

## DETERRING UNAUTHORIZED USE OF BARTON HILLS' ROADS BY MOTORIZED VEHICLES

**Task Force:** Greg Curtner, James Daly, Marcus Darden, Jeff David, Brian Hanley, Tanner Keilman, Jesse O'Jack (BHV Legal Counsel), Randy Perry, Rich Prager, Don Remboski, Dan Shemke (BHMC Legal Counsel), Derek Reeves, & Carla Smith.

### EXECUTIVE SUMMARY

Over the past four months, a group of BHV residents and staff have met regularly to explore options to deter unauthorized users of Barton Hills' roads. The Task Force has agreed upon a proposed process to deter unauthorized use of Barton Hills' roads by *motorized vehicles*. See Page 2. All recommendations have been reviewed by both BHV and BHMC Legal Counsel.

To activate the recommended process, both the BHV Board of Trustees and the BHMC Board of Directors must approve it. In addition, the BHV Board of Trustees must amend Chapter 24 of Village Code "Road Use Restrictions". See Pages 3-4 of this PDF.

### RECOMMENDED ACTION

**November 10, 2025:**

- **The Task Force seeks the BHV Trustees' approval of the following motion:** "Approve the process to Deter Unauthorized Use of Barton Hills Roads by Motorized Vehicles."
- First Reading of the recommended amendments to Chapter 24.

**December 8, 2025:** Second reading of the recommended amendments to Chapter 24. Vote by the Trustees.

### PROCESS TO EFFECT TRUSTEE-APPROVED AMENDED CODE LANGUAGE

**Upon Trustee Approval of a Village Code Amendment,** BHV's portion of the process can launch subsequent to BHV complying with publication and notification requirements in Village Charter Section 6.4.

"Every ordinance shall become effective upon its publication unless a later date is provided in the ordinance. Within 10 days after the enactment of the ordinance the same shall be published by one of the following methods:

- (a) "Said ordinance shall be printed in full in any newspaper of general circulation in BHV, or
- (b) "If any ordinance is more than 200 words in length there may be published in a newspaper of general circulation in the Village a notice of the adoption of said ordinance and a brief statement of the purpose or subject matter thereof and where copies may be obtained. In case publication is by the manner provided in this subparagraph (b), copies of such ordinance shall be made available by the Clerk and a reasonable charge may be imposed for such copies.

"Whenever an ordinance is adopted the Clerk shall either notify each resident elector in writing of the time and place of newspaper publication prior to the publication of said ordinance, if published therein in full or of the purpose or subject matter and where copies can be obtained if published under (b) hereof."

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## PROCESS FOR THE **FIRST** APPEARANCE OF A LICENSE PLATE ON BHMC'S MONTHLY REPORT OF UNAUTHORIZED ROAD USAGE

1. Either BHMC's security cameras capture a vehicle entering and exiting the Village in 7 minutes or less<sup>1</sup>; and/or a Barton Hills resident or staff member observes an unauthorized vehicle using the BHMC's roads **and** is willing to testify to that fact. BHMC seeks ownership information from the Secretary of State.
2. The BHMC mails a first warning letter to the owner of the vehicle, along with a copy of the timestamped photographic evidence.

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## PROCESS FOR A **REPEAT** APPEARANCE OF A LICENSE PLATE ON BHMC'S MONTHLY REPORT OF UNAUTHORIZED ROAD USAGE

3. If the unauthorized vehicle is captured on camera / observed a second time, the BHMC mails a second warning letter to the owner of the vehicle, along with a copy of the timestamped photographic evidence.
4. If, after giving a reasonable number of days for BHMC's second warning letter to arrive at the owner's address, the license plate appears again on the next month's Road Usage Report, the BHMC provides BHV with all relevant documentation (letters, video/photographic evidence including a date/time stamp, and/or an eyewitness willing to testify), of a Chapter 24 Road Usage violation, along with identification of the vehicle's owner/lease and address.
5. BHV provides all timestamped evidence, and the warning letters, to BHV's Legal Counsel, Jesse O'Jack. Mr. O'Jack responds with one of four directives:
  - 5a. Mail a repeat offense warning letter;
  - 5b. Issue a municipal civil infraction citation<sup>2</sup>, which directs the violator to respond in district court;
  - 5c. The Village must respond to Mr. O'Jack's questions; or,
  - 5d. The Village is to take no further action, for which Mr. O'Jack will provide his reasoning.
6. BHV executes Mr. O'Jack's directive.
  - 6a. When issuing a municipal civil infraction citation, BHV's Superintendent will sign it, as set forth in Section 1:60 of Chapter 6 of the Village Code or, alternatively, by a person authorized by resolution of the Board of Trustees, as permitted by Section 1:61 of Chapter 6. BHV will arrange for a process server (a WCSD deputy or private process server) to serve the infraction, as specified in Section 1:60,2 of Chapter 6, thus ensuring proper service of the citation.
  - 6b. If Mr. O'Jack denies BHMC's request for the Village to take further action, his rationale will be shared with the BHMC, thus allowing the BHMC to assess the situation and address.

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<sup>1</sup> BHV's Superintendent calibrated the odometer on a Village vehicle, and then documented travel time, adhering to posted speed limits, from entrance to another:

South to West Entrance: 6 minutes, 31 seconds

West to North Entrance: 4 minutes, 27 seconds

North to South Entrance: 3 minutes, 9 seconds

<sup>2</sup> BHV will not use a *notice of violation*, which would direct the violator to BHV's Enforcement Bureau.

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## BHV CODE CHAPTER 24 “ROAD USAGE RESTRICTIONS” RECOMMENDED AMENDED LANGUAGE

Key:

~~Red Strikethrough Text~~ = Language recommended for removal

**Purple Bold Text** = Language recommended for adopting

### 3:40 – Findings and Purpose

The roads in the Village were developed privately, are owned by a private entity (the Barton Hills Maintenance Corporation), and are not designed to withstand general public traffic, **nor are they maintained for use by the general public**. The title to the roads restricts their use to the benefit of the property owners. This ordinance is for the purpose of limiting road usage regardless of the owner of the roads.

### 3:41 – Definitions

1. Road: Any paved surface in the interior of the Village providing access to two or more parcels.

2. Invitee: Any guest, or other person or firm authorized by an owner or resident **of the Village** to travel to property of the owner or resident. Invitees shall include emergency personnel sent to **a** property in the Village. Invitees also include persons traveling to the Village offices provided that travel is on Barton Shore Drive between Whitmore Lake Road and the Village offices.

#### 3. Owner of a vehicle: Any of the following:

**a. A person renting a vehicle or having the use of a vehicle under a lease or otherwise for a period that is greater than 30 days, or otherwise for a period that is greater than 30 consecutive days.**

**b. A person that holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles or motorcycles that is the lessor of a motor vehicle or motorcycle under a lease that provides for the use of the motor vehicle or motorcycle by the lessee for a period that is greater than 30 days.**

**c. A person that has the immediate right of possession of a motor vehicle or motorcycle under an installment sale contract.**

**4. Person with regard to ownership of a vehicle: Includes individuals, firms, joint ventures, partnerships, corporations, estates, trusts, units of government, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assigns thereof.**

**5. Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices exclusively moved by human power or used exclusively upon stationary rails or tracks and except, only for the purpose of titling and registration under this act, a mobile home as defined in section 2 of the mobile home**

commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws.

### 3:42 – Road Use Restricted

1. No person other than Village property owners, Village residents or invitees of Village property owners or Village residents shall operate a vehicle or otherwise use the roads in the Village.

2. No owner of a vehicle shall permit or allow the owner's vehicle to be operated on or otherwise use the roads in the Village unless the vehicle is being operated or used by a Village property owner, or Village resident or invitee.

### 3:43 – Violations

Violations of this chapter are **municipal** civil infractions punishable by a civil fine of

**\$25 for the first offense, \$100 for a first repeat offense, and \$200 for second and subsequent repeat offenses.** ~~up to \$500.~~