

## TOWING PROCEDURES

### 81.20 ABANDONMENT PROHIBITED.

The abandonment of a vehicle or any part thereof on any public way or public parking lot anywhere in the Village is unlawful. A vehicle or any part thereof so abandoned on private property may be authorized for removal by order of the Village Police Department when it has been determined the vehicle is of evidentiary value.

### 81.21 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLES; NOTIFY POLICE.

When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person not the owner of the vehicle, such person shall immediately notify the Village Police Department when the vehicle is within the corporate limits of the Village. Upon receipt of such notification, the Police Department shall inspect the abandoned, lost, stolen or unclaimed vehicle. If the Police Department determines that the vehicle is of evidentiary value it will order a towing of the vehicle. Otherwise, the Village is not responsible for the towing of the vehicle from the private property.

### 81.22 AUTHORIZATION FOR TOWING.

The towing of hazardous, unlawful, abandoned or odd-even violation vehicles at the direction of the Village by a towing service from the rotation tow list shall be authorized by the Police Department under the circumstances herein provided. Towed vehicles shall be transported to a storage facility provided by the service that towed the vehicle until lawfully claimed pursuant to this Chapter or disposed of pursuant to state law.

(A) Towing with prior notice; abandoned vehicles. Abandoned vehicles may be towed only after an abandoned vehicle has been posted with a notice of intent to tow sticker in accordance with the provisions of Section 81.23 and the affording of an opportunity for a hearing as provided in Sections 81.23 and 81.24.

(B) Towing without prior notice; hazardous vehicles. Hazardous vehicles may be towed without prior notice. Post tow notice and an opportunity for a post tow hearing shall be provided as set forth in Sections 81.25 and 81.26.

(B-1) Towing without prior notice; unlawful vehicles. Unlawful vehicles, other than vehicles subject to impoundment under Section 81.251, may be towed without prior notice. Post tow notice and an opportunity for a post tow hearing shall be provided as set forth in Sections 81.25 and 81.26.

(B-2) Towing without prior notice; vehicles subject to impoundment. Vehicles subject to impoundment under Section 81.251 may be towed and impounded without prior notice. Post tow notice and a post tow hearing shall be provided as set forth in Section 81.251.

(C) Towing with prior notice; odd-even violation vehicles. Odd-even violation vehicles may be towed only after an odd-even vehicle has been posted with a notice of intent to tow sticker in accordance with

Section 81.231. A post-tow notice and opportunity for a post-tow hearing shall be provided in accordance with Section 81.241.

#### 81.23 PRE-TOW NOTICE FOR ABANDONED VEHICLES.

A "notice of intent to tow" sticker with the earliest date upon which the tow may take place pursuant to this chapter and the address and phone number of the Police Department shall be placed on the vehicle. Such tow date shall be not less than 72 hours after the placement of such sticker. In the event that the laws of the State of Illinois shall from time to time require other and further pre-tow notice other than the notice expressly provided for herein, this section shall automatically be deemed to be amended from time to time in order to ensure the proper provision of such pre-tow notice in accordance with Illinois state law.

#### 81.231 PRE-TOW NOTICE FOR ODD-EVEN VIOLATION VEHICLES.

A "notice of intent to tow" sticker with the earliest date and time upon which the tow may take place pursuant to this chapter and the address and phone number of the Police Department shall be placed on the vehicle. Such tow date shall be not less than 24 hours after the placement of such sticker. In the event that the laws of the State of Illinois shall from time to time require other and further pre-tow notice other than the notice expressly provided for herein, this section shall automatically be deemed to be amended from time to time in order to ensure the proper provision of such pre-tow notice in accordance with Illinois state law. Vehicles not lawfully relocated within the 24 hour period set forth in the notice shall thereafter be subject to immediate tow in order to facilitate completion of snow removal operations, and without regard to the effects of the passage of time on the parking compliance status of such vehicles. The mere passage of time, without more, shall not serve as a defense to or to prevent the towing of any vehicle that has not been relocated as hereinabove required. A post-tow notice and opportunity for a post-tow hearing shall be provided in accordance with Section 81.241.

#### 81.24 PRE-TOW HEARING PROCEDURES FOR ABANDONED VEHICLES.

(A) Opportunity for hearing. The owner or person entitled to possession of a vehicle to be towed as an abandoned vehicle shall have 72 hours from the time of placement of the pre-tow notice sticker to request a pre-tow hearing. If the owner has not made such a request, any hearing rights under the provisions of this chapter will be deemed waived and the vehicle may be towed.

(B) Scheduling of pre-tow hearings. The pre-tow hearing shall be scheduled for a date within 15 days of the placement of the pre-tow notice sticker. The Village shall not be required to delay towing longer than such 15-day period.

(C) Request for pre-tow hearings. Request for a pre-tow hearing may be made in person or by telephone to the shift supervisor or sergeant on duty at the time of such request. The owner will be provided a hearing date and time by mail or in person as the circumstances require.

(D) Appointment of hearing officer. The Chief of Police shall choose an officer or employee of the Village to serve as Hearing Officer from time to time. In no case shall that Hearing Officer be an

individual who was involved in the initial decision to tow the vehicle. The Hearing Officer shall require the presence of the enforcement officer who initiated the proposed tow or any other Village personnel.

(E) Nature of hearing. The hearing shall be informal in nature, and the rules of evidence shall not apply. The hearing will not be determinative of, or adjudicate, any citation relative to any vehicle. After receiving all relevant evidence, the Hearing Officer shall make a written decision based upon a preponderance of the evidence as to whether towing of the vehicle is authorized by the laws of the state or the ordinances of the Village, with a specific statutory or ordinance section cited in the decision. The owner shall be provided a copy of such hearing decision.

(F) Decision to tow and rates to be charged. If the preponderance of the evidence supports towing and compliance with the provisions of this chapter, the Hearing Officer shall direct that vehicle be towed, with any towing and storage costs to then be imposed upon the owner thereof. The fees to be charged for towing and storage services shall be no more than the rates set out in this chapter. The owner of said vehicle having had such hearing may avoid the towing by immediately removing the vehicle from the improper location to a proper, lawful location and correcting any unlawful condition of the vehicle.

(G) Decision not to tow. If the preponderance of the evidence fails to support towing of the vehicle, the Hearing Officer shall direct that the vehicle shall not be towed. The Hearing Officer shall furnish a copy of such decision to the owner, who may place it inside the vehicle in a location plainly visible from the outside, such as the dashboard or rear window. The Village shall tow no vehicle about which such a decision has been rendered unless the circumstances under which the decision was rendered have changed. If at some subsequent time the Village should wish to tow the vehicle from the same location, it shall follow the same procedures required for the towing of any other similarly situated vehicle.

(H) Reports and documents to be retained; contesting decisions. Originals or copies of all notices, pre-tow hearing decisions, towing reports, and any associated police reports or documents shall be retained by the Police Department for a period of at least five years after each hearing, or after each tow if no hearing was requested or held. The Village or the owner may contest the decision of the Hearing Officer in any manner provided by law.

#### 81.241 POST-TOW NOTICE AND HEARING FOR ODD-EVEN VIOLATION VEHICLES.

Owners or parties entitled to possession of vehicles towed as odd-even violation vehicles pursuant to Section 81.22(C) shall be entitled to a post-tow notice and an opportunity for a post-tow hearing as set forth in Section 81.25 and 81.26.

#### 81.25 POST-TOW NOTICE FOR HAZARDOUS AND UNLAWFUL VEHICLES.

(A) Mailing or delivery of notice. Notice pursuant to this section shall be forwarded by certified or registered mail, return receipt requested, to the address of the owner of the vehicle as indicated in the most current registration list of the Secretary of State, unless the notice is personally delivered to the owner, in which case, the date and time of the delivery and the name of the officer making the delivery

shall be noted in the Police Department records or reports. In the event that the Village has towed an out-of-state hazardous or unlawful vehicle, inquiry by computer, telephone or letter shall be made of the Secretary of State or equivalent state agency of the particular jurisdiction for the furnishing of the most current registered name and address of the owner of the vehicle, and notice shall be mailed as provided herein to the address furnished. Notification shall be sent no later than two days after the date the ownership of the vehicle is determined.

(B) Notice of vehicle release requirements and hearing rights of towed vehicles. Printed on the back of the invoice is information indicating the opportunity and procedures for a hearing to contest the validity of a towed vehicle.

(C) Requests for post-tow hearings. Requests for hearings may be made in person or by mail to the office indicated on the notice and the back of the invoice within 15 days of the mailing or personal delivery of the notification of tow, or release of the vehicle, whichever occurs first; otherwise, the right to a hearing shall be deemed waived.

(D) Release of motor vehicles. Before the owner or other person entitled to possession of any impounded vehicle shall be permitted to remove same, that person shall furnish evidence of his identity, proof of ownership or of his or her right to possession, sign a receipt for the vehicle, and pay the amount owed for towing and storage fees to the towing service operator unless the Hearing Officer finds that the vehicle should not have been towed. In cases where the vehicle is to be released to a person asserting a legal right to possess the vehicle other than the owner of the vehicle, such person shall also present an indemnification of the Village from any claims of the owner of the vehicle for claims relating to the release thereof.

(E) Establishment of towing and storage rates. The vehicle owner shall be responsible for fees for towing and storage on police-ordered tows at rates set forth in this chapter. The towing service operator must fully itemize in writing the details of billing and supply a copy of the itemized bill to the owner and to the Police Department. The towing service operator and the Police Department shall have available a copy of the complete current rate schedule as set forth by this chapter and any special rate policy that may apply for vehicle owners to view upon request.

#### 81.251 IMPOUNDED VEHICLES.

(A) Vehicles subject to impoundment. Any vehicle that is used in the commission of any offense set forth in Appendix A to this chapter shall be impounded and towed by a tow operator eligible to tow vehicles pursuant to this chapter to a place of safe storage. The registered owner of an impounded vehicle, the agents of such registered owner or the lessee of such shall be liable for the towing and storage fees therefor pursuant to this chapter, and shall further be liable to the Village for the payment of an administrative fee as hereinafter set forth in this section. The administrative fee shall be used by the Village to assist in defraying its costs as allowed by 625 ILCS 5/11-208.7. All such towing and storage fees and administrative fees shall be in addition to any fines or penalties imposed by any court in connection with the adjudication of the offense underlying the impoundment in question.

(B) Impoundment Notice and Hearing. Vehicles subject to impoundment may be impounded and towed without any prior notice or prior hearing. At the time of the towing and impoundment of an impounded vehicle, the Village shall notify or make a reasonable attempt to notify the registered owner, the agent thereof, or the lessee of the impounded vehicle, any persons identifying themselves as the same, or any person found to be in control of the vehicle at the time of impoundment, of the fact of the impoundment and towing of the vehicle and of the right to an administrative hearing on the merits of the impoundment. Thereafter, the Village shall provide notice to the registered owner of the vehicle, any lessee of the vehicle, and any lienholder of the vehicle that (1) the vehicle shall remain impounded pending the completion of an administrative hearing on the merits of the impoundment, unless the owner, lessee or lienholder shall post a bond with the Village in the amount of the administrative fee established by this Chapter and pay all applicable towing and storage fees due to the tow operator and (2) that the Village Code Hearing Department shall conduct a hearing on the merits of the impoundment of the vehicle, and stating the date, time and location of the administrative hearing. The notice required herein shall be served by the Village on the parties entitled thereto by personal service, or by first class U.S. mail addressed to the registered owner, lessee and/or lienholder at their addresses as disclosed by the records of the Illinois Secretary of State within then (10) days of the date of the impoundment of the vehicle. Such notice shall be effective upon personal service or upon mailing. The hearing described in the notice shall be scheduled and convened within forty five (45) days of the date of the impoundment of the vehicle. The administrative hearing on the merits of the impoundment shall be conducted in accordance with the applicable provisions of Chapter 42A.

(C) Release of impounded vehicles. Prior to the conduct of an administrative hearing, an impounded vehicle may be released upon the payment to the Village of an administrative fee in the amount of \$400, and payment to the tow operator of all applicable towing and storage fees. The Village shall issue a receipt for the payment of said administrative fee, and such receipt shall be presented to the tow operator prior to and as a condition of the release of the vehicle in question. Alternatively, and prior to the conduct of an administrative hearing, an impounded vehicle may be released upon the posting with the Village of a bond equal to the amount of the applicable administrative fee, and payment to the tow operator of applicable towing and storage fees. The Village shall issue a receipt evidencing the posting of such bond, and such receipt shall be presented to the tow operator prior to and as a condition of the release of the vehicle in question. In cases where the vehicle is to be released to a person asserting a legal right to possess the vehicle other than the owner of the vehicle, such person shall also present an indemnification of the Village from any claims of the owner of the vehicle for claims relating to the release thereof. Subsequent to the conduct of an administrative hearing culminating in a determination upholding an impoundment, the impounded vehicle shall only be released upon payment of the administrative fee to the Village and upon payment of all applicable towing and storage fees due to the tow operator. The Village shall issue a receipt for the payment of said administrative fee, and such receipt shall be presented to the tow operator prior to and as a condition of the release of the vehicle in question. Subsequent to the conduct of an administrative hearing culminating in a determination overruling an impoundment, the Village shall cause the release of the impounded vehicle without payment of the administrative fee, and shall pay or reimburse the applicable storage fees; in the event that the impounded vehicle had been released prior to an administrative hearing culminating in a

determination overruling an impoundment, the Village shall reimburse the amount of the administrative fee paid, release any posted bond, and reimburse the amount of all storage fees paid.

(D) Disposition of Unreleased Vehicles. In the event that the owner, lessee or lienholder of an impounded vehicle shall not retrieve an impounded vehicle from a storage facility within thirty five (35) days after the hearing officer issues a written determination in an administrative hearing conducted on the merits of the impoundment of the vehicle, the vehicle in question shall be deemed to have been abandoned, and shall thereafter be disposed of in accordance with Article II of Chapter 4 of the Illinois Vehicle Code.

(E) Administrative Fees, Fines and Penalties—Expiration of Time for Administrative Review. Unless stayed by a court of competent jurisdiction, any fine, penalty or administrative fee imposed under this Chapter which remains unpaid in whole or in part after the expiration for seeking judicial review under the Administrative Review law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction, as provided in Chapter 42A.

(F) Waiver of Administrative Fee. The administrative fee imposed by this Chapter shall be waived by the Village in any case where the Village is provided with verifiable proof that the vehicle was stolen at the time it was impounded.

(G) Waiver of impoundment. The sworn officer in charge of the arrest for the offense underlying an impoundment may waive the impoundment of a vehicle only when in his or her reasonable judgment the impoundment would interfere with the provision of police services, adversely affect public safety and the vehicle in question is then lawfully parked, or will be driven from the scene of the arrest by a licensed driver upon the effectively given consent of the lawful owner of the vehicle.

#### 81.26 POST-TOW HEARINGS PROCEDURES.

(A) Opportunity for hearing. The owner or party entitled to possession of a vehicle towed pursuant to Section 81.22(B), 81.22(B-1) or 81.22(C) shall be provided the opportunity for a post-tow hearing to determine the validity of such tow and any towing or storage charges. The hearing will not be determinative of, or adjudicate, any citation issued relative to any towed vehicle.

(B) Appointment of Hearing Officer and nature of the hearing. The nature of the hearing and the appointment of the Hearing Officer shall be the same as set forth above in Section 81.24.

(C) Conduct of post-tow hearings. The Hearing Officer shall review all evidence presented by the vehicle owner and the Police Department or other Village employees, and shall make a finding in writing based upon the preponderance of the evidence presented, as to the lawful authority for the towing and storage of the vehicle.

(D) Post-tow hearing decision. For each hearing, the Hearing Officer shall complete a post-tow hearing decision and attach such decision to the Police Department's original vehicle towing report, and supply a copy of the decision to the owner by personal delivery if the owner is present, otherwise by mail within seven days of the hearing.

(E) Decision to tow justified. If the preponderance of the evidence supports towing and compliance with the provisions of this chapter, the Hearing Officer shall direct that the tow was justified and towing and storage costs be imposed upon the owner thereof. The fees to be charged for towing and storage services shall be no more than the rates set out in this chapter.

(F) Decision to tow unjustified. If the preponderance of the evidence fails to support towing of the vehicle then the Hearing Officer may find the Village responsible for towing and storage fees.

(G) Reports and documents to be retained; contesting decisions. All originals or copies of the notices, post-tow hearing decisions, towing reports, and any associated police reports or documents shall be retained by the Police Department for a period of at least five years after each hearing, or after each tow if no hearing was requested or held. The Village or the owner may contest the decision of the Hearing Officer in any manner provided by law.

#### 81.27 TOWING SERVICE SUBJECT TO ORDINANCE.

Notwithstanding any other ordinance or statutory provisions to the contrary, any towing service operator which tows on behalf of the Village must perform its services subject to the provisions of this chapter.

#### 81.99 PENALTY.

(A) Any person who shall violate Sections 81.02 - 81.15 shall, upon conviction thereof, be fined not less than \$100 and not more than \$750 for each offense.

(B) Any person who violates or aids and abets in the violation of Section 81.20 of this chapter is guilty of a petty offense, consistent with ILCS Ch. 625, Act 5, § 4-214, as amended; and

(1) Shall be fined not less than \$100 or more than \$750; and

(2) Shall be required by the court to make a disposition of the abandoned or unclaimed vehicle.

## **CHAPTER 81 – APPENDIX A - VEHICLE IMPOUNDMENT VIOLATIONS**

The Offenses for which vehicles may be impounded under Chapter 81.251 shall be those identified in 625-ILCS 5/11-208.7(b), hereinafter set forth:

- (1) 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 of 2012; or
- (2) Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of this Code; or
- (3) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act; or
- (4) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
- (5) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1, 24-1.5, or 24-3.1 of the Criminal Code of 1961 or the Criminal Code of 2012; or
- (6) Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of this Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or
- (7) Operation or use of a motor vehicle while soliciting, possession, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or
- (8) Operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of this Code, if the period of expiration is greater than one year; or
- (9) Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of this Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
- (10) 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 this Code; or



- (11) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961 or the Criminal Code of 2012; or
- (12) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961 or the Criminal Code of 2012, when so provided by local ordinance; or
- (13) Operation or use of a motor vehicle in violation of Section 11-503 of this Code;
  - (A) while the vehicle is part of a funeral procession; or
  - (B) in a manner that interferes with a funeral procession.