

**CITY OF NEW BALTIMORE  
MACOMB COUNTY, MICHIGAN  
NOTICE OF ADOPTION  
ORDINANCE NO. 175**

**AN ORDINANCE TO AMEND THE CITY OF NEW BALTIMORE CODE OF ORDINANCES REPEALING AND AMENDING CHAPTER 52, ARTICLE II, TO PROVIDE FOR WINTER PARKING RESTRICTIONS TITLE, PURPOSE, DEFINITIONS, DECLARATION OF SNOW EMERGENCY, DURATION OF PARKING PROHIBITION, IMPOUNDING OF VEHICLES AND PRESUMPTION OF OWNERSHIP THEREOF, PROHIBITED CONDUCT REGARDING WINTER PARKING WITHIN THE CITY, TO PROVIDE FOR REPEALER, SEVERABILITY, AND EFFECTIVE DATE.**

**THE CITY OF NEW BALTIMORE ORDAINS:**

**Section 1.** Chapter 52, Article II, Sec. 31 through 36 are hereby repealed.

**Section 2.** Chapter 52, Article II, shall be amended to provide as follows:

**Sec. 52-31. Short Title.**

This article shall be known and cited as the “City of New Baltimore Winter Parking Ordinance.”

**Sec. 52-32. Purpose.**

The purpose of this article is to protect the health, safety and general welfare of the residents and property owners in the City from hazards caused by the leaving of unattended vehicles parked on a public street or private road during the winter, including snow emergencies; such vehicles impede the safe travel upon the streets of the City, as a result of the accumulation of ice and snow which occurs during the winter. This article is in accordance with Act No. 246 of the Public Acts of Michigan of 1945, as amended, and pursuant to the general powers of the Home Rule City Act, as amended, and the Michigan Constitution.

**Sec. 52-33. Definitions.**

As used in this article:

“Authorized Emergency Vehicle” shall mean a vehicle of the fire department; a police vehicle; an ambulance; a privately owned motor vehicle of a volunteer or paid firefighter; or a privately owned motor vehicle of a volunteer ambulance driver; or a licensed ambulance driver or attendant as is authorized by the department of state police.

“Commercial Motor Vehicle” shall mean a bus; a school bus; a school transportation vehicle; a motor vehicle, except a motor home having a gross vehicle weight rating of

twenty-six thousand one pounds (26,001 lbs) or more pounds; a motor vehicle towing a vehicle with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs); or a motor vehicle carrying hazardous material and on which is required to be posted a placard as defined and required under 49 CFR Parts 100 to 199. A “commercial motor vehicle” does not include a vehicle used exclusively to transport personal possessions or family members for non-business purposes.

“Commercial Vehicle” shall mean every motor vehicle which is used for the transportation of passengers for hire or which is constructed or used for transportation of goods, wares or merchandise; and/or all motor vehicles designed and used for drawing other vehicles and which is not so constructed to carry any load thereof either independently or as any part of the weight of the vehicle or load so drawn.

“Motor Vehicle” shall mean every vehicle which is self propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but which is not operated upon rails.

“Police Officer” shall mean every sheriff or sheriff’s deputy; officer or the police department of any city, village or township; any officer of the state police; or any peace officer who is trained and certified pursuant to Act No. 203 of the Public Acts of Michigan of 1965 (MCL 28.601 et seq., MSA 4.450(1) et seq.), as amended.

“Private Road” shall mean a privately owned and maintained road which allows access to more than one (1) residence or place of business, which is normally open to the public, and on which persons other than the owners may travel.

“Street or Highway” shall mean the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

“Vehicle” shall mean every device in, upon, or by which any person or property is or may be transported or drawn on a highway, except devices which are moved exclusively by human power or which are used exclusively on stationary rails or tracks and except for a mobile home as defined in section 2 of Act no. 419 of the Public Acts of Michigan of 1976 (MCL 125.1102, MSA 19.855(2)), as amended.

#### **Sec. 52-34. Winter Parking.**

No person shall park any motor vehicle on any residential street within the City of New Baltimore, except those streets located within the Central Business District, between the hours of 9:00 p.m. and 9:00 a.m. anytime there is any snow accumulation or ice on the ground. This parking prohibition on residential streets for motor vehicles shall not apply to Thanksgiving Day and also the Christmas holiday season from 12:01 a.m. December 24 through 12:01 a.m. January 2, unless a snow emergency has been declared as described in Sec. 340-23.

**Sec. 52-35. Declaration of Snow Emergency.**

The Mayor, D.P.S. Superintendant or Chief of Police, may declare a snow emergency when, in his/her judgment, the snow or ice has accumulated or is significantly likely to accumulate to such an extent as to impede safe travel upon the streets of the City. A declaration of snow emergency shall be made in writing and filed with the City Clerk. The City Clerk shall time stamp the declaration of snow emergency. During the regular business hours of the City offices, the snow emergency shall take effect one (1) hour after such time stamping and filing with the City Clerk. At all other times, the declaration shall be filed at the beginning of the next business day at the City offices, but the snow emergency shall take effect one (1) hour after its publication to City residents. Upon declaration of a snow emergency, the Mayor, D.P.S. Superintendant or Chief of Police, shall immediately publicize the snow emergency and the parking prohibition in a manner reasonably calculated to inform City residents of their responsibilities.

**Sec. 52-36. Duration of Parking Prohibition - Snow Emergency.**

The snow emergency parking prohibition shall begin when the snow emergency takes effect, one (1) hour after the Mayor, D.P.S. Superintendant or Chief of Police, has declared a snow emergency. The prohibition shall end when both the following conditions have been satisfied:

- (a) The snow, sleet, or ice has stopped; and
- (b) An individual street has been completely snow plowed by the City from curb-to-curb.

The parking prohibition shall expire thirty-six (36) hours after the weather conditions creating the emergency have stopped, unless the snow emergency is extended by action of the Mayor, D.P.S. Superintendant or Chief of Police. Such an extension shall require that the procedures outlined in Section 340-23 of this article be repeated.

**Sec. 52-37. Abandoned and Disabled Vehicle.**

Whenever a vehicle becomes disabled for any reason on any street during a parking prohibition or snow emergency, the owner or person operating the vehicle shall take immediate action to have the vehicle towed or pushed off the street. No person shall abandon or leave the vehicle on the street, except for the purpose of securing immediate assistance and/or notifying the police department; in such cases the person securing assistance shall leave the vehicle only for the time absolutely necessary to make contact for assistance and shall return to the vehicle immediately thereafter without delay.

**Sec. 52-38. Impounding Vehicles.**

A police officer is hereby authorized to remove a vehicle if parked on any street during a declared snow emergency and to transport the vehicle to an impound facility utilized by

the police department, Macomb County Sheriff's Department and/or state police. Towing and impound fees shall be charged to the owner of the vehicle impounded.

**Sec. 52-39. Presumption of Ownership.**

Proof that the particular vehicle described in the complaint in violation of this article, together with proof that the defendant named in the complaint, was, at the time of such parking, the registered owner of such vehicle, shall constitute a presumption that the registered owner of such vehicle was the person who parked or placed such vehicle in violation of this article. The failure of a defendant to receive notice of a snow emergency shall not be a defense.

**Sec. 52-40. Prohibited Conduct.**

It shall be unlawful for any person in the City to park a commercial vehicle, commercial motor vehicle, motor vehicle, or vehicle upon a public street or private roadway in the City during a declared snow emergency, except as otherwise provided in this article. Such prohibition is not applicable to authorized emergency vehicles.

**Sec. 52-41. Penalty.**

Any person, who shall violate the provisions of Section 52-40, shall be responsible for a civil infraction and subject to a penalty not to exceed Fifty and 00/100 Dollars (\$50.00). A person, who shall violate the provisions of Section 52-34, shall be responsible for a civil infraction and subject to a penalty not to exceed Twenty and 00/100 Dollars (\$20.00).

**Sec. 52-42. Penalty.**

Any person, who shall violate the provisions of Section 52-36, shall be responsible for a civil infraction and subject to a penalty not to exceed Fifty and 00/100 Dollars (\$50.00). Any person, who shall violate the provisions of Section 52-34, shall be responsible for a civil infraction and subject to a penalty not to exceed Twenty and 00/100 Dollars (\$20.00). Any person accused of a violation of this Article may settle and compromise the claim against him or her for such illegal parking by paying to the 42-2 District Court one-half of the fine stated herein by the close of the second business day of issuance of the parking violation ticket or by appearing in person at the 42-2 District Court to make said payment; or in lieu of settlement and compromise as provided herein, the person should appear at the date and time specified on the parking ticket in the 42-2 District Court.

**Section 3. Repealer.** Any section herein that is in conflict is hereby repealed.

**Section 4. Severability.** If any word, clause, sentence, paragraph or provision of this ordinance is deemed to be invalid by a court of competent jurisdiction, such word, clause, sentence, paragraph or provision so designated shall be deemed severable and the remaining provisions of the ordinance shall be deemed fully enforceable.

**Section 5. Effective Date.** The terms and provisions of this ordinance are deemed to be an emergency ordinance which shall become effective upon publication and adoption.

I, Marcella Shinska, City Clerk of the City of New Baltimore, Macomb County, Michigan, do hereby certify that Ordinance No. 175 was adopted by the City Council of New Baltimore, assembled in regular session on March 14, 2011. Said Ordinance was posted in the following places:

Notice of said posting was published in *The Voice Newspaper* on March 30, 2011.

Marcella Shinska, City Clerk