complaint in the Livingston County Circuit Court for an ordinance violation or other court relief.

You may request a hearing before the Board of Trustees by contacting the Village of Flanagan at 101 W. South Street, Flanagan, Illinois 61740 or contacting the Village at 815-796-4492.

DESCRIPTION OF INOPERABLE MOTOR VEHICLE:

MAKE: _____

LICENSE PLATE NUMBER: _____

CURRENT LOCATION OF VEHICLE _____