



VILLAGE OF ORLAND PARK

14700 Ravinia Avenue
Orland Park, IL 60462
www.orland-park.il.us

Ordinance No: 4154

File Number: 2006-0304

AN ORDINANCE PROVIDING FOR THE SEIZING AND IMPOUNDING OF MOTOR
VEHICLES USED IN CONNECTION WITH ILLEGAL ACTIVITIES

VILLAGE OF ORLAND PARK

STATE OF ILLINOIS, COUNTIES OF COOK AND WILL

Published in pamphlet form this 18th day of July, 2006 by authority of the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois.

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AN ORDINANCE PROVIDING FOR THE SEIZING AND IMPOUNDING OF MOTOR VEHICLES USED IN CONNECTION WITH ILLEGAL ACTIVITIES

WHEREAS, the Village of Orland Park is a home rule unit by virtue of the provisions of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village, as a home rule unit, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the President and Board of Trustees, pursuant to the Village's home rule authority, hereby adopt this ordinance establishing procedures for the seizure and impounding of motor vehicles used in connection with illegal activities and establishing administrative penalties for such violations.

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:

That Title 9 Chapter 11 of the Village of Orland Park Village Code is hereby amended by amending the name of Title 9 Chapter 11 thereto, which shall read in its entirety as follows: "Abandoned, Wrecked and Seized Vehicles."

SECTION 2:

That Title 9 Chapter 11 of the Village of Orland Park Village Code is hereby amended by adding a new Section 9-11-10 thereto, which shall read in its entirety as follows:

"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.

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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 penalty not to exceed \$500.00. 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 not to exceed \$500.00.

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 not to exceed \$500.00.

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 not to exceed \$500.00.

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 not to exceed \$500.00.

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 not to exceed \$500.00.

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 not to exceed \$500.00.

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

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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.

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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

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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."

SECTION 3:

This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner and form required by law.

SECTION 4:

That the Village Clerk be and is hereby directed to publish this ordinance in pamphlet form.

PASSED this 17th day of July, 2006

/s/ David P. Maher

David P. Maher, Village Clerk

Aye: 5 Trustee Fenton, Trustee Murphy, Trustee Dodge, Trustee Gira, and Trustee Schussler

Nay: 0

Absent: 2 Trustee O'Halloran, and Village President McLaughlin

DEPOSITED in my office this 17th day of July, 2006

/s/ David P. Maher

David P. Maher, Village Clerk

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APPROVED this 17th day of July, 2006

/s/ Daniel J. McLaughlin

Daniel J. McLaughlin, Village President

PUBLISHED this 18th day of July, 2006

/s/ David P. Maher

David P. Maher, Village Clerk