ORDINANCE 78-82

To Repeal Section 15.24 of the Bloomington Municipal Code and Enact Chapter 15.26, Entitled "Emergency Removal and Impoundment of Vehicles

BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. Section 15.24.080 of the Bloomington Municipal Code, entitled "Impoundment for successive parking violations", be repealed.

SECTION II. Chapter 15.26, Entitled "Emergency Removal and Impoundment of Vehicles", be added to the Bloomington Municipal Code to read as follows:

Chapter 15.26

EMERGENCY REMOVAL AND IMPOUNDMENT OF VEHICLES

Sections:

15.26.010 Definitions.
15.26.020 General Provisions.
15.26.030 Emergency Removal and Impoundment Procedure.
15.26.040 Disposal of Impounded Vehicles.

15.26.010 Definitions. As used in this chapter, unless the context otherwise indicates:

(a) "Authorized towing service" shall mean any person engaged for hire in the performance of towing or otherwise removing vehicles for hire who has been notified or requested by the Bloomington Police Department to tow vehicles.

(b) "Owner" shall mean the last record title holder to a vehicle according to the records of the Bureau of Motor Vehicles of the state of Indiana.

(c) "Parked" shall mean any vehicle parked, stopped, standing or unattended.

(d) "Person" shall mean all natural persons, firms, partnerships and corporations.

(e) "Private premises" shall mean any property which is not a public right-of-way, public park, or other state, county or municipally-owned or operated land.

(f) "Vehicle" shall mean any device designed to travel over or along the ground and used to transport persons or property or to pull machinery or other equipment.

15.26.020 General Provisions. (a) It shall be a violation of this chapter for any vehicle to be parked in any of the following circumstances, and such violations are hereby declared public nuisances and shall be subject to the emergency removal and impoundment procedures authorized by this chapter:

(1) Any vehicle which has accumulated five (5) or more unpaid parking tickets in the City of Bloomington after the effective date of this ordinance within any consecutive twelve (12) month period, for which parking violation notices were issued but which have not been either paid, presented for compromise payment, or slated into a court of competent jurisdiction;

(2) Any vehicle which constitutes an impediment to the free flow of traffic in the area in which the vehicle is found;

(3) Any vehicle upon which there is a Police Department hold;

(4) Any vehicle whose operator is unable to move such vehicle due to the person's arrest or other incapacity;

(5) Any vehicle parked in a duly authorized private parking permit area without permission of the permit holder, after complaint to the Bloomington Police Department;

(6) Any vehicle parked in violation of the snow removal, street repair and street cleaning provisions of the Bloomington Municipal Code;

(7) Any vehicle parked upon private premises without the consent of the owner or person in control of such premises for more than forty-eight (48) hours, after complaint to the Bloomington Police Department.

(8) Any vehicle parked in violation of the fire lane provisions of section 18.04.120 of the Bloomington Municipal Code.

(b) When any vehicle is parked in any of the circumstances enumerated in subsection 15.26.020(a), such fact shall be prima facie evidence that the owner is chargeable for the violation.

15.26.030 Emergency Removal and Impoundement Procedure. (a) Any officer of the Bloomington Police Department discovering a public nuisance as described in subsection 15.26.020(a) shall cause the vehicle to be removed by an authorized towing service. Provided, however, the owner or operator shall be permitted to remove the vehicle before the towing service has left the place of violation upon payment of the fine and towing service charge to the Traffic Violations Clerk or upon filing bond for that amount with the officer and executing a promise to appear before the Traffic Violations Clerk within seventy-two (72) hours.

(b) Impounded vehicles shall be released without payment of the towing and storage charges upon order of the Bloomington Police Department or the judge of a court of competent jurisdiction, or such vehicle shall be released upon the owner's posting a bond with the Traffic Violations Clerk in a sum equal to the amount of the fine, towing charge and storage fees and executing a written promise to appear in court.

(c) In all instances of removal and impoundment, an ordinance violation shall be filed against the owner in a court of competent jurisdiction.

(d) The fine, towing service charges and storage fees shall not exceed statutory limits and in no instance shall the bond required exceed the sum thereof. Provided, however, that said limits to the towing and service charges shall not apply to vehicles with a load capacity of one (1) ton or more.

15.26.040 Disposal of Impounded Vehicles. Impounded vehicles shall be disposed of in accordance with the provisions of Chapter 15.60 of the Bloomington Municipal Code and I.C. 9-9-1.5 et seq.

SECTION III. Severability. If any provision of this ordinance is held invalid, such invalidity shall not affect any other provisions of this ordinance which can be given effect without the invalid provision, and to this end the provisions of this ordinance are declared to be severable.

SECTION IV. This ordinance shall be in full force and effect thirty (30) days after its final adoption by the Common Council and approval by the Mayor.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 2nd day of November, 1978.

John F. Richardson
John F. Richardson, President
Bloomington Common Council

ATTEST:

Karel Dolnick
Karel Dolnick, City Clerk

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 3rd day of November, 1978.

Nora M. Connors
Nora M. Connors, Deputy City Clerk

SIGNED and APPROVED by me upon this 6th day of November, 1978.

Francis X. McCloskey
Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

This ordinance, which repeals a former section and establishes a new procedure for towing vehicles, is necessitated by court decisions which have made most municipal towing ordinances invalid on the basis that they deprived the owner of property without due process of law. Impoundment of vehicles is necessary in certain instances, but there are no state laws to cover those instances. The proposed ordinance provides for the impoundment of vehicles by the City and establishes a procedure for police officers to follow. Reference is made to state law in the manner of disposing of impounding vehicles.

I HEREBY MOVE THAT ORDINANCE # 78- 82 ,

ENTITLED Amend SUC re: Towing Vehicles ,

BE INTRODUCED AND READ FOR FIRST READING BY TITLE

ONLY AT THE COUNCIL MEETING HELD on 10/19/78

Lloyd W. Olcott

(Signature)