

Title 7: Motor Vehicles and Traffic
Chapter 9 – IMPOUNDMENT OF MOTOR VEHICLES

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7-9-1: DEFINITIONS:

Wherever the following words or phrases are used in this chapter, they shall, for purposes of this chapter, have the meanings respectively ascribed to them in this section, except when the context otherwise indicates:

IMPOUND OR IMPOUNDMENT: The seizure, towing, and storage of a motor vehicle by or on behalf of the police department pursuant to this chapter.

OWNER OF RECORD OR OWNER: The recorded titleholder(s) or lessee(s) of a motor vehicle. (Ord. 2011-22, 8-1-2011)

7-9-2: ADMINISTRATIVE CHARGE AND PENALTY:

- A. Except as provided in subsection B of this section, in any circumstance in which violations of this code, the Illinois vehicle code, 625 Illinois Compiled Statutes 5/1-100 et seq., or the Illinois Compiled Statutes authorize or require the police department to impound a motor vehicle, or in any other circumstance under which the police department may impound a motor vehicle pursuant to this section, the chief of police or his or her designee is authorized and directed to impound the motor vehicle in a location determined by the chief of police or his or her designee. The village may order the towing of any vehicle where authorized under the then current version of 625 Illinois Compiled Statutes 5/11-208.7 (or any successor statute). At the time of approval of this chapter, the list of eligible offenses includes:

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Violation Or Offense		Statute Reference
1.	Operation or use of a motor vehicle in the commission of, or the attempt to commit, an offense for which a motor vehicle may be seized and forfeited.	720 ILCS 36-1
2.	Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof.	625 ILCS 5/11-501
3.	Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the cannabis control act.	
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.	
5.	Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of:	
	Unlawful use of weapons	720 ILCS 5/24-1
	Reckless discharge of a firearm	720 ILCS 5/24-1.5
	Unlawful possession of firearms/ammunition	720 ILCS 5/24-3.1
6.	Driving while a driver's license, permit or privilege is suspended or revoked (unless suspended for an unpaid parking or moving violation or failure to comply with emission testing).	625 ILCS 5/6-303
7.	Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the cannabis control act or the Illinois controlled substances act.	
8.	Operation or use of a motor vehicle with an expired driver's license, provided that said license is one year or more past expiration.	625 ILCS 5/6-101
9	Operation or use of a motor vehicle without ever having been issued a driver's license or permit, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age.	625 ILCS 5/6-101
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:	

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	License or permit	625 ILCS 5/6-101
	Driving while license suspended or revoked	625 ILCS 5/6-303
	Driving under the influence	625 ILCS 5/11-501
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 Illinois criminal code of 1961.	
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 Illinois criminal code of 1961.	

- B. Notwithstanding the provisions of this section, the police department may not impound a motor vehicle if the motor vehicle was stolen at the time of the relevant violation and the theft was reported to the appropriate police authorities within twenty four (24) hours after the theft was discovered or reasonably should have been discovered.
- C. The police department shall not release, or direct any person to release, any vehicle impounded under this section to any person except to the owner or person duly authorized by the owner to accept possession of the motor vehicle.
- D. Except for motor vehicles reported stolen pursuant to subsection B of this section, the owner of an impounded motor vehicle shall be civilly liable to the village for an administrative charge and penalty in the amount not to exceed five hundred dollars (\$500.00), and will be responsible for any applicable towing and storage fees. The amount of the administrative charge and penalty imposed pursuant to this section shall constitute a debt due and owing to the village. (Ord. 2012-O-29, 12-3-2012)

7-9-3: NOTICE OF IMPOUNDMENT:

- A. At the time of impoundment, the police department shall provide a written impound notice to the person in control of the motor vehicle pursuant to this section. If the person in control of the motor vehicle is not the vehicle owner, the impound notice shall be delivered to the owner by personal service or by United States certified or registered mail to the address indicated on the motor vehicle's registration or certificate of title within seven (7) days after impoundment of the motor vehicle. The impound notice shall include the following information:

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1. The description of the motor vehicle, including year, make, model, registration and vehicle identification number (VIN);
2. The present location of the motor vehicle;
3. The reason(s) for the impoundment of the motor vehicle;
4. The opportunity for the owner to submit a hearing request to contest the impoundment of the motor vehicle, and the consequences of the failure to submit a hearing request; and
5. The opportunity for the owner to reclaim the motor vehicle, and the consequences of the failure to reclaim the motor vehicle.

B. The failure or refusal by the owner to: 1) acknowledge receipt of an impound notice delivered by certified or registered mail to the address indicated on the motor vehicle's registration or title, or 2) to accept personal service of the impound notice, shall be deemed a waiver by the owner of any further notice regarding the impoundment of the motor vehicle. (Ord. 2011-22, 8-1-2011)

7-9-4: HEARING REQUEST:

- A. The owner of a motor vehicle impounded pursuant to this chapter may contest the impoundment by filing a timely written hearing request pursuant to this section.
- B. The owner must submit a written hearing request to the police department within seven (7) days after: 1) mailing or personal service of the impound notice pursuant to section 7-9-3 of this chapter, or 2) the date that the vehicle is released to the owner, whichever occurs earlier.
- C. If a hearing request is not received by the police department within the seven (7) day period provided in subsection B of this section, the owner shall be deemed to have waived the opportunity to request a hearing. (Ord. 2011-22, 8-1-2011)

7-9-5: HEARING SCHEDULE:

- A. Upon receipt of a timely hearing request, the Village will schedule a time and date for an evidentiary hearing concerning the impound as follows:
 1. If the vehicle has been released to the owner, the hearing shall be conducted by the Village within ninety (90) days of the date upon which the Police Department receives the hearing request.

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2. If the motor vehicle remains impounded, the hearing before the administrative hearing officer shall also be conducted within ninety (90) days of the date on which the Police Department receives the hearing request. However, the Owner may also request, in writing, an emergency hearing before the Police Chief or designee. If the Owner requests such an emergency hearing, it shall be conducted within five business days of the date of the request, during the Village's normal business hours. The sole purpose of the hearing shall be to determine whether the vehicle should be released to the owner without requirement of posting an administrative bond, prior to conduct of the final hearing before the administrative hearing officer.

B. The Village will notify the owner, by telephone, mail or in person, of the date, time and location of the hearing. If the owner submits a hearing request and fails to appear at the scheduled date and time of the hearing, the hearing officer shall enter a default judgment in favor of the Village. The Village incorporates by reference the notice requirements of 625 ILCS 5/11-208.7.

7-9-6: HEARING PROCEDURES:

- A. Other than emergency hearings conducted under Section (5)(A)(2), above, a qualified administrative hearing officer will serve as hearing officer and conduct the hearing.
- B. The hearing will be audio recorded.
- C. All interested persons will have a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply and hearsay evidence shall be admissible. Any sworn or affirmed report, citation or ticket shall be admissible evidence if it: 1) is prepared in the performance of a police officer's duties; 2) sufficiently describes the circumstances leading to the impoundment of the motor vehicle; and 3) is not rebutted by clear and convincing evidence to the contrary.
- D. After reviewing all relevant evidence presented at the hearing, the hearing officer shall determine pursuant to section 7-9-7 of this chapter, based upon a preponderance of the evidence, whether the administrative fee should be imposed.

7-9-7: DETERMINATION BY HEARING OFFICER:

- A. Written Order: After a hearing pursuant to this chapter, the hearing officer shall enter a written order determining whether the administrative fee should be imposed.
- B. Fee Ordered:

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1. If the hearing officer determines that the administrative fee should be imposed, the written order shall: a) state that determination, and, b) assess the administrative charges and penalties due and owing by the owner to the village (which may include a sum supplemental to the administrative fee, as costs of hearing). The owner shall also be liable for any towing or impound fees incurred.
2. In making a determination pursuant to this section, the hearing officer may, in his or her discretion, reduce the administrative charge or penalty established in this chapter (but not the applicable towing and storage fees) upon determining that the owner incurred the administrative charge or penalty for reasons not the fault of the owner. Any reduction by the hearing officer of the amount of the administrative charge or penalty must be specifically set forth in the hearing officer's written order.
3. Any order imposing a fee shall be entered pursuant to the requirements of this Ordinance, and shall incorporate this section by reference (whether expressly stated or not). Such order shall be deemed a finding that the imposition of the administrative fee is appropriate.

C. Other Finding:

1. If the hearing officer does not uphold the imposition of an administrative fee, the written order of the hearing officer shall:
 - a. If the motor vehicle has been released to the owner, direct the village to refund any administrative charges prepaid by the owner, including the return of any cash bond posted by the owner pursuant to section 7-9-9 of this chapter. The owner shall nonetheless remain liable for any towing or impound fees due.
 - b. If the motor vehicle is still impounded at the time of the hearing:
 - (1) Direct the towing agent, upon presentation by the owner of the hearing officer's written order and evidence of his or her identity and ownership of the motor vehicle, to release the motor vehicle to the owner after payment of any towing or storage charges; and,
 - (2) Direct the village to refund any administrative charges, prepaid by the owner, including the return of any cash bond posted by the owner under section 7-9-9 of this chapter.

D. Reimbursement: Whenever the hearing officer enters a written order determining that the owner is entitled to reimbursement by the village for administrative charges previously paid by the owner, the hearing officer shall transmit a copy of the written order to the village

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finance director or designee, who shall remit payment of the money due to the owner within thirty five (35) days after the decision of the hearing officer, unless the village seeks administrative review of the hearing officer's determination pursuant to section 7-9-8 of this chapter.

7-9-8: APPEAL:

Any final decision by the hearing officer that an administrative fee should be imposed shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois administrative review law.

7-9-9: RECLAIMING IMPOUNDED MOTOR VEHICLES:

- A. Without Hearing: If an owner desires to take possession and reclaim an impounded motor vehicle without a hearing, the owner may take possession of the motor vehicle only after the owner:
 1. Furnishes evidence to the towing agent of his or her identity and ownership of, or right to possess, the motor vehicle;
 2. Pays the administrative charge and penalty set forth in this chapter and delivers a signed receipt from the village finance director or his or her designee for such payment to the towing agent;
 3. Pays the towing agent for all towing and storage costs for the motor vehicle; and,
 4. Signs and delivers to the police department a waiver of the right to a hearing on the impoundment of the motor vehicle.
- B. Before Hearing: If an owner submits a hearing request to the police department and desires to take possession and reclaim the impounded motor vehicle prior to the hearing, the owner may take possession of the motor vehicle only after he or she:
 1. Furnishes evidence of his or her identity and ownership of the motor vehicle or his or her right to possession of the motor vehicle to the police department;
 2. Files a timely hearing request pursuant to section 7-9-4 of this chapter; and,
 3. Posts a cash bond with the village finance director or his or her designee, in the amount of the administrative charge and penalty prescribed in this chapter, and pays all towing and storage costs for the motor vehicle, to assure the payment of those fees

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if the hearing officer ultimately determines that the administrative fee should be imposed.

C. After Hearing:

1. Fee Ordered: If the hearing officer conducts a hearing and determines that an administrative fee should be imposed relating to the impoundment of the motor vehicle:
 - a. If the owner has previously elected to deposit a cash bond with the village and reclaim the motor vehicle as provided in this section, such cash bond shall immediately be forfeited to the village; or,
 - b. If the owner elected not to post a cash bond and the motor vehicle remains impounded, then the owner may take possession of the motor vehicle only after he or she:
 - (1) Furnishes evidence of his or her identity and ownership of the motor vehicle or his or her right to possession of the motor vehicle to the towing agent; and,
 - (2) Pays the administrative charge, penalties, and towing and storage fees for the motor vehicle as determined by the hearing officer, and delivers a signed receipt to the towing agent from the village finance director or his or her designee demonstrating payment of the administrative charges and penalties.
2. Other Finding: If the hearing officer issues any other order, the hearing officer shall order that:
 - a. the motor vehicle be immediately released to the owner without payment of the administrative fee, but after payment of any towing or storage fees upon the owner furnishing evidence to the towing agent of his or her identity and ownership of, or right to possess, the motor vehicle; and,
 - b. the village finance director or designee refund any administrative charges or penalties paid by the owner for the impoundment of the motor vehicle, including the return of any cash bond posted by the owner under this section.
- D. Any vehicle not retrieved from the towing facility within 35 days after the hearing officer issues a final decision shall be subject to disposal as an abandoned vehicle pursuant to 625 ILCS 5/11-208.7(h).

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7-9-10: ENHANCED DUI ENFORCEMENT FUND:

The amounts received as administrative charges pursuant to this chapter shall be set aside in a separate police department fund to be used at the direction of the chief of police for the purpose of purchasing equipment, training, and overtime salaries for officers incurred as a result of enhanced DUI enforcement. (Ord. 2011-22, 8-1-2011)

7-9-11: IMPLEMENTATION:

From time to time, the chief of police shall promulgate the necessary notices, forms, and rules as may be required for the implementation of the provisions of this chapter. (Ord. 2011-22, 8-1-2011)

7-9-12: TOWING OR IMPOUNDMENT AUTHORIZED:

- A. Authorization: The provisions of this section shall authorize the towing and impounding of vehicles, within the village. This section shall not impair the authority provided under any other applicable village ordinance or regulation, but rather shall be read to provide additional authority to authorized village employees, to have vehicles towed and impounded.
- B. Towing And Impounding Authorized: Village police officers, code enforcement officers and their authorized designees shall be authorized to have a vehicle towed and impounded as authorized under any other applicable village ordinance or regulation, and also under the following conditions:
 1. A vehicle is involved in a traffic stop or is otherwise stopped during or as a component of the investigation of a potential traffic or criminal violation, which investigation results in the arrest of the driver of the vehicle.
 2. A vehicle is illegally parked upon or is illegally trespassing upon property owned by the village, other than a roadway or public right of way.
 3. A vehicle is reasonably believed to have been the scene of a crime or is reasonably believed to have or contain evidence of a crime or other unlawful activity.
 4. A vehicle is subject to being seized or towed under any applicable federal, state or local ordinance, statute, code or regulation, including, but not limited to, vehicles eligible for towing under:
 - a. 625 Illinois Compiled Statutes 5/11-1302;

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- b. 625 Illinois Compiled Statutes 5/11-208.7;
- c. 725 Illinois Compiled Statutes 150/1;
- d. 720 Illinois Compiled Statutes 5/36-1;
- e. 625 Illinois Compiled Statutes 5/4-203.

- 5. A vehicle is subject to being towed and impounded based upon the accrual of a sufficient number of parking tickets, and issuance of appropriate notices, under applicable village ordinance.
- 6. A vehicle is parked in a location that presents an immediate and unwarranted threat to public health, welfare or safety, including, but not limited to:
 - a. Vehicles parked in front of fire hydrants, fire doors, fire lanes, or other similar locations.
 - b. Vehicles parked in a location so as to block ingress or egress from any village hall, police department or public works department building or parking lot.
 - c. Vehicles parked in a location so as to block ingress or egress from any other public entity's property, including, but not limited to, the Pingree Grove fire protection district.
 - d. Vehicles parked in a location so as to block ingress or egress from any hospital, urgent care center or other emergency medical facility.
 - e. Vehicles parked within a roadway (other than within a designated parking zone).
 - f. Vehicles on or in dangerously close proximity to railroad tracks.
 - g. Vehicles that are on or in close proximity to a public right of way, that have become immobilized due to mechanical difficulty, weather conditions, or for any other cause.
 - h. Vehicles in such other location that is determined, by the village agent or employee ordering the towing, to be unsafe or unlawful, in their absolute and sole discretion.
- 7. A vehicle is illegally parked on private property for which the village has a valid traffic enforcement agreement that permits towing without property owner notification or

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consent, or is illegally parked on private property and the property owner consents to the tow.

- C. **Towing Not Required:** In the event that a vehicle is eligible to be towed and the village officer or agent involved determines that the vehicle does not require towing (e.g., a vehicle involved in a traffic stop resulting in the driver being arrested, where the vehicle is either lawfully parked or capable of being lawfully driven by another, properly licensed occupant in the vehicle), the village officer or agent may elect to not have the vehicle towed or impounded, or may elect to have the vehicle towed and impounded, in his or her absolute and sole discretion.
- D. **Warrant Or Other Authority:** In the event a police officer believes that a vehicle contains evidence of a crime or other unlawful activity but the officer lacks legal authority to seize the vehicle and have it towed, the officer shall be authorized to promptly seek and secure a search warrant or other similar authority to authorize the seizure, towing and/or search of the vehicle.
- E. **Towing And Impoundment:** Any village agent or employee authorized to order the towing of a vehicle under this section shall utilize the tow rotation procedures established by the chief of police. The chief shall be authorized to establish a towing rotation, qualifications for participating towing vendors, and any towing related regulations for use by village personnel. Any vehicle towed or impounded under this section shall be retained by the party towing the vehicle until: 1) all outstanding fines, penalties, fees, interest, or other charges whatsoever have been paid to the village and the party towing the vehicle, in full; 2) the vehicle is ordered to be released from impound by an administrative hearing officer; 3) the vehicle is ordered to be released from impound by a court having jurisdiction over the matter; or 4) the vehicle is ordered to be released from impound by the village administrator, police chief, or their designee. Any time a vehicle is towed, the village may require that such vehicle be towed to the village police station or another location approved by the chief of police. Any company towing a vehicle, where the tow is initiated by the village and/or where a vehicle is seized by the village, shall comply with the village's requirements and shall deposit the vehicle where instructed, at no additional charge. The owner of the vehicle shall still remain liable for any costs incurred in towing. The chief of police shall be authorized to set storage fees for any vehicle retained at the impound lot, provided that such fees shall only be assessed after a vehicle is available for pick up by the owner of said vehicle (i.e., no longer needed for evidentiary purposes). The owner of said vehicle shall be responsible for payment of all towing and storage charges prior to release of the vehicle.
- F. **Towing Policy:** The chief of police is and shall be authorized to approve changes, amendments or modifications to the village's official towing policy from time to time, without requiring approval of the village board or amendment of this chapter. Use of a "Denver

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"boot" or other vehicle immobilization device, and use of towing and impoundment of vehicles is and shall be authorized in accordance with the requirements of the then current towing policies established by the chief of police.

G. Presumption Of Ownership: In the case of any parking citation or handicapped parking violation issued by or on behalf of the village, regardless of whether such citation is issued in the form of a mail in citation, or whether such citation is prosecuted through the village's administrative hearings or through the circuit court, the provisions of this subsection shall apply. As the village's parking citations are civil in nature, the village exercises its authority to determine the liability of owners for the parking of vehicles registered in their name, within the corporate limits of the village.

1. Citation Issued To Occupied Vehicle: In the case of any citation issued to a vehicle which is occupied or claimed by a driver at the time of issuance of the citation, the citation shall be issued and prosecuted in the name of the driver or person claiming responsibility.
2. Citation Issued To Unoccupied Vehicle: In the case of any citation issued to a vehicle which is unoccupied and unclaimed by a driver at the time of issuance, the citation shall be issued to the registered owner of the vehicle.
 - a. In all such cases, there shall be a rebuttable presumption that the registered owner of the vehicle is the party responsible and liable for the vehicle's parking, violation of village or state code or ordinance, and resulting fines, penalties and other liabilities.
 - b. For any parking citation issued to the owner of an unoccupied vehicle, the village may accept payment for such citation from any party or person.
 - c. For any parking citation issued to an unoccupied vehicle, the only party that shall be authorized or entitled to contest the parking citation and/or to request an administrative hearing on such citation is the registered owner to whom such vehicle is registered.
 - (1) In the event that the registered owner contests such a citation on the basis that a driver or person other than the registered owner was operating the vehicle and/or parked the vehicle unlawfully, the registered owner shall nonetheless be liable for the parking, violation of village or state code or ordinance, and resulting fines, penalties and other liabilities unless:

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- (A) The registered owner produces a police report and other documentation acceptable to the party reviewing the citation, demonstrating that at the time the citation was issued, the vehicle had been reported stolen; or
- (B) The registered owner produces documentary or testimonial evidence demonstrating that at the time the citation was issued, an individual, discrete, expressly named person identified by the registered owner had actual custody of the vehicle and had personally parked the vehicle and incurred the parking citation.

(2) It shall not be a defense to a citation issued to the registered owner of an unoccupied vehicle that such vehicle was leased, rented, loaned or otherwise utilized by a third party, in the absence of proof that the vehicle was under such person's actual direct operation at the time that the citation was issued.

H. Temporary Parking Restrictions Imposed: The chief of police and any designees thereof shall be authorized to impose temporary parking restrictions (limited hours, limited types of vehicles, etc.) or parking prohibitions (no parking permitted) within the village.

1. Duration Of Restrictions: Said temporary restrictions may be imposed for a period of no more than sixty (60) days at a time.
2. Method Of Posting/Notice: No such temporary parking restrictions shall be enforced until at least forty eight (48) hours have passed since the posting of temporary signs in the affected area, indicating the applicable restrictions. Said temporary signs shall be enforceable for the time that they remain posted. In the event of an emergency that requires less notice, the temporary restrictions may be imposed and enforced upon the provision of personal notice to any vehicles parked in the area of the temporary signs at the time of their posting, and the temporary signs shall indicate the time at which the temporary restrictions shall take effect.
3. Enforcement: Once forty eight (48) hours have passed after the posting of temporary signs, the temporary parking restrictions may be enforced in the same fashion as any other village parking restriction, and shall have the effect of village ordinance. Because such temporary restrictions are intended to be utilized in circumstances where the village determines that parking presents a public safety threat, any vehicle parked in violation of the temporary parking restrictions shall be subject to a minimum fine of one hundred dollars (\$100.00), and shall be subject to immediate towing.
4. Removal Or Tampering With Temporary Parking Restriction Signs: It shall be unlawful to move, remove, alter or tamper with any temporary parking restriction signs posted

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by the village. Any such violation shall be subject to a fine of not less than five hundred dollars (\$500.00). (Ord. 2012-O-29, 12-3-2012)