

..Title

AN ORDINANCE AMENDING TITLE 9 (TRAFFIC) CHAPTER 11 (ABANDONED, WRECKED VEHICLES) SECTION 9-11-1 THROUGH 9-11-10-7.

..Body

WHEREAS, the Illinois Compiled Statutes, including the Illinois Municipal Code, regulate purchases and contracts entered into by the Village of Orland Park, a home-rule municipality; and

WHEREAS, the Village has recently undertaken a comprehensive review of its fine and penalty structure to ensure the existing ordinance provisions are still applicable to the Village operations and regulatory needs; and

WHEREAS, the portion of the ordinance proposed for removal has become obsolete due to changes in law, policy, or practice, and retaining such language would no longer serve a valid public purpose; and

WHEREAS, the Village finds that eliminating this outdated section will improve clarity, accuracy, and effectiveness of the Village's Municipal Code; and

WHEREAS, it is in the best interests of the Village and its residents to amend the existing ordinance to ensure the Code accurately reflects its current standards and requirements.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1: Title 9 (Traffic) Chapter 11 (Abandoned, Wrecked Vehicles) Section 9-11-1 through 9-11-10-7 shall hereby be amended in part (additional language marked by underlining and deletions marked with strikethrough) as reflected and attached hereto as EXHIBIT "A".

SECTION 2: This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

SECTION 3: The Village Clerk be and hereby is authorized and directed to publish this Ordinance in pamphlet form.

EXHIBIT A

CHAPTER 11

ABANDONED, WRECKED, TOWING, IMPOUNDING VEHICLES

SECTION:

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9-11-1: DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Chapter:

CHIEF OF POLICE: The Chief of Police of the Village or his authorized representatives.

PERSON: Any person, firm, partnership, association, corporation, company or organization of any kind.

PROPERTY: Any real property within the Village or any Village property within or without the corporate limits which is not a street or highway.

STREET or HIGHWAY: The entire width between the 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: A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck trailer, motorcycle, tractor, buggy and wagon.

9-11-2: ABANDONMENT OF VEHICLES:

No person shall abandon any vehicle within the Village or on Village property within or without the corporate limits, and no person shall leave any vehicle at any place within the Village or on Village property within or without the corporate limits for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

9-11-3: LEAVING OF WRECKED, NONOPERATING VEHICLE ON STREET:

No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the Village or on Village property within or without the corporate limits.

9-11-4: PARKING OR STORING VEHICLES ON PUBLIC STREETS:

No person shall park or store any vehicle on any public street, alley, or public way for more than forty eight (48) successive hours.

9-11-5: DISPOSITION OF WRECKED OR DISCARDED VEHICLES:

No person in charge or control of any property other than Village property within the Village, whether as owner, tenant, occupant, lessee or otherwise, shall allow any dismantled, nonoperating, wrecked, junked or discarded vehicle to remain on such property longer than thirty (30) days or on Village property within or without the corporate limits for a longer time than forty eight (48) hours; except that this Section shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the Village.

9-11-6: IMPOUNDING:

The Chief of Police is hereby authorized to remove or have removed any vehicle left at any place within the Village or on any Village property within or without the corporate limits which reasonably appears to be in violation of this Chapter or abandoned, lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with 625 ILCS 5/4-201 et seq. and provisions of this Chapter; provided, however, that any vehicle left at any place, other than on Village property, shall not be removed and impounded as provided herein until the Chief of Police shall have given written notice to either the owner of such vehicle or the person owning or controlling the property on which such vehicle is located to remove said vehicle after a waiting period of seven (7) days or more (in accordance with 625 ILCS 5/4-201(b)) after the mailing or giving of such notice and of the intention of the Chief of Police to remove and impound such vehicle if it has not been removed by the end of such waiting period. Such notice shall be given by at least two (2) of the four (4) following described notification methods:

1. Affixing notice on such vehicle;
2. Sending notice by mail to the owner of such vehicle at his/her last known address if the owner is reasonably ascertainable;
3. By sending notice by mail to the person owning or controlling the property on which such vehicle is located; and
4. By making reasonable attempts to contact the owner of such vehicle, if the owner is reasonably ascertainable, by telephone or other electronic means.

The Chief of Police or his/her designee may enter upon private property at all reasonable hours for the purpose of inspecting such vehicle, posting notice thereon and removing and impounding such vehicle, and it shall be unlawful for any person to prevent the Chief of Police or his/her designee from entering on private property for purposes of carrying out his/her duties under the

provisions of this Chapter. The Chief of Police may tow, or cause to be towed, any vehicle abandoned, parked or otherwise kept in violation of the provisions of this Chapter, to a suitable storage area.

(Amd. Ord. 5198, 7-3-17)

9-11-7: PAYMENT OF EXPENSES OF IMPOUNDING:

The owner of or person abandoning, parking or otherwise keeping a vehicle in violation of the provisions of this Chapter, which is impounded under the provisions of law and this Chapter, shall be charged a fee in a sum sufficient to cover the charges and expenses of impounding and the enforcement of this Chapter, payable to the Chief of Police, which fee may be collected by the Village In an action at law against said violator, and which fee must be paid prior to the release of the vehicle so impounded. This fee shall be in addition to a fine provided for herein for the violation of this Chapter. (Ord. 344, 5-22-67)

9-11-8: PROCEDURES FOR USE OF VEHICLE TOWING COMPANIES:

9-11-8-1: PURPOSE:

There is hereby established a procedure for the determination and use of towing companies by the Village Police Department In carrying out vehicle towing pursuant to Police Department procedure.

9-11-8-2: TOWING LIST:

The Village Manager shall maintain a list of a maximum of three (3) eligible towing companies, and the Village Manager shall forward the list of eligible towing companies to the Police Chief. The eligibility list shall be prepared after this Ordinance is published and three (3) companies qualified pursuant to Ordinance No. 1261 as amended shall be deemed qualified provided said companies provide the Village Manager sufficient documentation to show that they meet the requirements as set forth in this Ordinance; and the list shall be updated from time to time when a towing company resigns or is removed from the list.

9-11-8-3: ELIGIBILITY REQUIREMENTS:

The Village Manager shall include a towing company on the list on a first come, first serve basis, and maintain the company's name on the list provided the company:

1. Maintains a vehicle storage facility located within the corporate limits of Orland Park, which includes both an outside storage facility secured by a protective fence and structure for the dry storage of at least three (3) towed vehicles, should the Police Department request dry storage.

2. If required by Village Code, holds an applicable current Village business license and holds current Village licenses for its business vehicles registered in the Village.

3. Agrees to and provides prompt response to the Police Department request for towing any time during the day or night. A prompt response means arrival on the scene which may be any location within the Village within twenty (20) minutes of request from the Police Department.

4. Agrees to and provides courteous treatment to citizens and members of the Police Department.

5. Agrees to and does clean accident scenes of debris (i.e., glass, metal and plastics) as necessary.

6. Maintains the following minimum insurance coverages:

a. General liability insurance in the amount of \$1,000,000 per occurrence;

b. Automobile liability insurance in the amount of \$1,000,000 combined single and limit each occurrence;

c. Worker's Compensation and Employers' liability insurance with limits of \$500,000, but not less than the minimum statutory amount;

d. Garage Keeper's legal liability insurance of \$250,000 with first dollar coverage or on a direct primary basis in a minimum amount to cover the Village of Orland Park's interest.

7. Agrees to defend, indemnify, keep and hold harmless the Village of Orland Park, its officers, representatives, elected and appointed officials, agents and employees against any and all losses, including reasonable attorneys' fees and cost of defense. A certificate of insurance is required listing the Village of Orland Park as additional insured on a primary and non-contributory basis. Insurance must be maintained with an insurance carrier with an A.M. Best rate of A- or better.

8. Agrees to and makes towed vehicles available for release during business hours, eight o'clock (8:00) A.M. through five o'clock (5:00) P.M., Monday through Friday, and, if available, on Saturdays from nine o'clock (9:00) A.M. to one o'clock (1:00) P.M.

9. Agrees to and shall base towing charges upon the most recently published Memorandum from the Chief of Police detailing the authorized charges for towing and other related services, and shall not charge for the first twenty-four (24) hours of storage or for basic crash scene clean-up, as that is part of the towing charge. The Chief of Police may use the most recent Illinois State Police Schedule and other sources as a guide to set all acceptable charges for tows and related services.

A copy of the memorandum setting forth authorized charges shall be posted in the office of all tow companies in a conspicuous place where vehicle owners will have access and be most likely to see the document.

10. Provides the Orland Park Police Department, on no less than a weekly basis, with a receipt for each tow listing all charges, the date and time of the tow, related police incident/report number and any other information to properly identify the tow.

Two receipts will list only services relevant to the Police requested tow. Any additional charges agreed to by any other responsible party shall be listed on a separate receipt. Each tow company will provide for a log book detailing all information regarding each police tow, keep the log book current and make it accessible to the Chief of Police, or designee upon request.

11. Performs all Police requested tows of vehicles within the Village of Orland Park at no cost to the Village, to include tow of Police vehicles, seized vehicles and those vehicles seized and held for evidentiary purposes.

12. Responds to Police Department requests for Police tows with the appropriate number of trucks needed to safely and efficiently clear the roadway in a timely manner.

13. Allows access to the vehicle owner as follows:

a. Allow vehicle owner or third parties directed and authorized by the vehicle owner to have access to remove personal property from towed and stored vehicles during normal business hours for no additional fee, provided that the vehicle owner has insurance for the vehicle;

b. Request for after hour or non-business day recovery of property shall be accommodated at the discretion of the tow company and may be subject to reasonable additional fees set forth by the company.

c. Request to remove personal property from stored vehicles shall be subject to the rules of the towing company and any limitations provided by law. The tow company shall not allow the owner access to any vehicle that is the subject of a written hold order without written consent of the Chief of Police or designee.

14. Complies with applicable Village Codes, ordinances and other applicable laws; and

15. Shall be responsible for meeting the needs of oversized vehicles such as semi-tractor trailers and vehicles similar in size and weight, which require larger super-sized tow trucks. The maximum response time provided in paragraph 3 of this section may be extended if necessary to provide for a super-sized tow truck. The tow company may sub-contract for heavy-duty towing service during its on-call period if it does not have a tow vehicle capable of handling heavy-duty towing services.

Before the list is finalized, the Village Manager shall notify the Police Chief of the three (3) tentatively approved companies. The Police Chief will have seven (7) days within which to make a recommendation of whether to accept or reject any or all of the companies. A recommendation of rejection shall specify the reason.

Accepted companies shall be finalized for the towing list, and the names of those companies shall be forwarded to the Chief of Police for use in towing. If any or all of the tentatively approved companies are rejected, the Village Manager shall publish the availability of an opening or openings on the list and accept applications. (Ord. 4684, 12-5-11)

9-11-8-4: UTILIZATION OF COMPANIES ON THE LIST:

The Police Department shall call the companies on a rotating schedule; the schedule shall be based upon equal time for each company. In the event that the primary tow company for each schedule fails to respond to, or does not promptly respond to the Police Department's request, the next available company will be contacted.

9-11-8-5: REMOVAL FROM THE LIST:

If a company which is listed on the list fails to or refuses at any time to comply with any of the requirements contained in subsection C above, the Chief of Police shall remove the company's name from the list and notify the affected company of his decision and the reason for his action. Any company so removed shall not be eligible to reapply for two (2) years subsequent to removal.

9-11-8-6: APPEAL:

A company which has had its application rejected or its name removed from the list by the Chief of Police may appeal the decision to the Village Manager within fourteen (14) working days of receipt of notice from the Chief of Police. The Village Manager shall accept or reject the Chief of Police's recommendation.

9-11-8-7: EMERGENCIES:

In the event of emergency or instances wherein there are no eligible companies available, the Chief of Police or his designee may in his discretion utilize any available towing company or companies.

9-11-8-8: RESIGNATION FROM TOWING LIST:

If a towing company desires to be removed from the towing list, the company shall notify the Village Manager's office in writing. The Village Manager shall remove the name from the list and will notify the Police Chief of the action. After removal of the name, the vacancy on the list will be published and applications will be accepted by the Village Manager until a qualified replacement is found. The Police Chief shall be notified of the qualified replacement.

9-11-8-9: PENALTY:

In addition to removal from the tow list, an action for violation of Ordinance may be taken against an offending company. Any person violating the provisions of this Chapter shall be subject to a fine according to the fine schedule located in Appendix B for each offense of which such person shall be convicted.

(Ord. 2075, 12-17-90; Amd. Ord. 5224, 10-2-17)

9-11-9: TOWING HEARINGS:

9-11-9-1: ADMINISTRATIVE CHARGES FOR VEHICLES TOWED:

1. Whenever any vehicle is authorized to be towed by the village police department, the owner, lessor or entity entitled to lawful possession of said vehicle shall pay an administrative fee to the village in the amount of one hundred dollars (\$100.00) per tow except for tows involving an arrest or violation as provided in paragraph 2 of this section.
2. The owner, lessor or entity entitled to lawful possession of the vehicle shall pay an administrative fee to the village in the amount of five hundred dollars (\$500.00) per tow and or impoundment of the following violations:

- a. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked in violation of section 6-303 of the Illinois vehicle code. For purposes of this Section, the terms "revoked" or "suspended" when used in the context of driving privileges or drivers licenses, shall have the same meaning as contained in 625 ILCS 5/6-100 et seq; or
- b. Operation or use of a motor vehicle by a person who has an expired driver's license, without ever having been issued a driver's license or permit, or does not hold a valid Illinois driver's license or permit in violation of 625 ILCS 5/6-101 et seq.; or
- c. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination there, in violation of 625 ILCS 5/11-501(a); or
- d. Operation or use of a motor vehicle in the commission of aggravated speeding, reckless driving or in the attempt to commit, any other misdemeanor or felony offense in violation of the criminal code; or
- e. 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 vehicle code; or
- f. Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, or in the attempt to commit an offense in violation of the Controlled Substances Act, 720 ILCS 570/100, et. seq., or the Cannabis Control Act, 720 ILCS 550/1, et. seq.; or
- g. Operation or use of a motor vehicle in the commission of, or in the attempt to commit an offense involving firearms in violation of Article 24 (Deadly Weapons) of the Illinois Criminal Code, 720 ILCS 5/24-1 et seq.; or
- h. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony; or in the attempt to commit an offense involving theft, in violation of the criminal code or
- i. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to section 36-1 of the criminal code.

9-11-9-2: TOWING FEES ASSESSED

- 1. The following shall apply to any fees imposed for administrative and processing costs pursuant to paragraphs (1) and (2) of this section:
 - a. 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.
 - i. No administrative fees shall be imposed on the registered owner or the agents of that owner if the motor vehicle was stolen or hijacked at the time the vehicle was impounded. To demonstrate that the motor vehicle was hijacked or stolen at the time the vehicle was impounded, the owner or the agents of the owner

must submit proof that a report concerning the motor vehicle was filed with a law enforcement agency in a timely manner.

- b. The village administrative fee shall be in addition to any other penalties that may be assessed by a court of law for the underlying violations; and any towing or storage fees, or both, charged by the towing company.
- c. The fees shall be uniform for all similarly situated vehicles.
- d. The fees shall be collected by and paid to the village.
- e. 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 vehicle.
- f. Any commercial vehicle relocater that tows a vehicle pursuant to authorization from the village police department shall verify that the aforesaid village administrative charge has been paid before releasing the vehicle to the owner, lessee, or other entity entitled to lawful possession thereof.

9-11-9-3: RIGHT TO ADMINISTRATIVE HEARING

Any owner of record, lessee, or a lienholder of record of impounded vehicles under paragraph 9-11-9-1(2) of this section shall have an opportunity for a hearing and for the release of the vehicle to the owner of record, lessee, or a lienholder of record upon payment of all administrative fees and towing and storage fees.

9-11-9-4: NOTICE OF TOW-IMPOUNDMENT

Whenever a police officer has cause to believe that a motor vehicle is subject to impoundment pursuant to 9-11-1(2)(a-i), the officer shall provide for the towing of the vehicle to a facility authorized by the village. At the time the 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 vehicle, or any person who is found to be in control of the 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 vehicle or a lienholder posts with the village a bond equal to the administrative fee as provided by ordinance and pays for all towing and storage charges.

9-11-9-5: NOTICE OF HEARING

The hearing notice pursuant to section 9-11-9-3 of this chapter shall:

- 1. Be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested party's address as registered with the secretary of state;
- 2. Be served upon interested parties within ten (10) days after a vehicle is impounded by the municipality, excluding Saturdays, Sundays and holidays, from the date of the tow; and

3. Contain the date, time, and location of the administrative hearing. An initial hearing shall be scheduled and convened no later than forty-five (45) days after the date of the mailing of the notice of hearing.

9-11-9-6: ADMINISTRATIVE HEARING FOR TOWED VEHICLES

The hearing provided pursuant to section 9-11-9-3 of this chapter shall include the following requirements concerning administrative hearings:

1. 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; and
2. At the conclusion of the administrative hearing, the hearing officer shall consider the defense provided in section 9-11-9-2(1)(a)(i) of this chapter and issue a written decision either sustaining or overruling the vehicle tow;
3. If the basis for the vehicle tow is sustained by the administrative hearing officer, any administrative fee posted to secure the release of the vehicle shall be forfeited to the village;
4. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the administrative review law;
5. Unless the administrative hearing officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all administrative fees and towing and storage charges are paid;
6. Vehicles not retrieved from the towing facility or storage facility within forty-five (45) 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 Vehicle code.
7. Notwithstanding any other provision of law to the contrary, if the administrative hearing officer finds that the village impounded a motor vehicle that was stolen or jacked at the time the vehicle was impounded, the village shall refund any administrative fee already paid by the registered owner or lessee of the vehicle.
8. 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 judgement entered by a court of competent jurisdiction.
9. If an appeal is sought from the decision of the administrative hearing officer, the person making the appeal shall have thirty-five (35) days to file their appeal in circuit court, the 5th Municipal District, pursuant to 735 ILCS 5/3-103.

9-11-9-1: REQUEST FOR HEARING:

~~—A request for a hearing shall be made in accordance with the provisions of this Section by registered or legal owner of towed vehicle before a hearing will be held to determine the validity of a police ordered tow.~~

~~9-11-9-2: TIME OF REQUEST:~~

- ~~—In cases where the registered or legal owner is present at the time of the tow, the owner will be advised of the right to a tow hearing and shall have ten (10) working days, excluding Saturdays, Sundays and holidays, from the date of the tow to request a hearing; or~~
- ~~—In cases where notice is given prior to a tow, the request for a hearing shall be made within ten (10) working days, excluding Saturdays, Sundays and holidays, after receipt of the notice; or~~
- ~~—In all other cases, the request for a hearing must be made not later than ten (10) working days, excluding Saturdays, Sundays and holidays, from receipt of notice that the vehicle has been towed.~~

~~9-11-9-3: METHOD OF REQUEST:~~

- ~~—The request for a tow hearing must be made in person by the registered or legal owner of the towed vehicle at the Village police station. The person requesting the hearing must put the request in writing, and present proper identification to verify vehicle ownership.~~

~~9-11-9-4: DATES FOR HEARING:~~

- ~~—In cases where a notice precedes the tow, the hearing, if possible, shall be held prior to the designated tow date.~~
- ~~—In cases where the owner was present at the time of the tow and the vehicle has not been released, the hearing shall take place within twenty four (24) hours of the request, excluding Saturdays, Sundays and holidays, provided that the request was made within the ten (10) working days of the tow.~~
- ~~—If the request was made in response to written notification of the tow and right to hearing as required above, the hearing will take place within ten (10) working days of the request, excluding Saturdays, Sundays and holidays.~~
- ~~—In cases where the time frames above are not practical, the hearing shall be held at a time which is mutually agreeable to the parties. Additionally, the owner requesting the hearing may ask for only one continuance to a time mutually convenient to all parties.~~

~~9-11-9-5: TIMES AND PLACES FOR HEARINGS:~~

- ~~—Hearings shall be held Monday through Friday between the hours of nine o'clock (9:00) A.M. and five o'clock (5:00) P.M., excluding holidays, at the Village of Orland Park Police Department.~~

~~9-11-9-6: HEARING OFFICER:~~

- ~~—The Inspector of Police, the field operations commander or other police officer designated by the Chief of Police shall be the tow hearing officer.~~

~~9-11-9-7: CONTENTS OF HEARING:~~

~~—The hearing officer shall consider the following items at the hearing:~~

- ~~—1. Any statements by the police officer ordering the tow;~~
- ~~—2. The police tow report, copy of any citation relating to the towed vehicle, inventory receipt for the vehicle, vehicle registration and receipts for tow payment for the vehicle which has been released; and~~
- ~~—3. Evidence of ownership and any evidence presented by the owner regarding the law.~~

~~9-11-9-8: FINDINGS:~~

~~—If the preponderance of evidence indicates that the tow of the vehicle was authorized by the laws of the State, by an ordinance of the Village, or the vehicle was impeding the orderly flow of traffic on a public way, the hearing officer will find the tow and storage of the vehicle was "justified".~~

~~—If the preponderance of evidence indicates that the tow and storage of the vehicle was not authorized by the laws of the State, by an ordinance of the Village, or the vehicle was not impeding the orderly flow of traffic on a public way, the hearing officer will find the tow and storage of the vehicle "unjustified".~~

~~—The hearing officer shall give his finding at the conclusion of the hearing.~~

~~9-11-9-9: POST HEARING PROCEDURE:~~

~~—A finding of a "justified" tow and storage of a vehicle may be appealed in writing to the Chief of Police within three (3) working days, excluding Saturdays, Sundays and holidays, after the decision. The Chief of Police or person acting as Chief shall issue his decision within seven (7) working days, excluding Saturdays, Sundays and holidays.~~

~~—If the tow and storage of a vehicle is found to be "unjustified" the Police Department shall immediately take the appropriate measures for the reimbursement of the owner for tow and storage costs or the release of the vehicle, or the release of the vehicle without cost to the owner, whichever is applicable.~~

~~9-11-9-10: NOTIFICATION OF RIGHT TO A HEARING:~~

~~—Personal notice will be given to the owner by the police officer when the owner is present at the time of the tow.~~

~~—Notice of the right to a hearing shall be contained in all notices of planned impoundment and notices of impoundment.~~

~~—All towing companies which perform police towing for the Village shall prominently post two (2) signs indicating the right to a hearing to contest the validity of the tow. The signs shall be posted in locations where the public transacts business.~~

~~The Police Department will prominently post signs in the lock-up area, report processing room and main reception area of its station indicating the right to a hearing to contest the validity of a tow.~~

~~9-11-9-11: SCOPE OF HEARING:~~

~~The tow hearing is not determinative of or adjudicative of any citation issued relative to the towed vehicle.~~

~~(Ord. 1319, 2-13-84)~~

9-11-10: VEHICLE SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES USED IN CONNECTION WITH ILLEGAL ACTIVITIES.

9-11-10-1: VIOLATIONS AUTHORIZING SEIZURE:

A motor vehicle operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty in addition to any towing and storage fees as hereinafter provided.

1. Any motor vehicle which is operated by a person driving while their driver's license, permit or privilege to operate a motor vehicle is suspended or revoked in violation of 625 ILCS 5/6-303 or Section 9-3-2 of the Village of Orland Park Village Code, an administrative according to the fine schedule located in Appendix B for each offense.. For the purposes of this Section, the terms "revoked" or "suspended," when used in the context of driving privileges or drivers licenses, shall have the same meaning as contained in 625 ILCS 5/6-100 et seq.

2. Any motor vehicle which is operated by a person driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, in violation of 625 ILCS 5/11-501(a), an administrative penalty according to the fine schedule located in Appendix B for each offense.

3. Any motor vehicle which is operated by a person driving against whom a warrant has been issued by a Circuit Court in Illinois for failing to answer charges that the driver violated Subsection 9-11-10-1(1) or 9-11-10-1(2) above, an administrative penalty according to the fine schedule located in Appendix B for each offense.

4. Any motor vehicle that contains any controlled substance or cannabis, as defined in the Controlled Substances Act, 720 ILCS 570/100, et. seq., and the Cannabis Control Act, 720 ILCS 550/1, et. seq., or that is used in the purchase, attempt to purchase, sale or attempt to sell such controlled substances or cannabis, an administrative penalty according to the fine schedule located in Appendix B for each offense.

5. Any motor vehicle used in connection with a violation of Article 24 (Deadly Weapons) of the Illinois Criminal Code of 1961 (720 ILCS 5/24-1 et seq.) or that contains a firearm or ammunition for which a Firearms Owner's Identification Card is required under the Illinois Owners Identification Card Act (430 ILCS 65/0.01 et seq.) and is not presented, an administrative penalty according to the fine schedule located in Appendix B for each offense.

6. Any motor vehicle that is used, with the knowledge of the owner of record, in the commission of prostitution as defined in the Illinois Criminal Code of 1961 (720 ILCS 5/11, et. seq.), soliciting for a prostitute or a sexual act as defined in said Code, soliciting for a juvenile prostitute as defined in said Code, patronizing a juvenile prostitute as defined in said Code, or pimping or juvenile pimping as defined in said Code, an administrative penalty according to the fine schedule located in Appendix B for each offense..

7. Any motor vehicle that is used by a person who does not hold a valid Illinois driver's license or permit or a restricted driver's permit issued under the provision of Section 6-205, 6-206, or 6-113 of 625 ILCS 5/6-101 et seq., an administrative penalty according to the fine schedule located in Appendix B for each offense.

(Amd. Ord. 5224, 10-2-17)

9-11-10-2: GENERAL REGULATIONS.

1 This Section shall not replace or otherwise abrogate any existing State or Federal laws or Village Ordinances or Codes pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.

2. This Section shall not apply: (1) if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered; or (2) if the vehicle is operating as a common carrier and the violation occurs without the knowledge of the person in control of the vehicle; or (3) with respect to Subsections 9-11-10-1(4) or 9-11-10-1(5) above, the owner proves that the item found is not unlawful.

3. Fees for towing and storage of a vehicle under this Section shall be those approved by the Chief of Police for all towers authorized to tow for the Police Department.

9-11-10-3: NOTICE

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall provide for the towing of the vehicle to a facility authorized by the Village. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle and of owner's right to request a preliminary vehicle impoundment hearing to be conducted under this Section. Said vehicle shall be impounded pending the completion of the hearings provided for in Subsection 9-11-10-4 herein, unless the owner of the vehicle posts with the Village a cash bond in the amount of \$500.00 and pays the towing and storage charges.

9-11-10-4: PRELIMINARY HEARING

If the owner of record of a vehicle seized pursuant to this Section desires to appeal the seizure, said owner must make a request for said hearing within twenty-four (24) hours of the seizure. Said request shall be in writing and filed with the Deputy Chief of Police or his designee who shall, if the appeal is timely filed, conduct such preliminary hearing within 24 hours after receipt of the request excluding Saturdays, Sundays, or Village holidays. All interested persons shall be given

a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably-prudent persons in the conduct of their affairs. If, after the hearing, the Deputy Chief of Police or his designee determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this Section, he shall order the continued impoundment of the vehicle as provided in this Section, unless the owner of the vehicle posts with the Village a cash bond in the amount of \$500.00, and pays the tower any applicable towing and storage fees. If the Deputy Chief of Police or his designee determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

9-11-10-5: HEARING

Within ten days after a vehicle is seized and impounded pursuant to this Section, the Village shall notify by certified mail, return receipt requested, the owner of record of the date, time, and location of a plea hearing that will be conducted, pursuant to this Section. The owner will appear at a plea hearing and enter a plea of guilty or not guilty. If a plea of guilty is entered, the case will be disposed of at that time. If the owner pleads not guilty, a final hearing shall be scheduled and held, unless continued by order of the Hearing Officer, no later than 30 days after the vehicle was seized. All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably-prudent persons in the conduct of their affairs. If, after the hearing, the Hearing Officer determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this Section, the Hearing Officer shall enter an order finding the owner of record of the vehicle civilly liable to the Village for an administrative penalty in an amount not to exceed \$500.00 and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty to the Village plus fees to the tower for the towing and storage of the vehicle. If the owner of record fails to appear at the hearing, the Hearing Officer shall enter a default order in favor of the Village. If the Hearing Officer finds that no such violation occurred, the Hearing Officer shall order the immediate return of the owner's vehicle or cash bond without fees.

9-11-10-6: ADMINISTRATIVE PENALTY.

If an administrative penalty is imposed pursuant to this Section, such penalty shall constitute a debt due and owing to the Village. If a cash bond has been posted pursuant to this Section, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the Village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this Section, a vehicle shall continue to be impounded until the penalty is paid to the Village and any applicable towing and storage fees are paid to the tower, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within

30 days after the expiration of time at which administrative review of the Hearing Officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code. (625 ILCS 5/4-208)

9-11-10-7: VEHICLE POSSESSION

1. Except as otherwise specifically provided by law, no owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under this Section until the administrative penalty and fees applicable under this Section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund to the Village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

2. For purposes of this Section, the "owner of record" of a vehicle is the record title holder as registered with the Secretary of State, State of Illinois.

(Ord. 4154, 7-17-06)