

ORDINANCE NO. 2009-15

AN ORDINANCE AMENDING CHAPTER 14, "MOTOR VEHICLES AND TRAFFIC", OF THE ORDINANCES OF THE VILLAGE OF STICKNEY, ILLINOIS BY REVISING ARTICLE III, DIVISION 9, "VEHICLE SEIZURE AND IMPOUNDMENT."

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, A HOME RULE UNIT OF GOVERNMENT AS FOLLOWS:

**WHEREAS**, the Village of Stickney (the "Village") is a home rule municipality in accordance with the Constitution of the State of Illinois of 1970; and

**WHEREAS**, the Village of Stickney seeks to maintain the safety and appearance of the streets and roadways throughout the Village; and

**WHEREAS**, the Village of Stickney maintains certain regulations of the streets and sidewalks and enforces certain regulations of the State of Illinois; and

**WHEREAS**, the President and the Board of Trustees of the Village of Stickney seek to raise the administrative fee charged to towed vehicles that are involved in prohibited activities to be equal to the rate charged in the Village's surrounding communities; and

**WHEREAS**, this Ordinance advances the goal of maintaining the Village of Stickney as a good and safe place to live.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS.

**Section 1. Recitals.** The facts and statements contained in the preambles to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

**Section 2. Adoption.** Chapter 14 Article III, Division 9 of the Municipal Code of the Village of Stickney shall be amended to read as follows:

**Sec. 14-195. Definitions.**

*Business day* means any day in which the office of the Village Clerk of the Village of Stickney is open to the public for a minimum of seven hours.

*Motor vehicle* means every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles and motor scooters.

*Owner of record* means the record title holder(s) of the vehicle as registered with the Secretary of State, State of Illinois or if not registered in Illinois, the particular state where the vehicle is registered.

**Sec. 14-196. Conduct prohibited.**

A motor vehicle used in connection with any of the following violations may be subject to seizure and/or impoundment by the village and the owner of record of said vehicle shall be liable to the village for an administrative penalty of ~~\$500~~250.00, plus any applicable towing fees:

- (1) Driving under the influence of alcohol, other drug or drugs, intoxicating compound(s) or any combination thereof, or possession of drugs or intoxicating compound(s) as provided by the Illinois Compiled Statutes (625 ILCS 5/11-501(a)).
- (2) Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, as a result of suspension related to conviction for drugs, alcohol, intoxicating compound or any combination thereof, pursuant to the Illinois Compiled Statutes (625 ILCS 5/11-501(a), 625 ILCS 5/6-303).
- (3) Driving without a valid driver's license pursuant to Illinois Compiled Statutes (625 ILCS 5/6-101).
- (4) Arrest for any felony offense pursuant to the Illinois Compiled Statutes (720 ILCS 5/36-1).

**Sec. 14-197. Seizure and impoundment.**

(a) Whenever a police officer has a reason to believe that a vehicle is subject to seizure and/or impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility approved by the chief of police. This section shall not apply if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 12 hours after the theft was discovered or reasonably should have been discovered.

(b) 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, if there is such a person, of the fact of seizure or impoundment and of the vehicle owner's rights and options under this division to reclaim his vehicle.

**Sec. 14-198. Post-towing options for vehicle's legal owner.**

(a) The owner of a vehicle seized and/or impounded by the village has the following options:

- (1) Pay the ~~\$500~~250.00 fee set forth in section 14-196 at the Stickney Police Department and obtain a release form to claim your vehicle from the towing company.
- (2) Post a ~~\$500~~250.00 bond, and you will receive an adjudication date for the next regularly scheduled village adjudication and a release form to claim your vehicle from the towing company; your adjudication date will occur within 30 days of the date of the payment of your bond. The ~~\$500~~250.00 bond will be refunded if you are found not liable by the hearing officer. Failure to appear for a requested hearing may result in a judgment against you.

(b) If you elect to receive an adjudication date, the hearing officer shall render a decision, based upon a preponderance of the evidence, at the hearing.

(1) A finding that a vehicle was used in violation of this division shall result in the issuance of an administrative fine of ~~\$500~~250.00.

(2) A finding that a vehicle was not used in violation of this division shall result in the immediate return of the vehicle.

(c) The failure of the owner of record to appear at the hearing or to request a continuance in a timely manner shall be deemed to a waiver of the right to a hearing and a default order in favor of the village shall be entered.

(d) If the owner of record chooses to pay the fine at the Stickney Police Department and immediately reclaim his vehicle, the owner waives the right to a hearing and accepts an order of liability to the village. In the event of such waiver, the owner of record pay the appropriate administrative fine. Such payment shall constitute an admission of liability and a waiver of a right to a hearing and will entitle the owner to immediately reclaim his vehicle.

(e) If the owner of record does not appear at the Stickney Police Department to claim his or her vehicle or pay the bond provided for in this section within 10 days of the towing, the Stickney Police Department will mail a notice to the owner of record providing the date, time, and location of an adjudication hearing on the purported violation of section 14-196.

(f) An administrative penalty, plus towing and storage fees, imposed pursuant to this division shall constitute a debt due and owing to the village, which may be enforced in any manner provided by law. Any cash bond posted pursuant to this section shall be applied to the penalty.

**Sec. 14-199. Disposition of impounded vehicle.**

(a) *In general.* Except as provided otherwise in this division, a vehicle shall continue to be impounded until the administrative penalty, or the cash bond is paid to the village. Upon payment of all fines, or a cash bond to the village, and payment of all fees to the towing company, possession of the vehicle shall be granted to the party legally entitled to possess the vehicle.

(b) *Fines and bond.* A vehicle impounded pursuant to this section shall remain impounded until:

(1) The penalty of ~~\$500~~250.00 is paid to the village and all applicable towing fees are paid to the towing agent;

(2) A bond in the amount of ~~\$500~~250.00 is posted with the police department and all applicable towing fees are paid to the towing agent; or

- (3) The vehicle is deemed abandoned, in which case the vehicle shall be disposed of in the manner provided by law for the disposition of abandoned vehicles; or
- (4) The vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law.

(c) *Time limits.* Any vehicle not reclaimed within 30 days following the expiration of the time during which the owner of record may seek judicial review of the village's action or within 30 days following a final judgment in favor of the village may be disposed of as an unclaimed vehicle as provided by law.

**Sec. 14-200. Posting of bond.**

If a bond is posted in accordance with this division, the owner of the vehicle shall remain liable to the towing agent for any applicable towing fees. If a ~~\$500~~250.00 penalty is imposed for violation of this section, the ~~\$500~~250.00 bond will be forfeited to the village. If, however, the hearing officer does not find a violation of this section, the ~~\$500~~250.00 bond will be returned to the appropriate party. All bond money posted pursuant to this section shall be held by the village until the decision of the hearing officer issues, or if there is a judicial review, until the court issues a decision.

**Sec. 14-201. Vehicle possession.**

Any motor vehicle that is not reclaimed within 30 days after the expiration of the time during which the owner of record may seek judicial review of the village's action under this section, or the time at which a final judgment is rendered in favor of the village against an owner of record who is in default, may be disposed of as an unclaimed vehicle as provided by law, provided, however, that where proceedings have been instituted under state or federal or asset forfeiture laws, the subject vehicle may not be disposed of by the village except as consistent with those proceedings.

**Sec. 14-202. Vehicle in foreclosure.**

Whenever a person with a lien of record against a vehicle impounded under this section has commenced foreclosure proceedings, possession of the vehicle shall be given to that person upon execution of a written agreement with the village to refund to the village the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of penalties and fees imposed under this division.

**Sec. 14-203. Severability.**

If any provision or part of this division shall be found unconstitutional or outside the corporate powers of the village, the remaining provisions shall continue in full force and effect.

**Section 3. Home Rule.** This ordinance is enacted under the Home Rule powers of the Village as set forth in the Constitution and laws of the State of Illinois.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect after its passage, approval and publication in the manner provided by law.

**Section 5. Conflicts.** This Ordinance supersedes all ordinances or parts of ordinances directly conflicting with the terms and provisions contained herein, but only to the extent of such conflict.

**Section 6. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 7. Certification and Publication.** The Village Clerk of the Village of Stickney shall certify to the adoption of this Ordinance and cause the same to be published in pamphlet form.

PASSED AND APPROVED at a regular meeting of the President and the Board of Trustees of the Village of Stickney, Illinois, this 7th day of July, 2009.

AYES: Trustee Lazansky, Trustee Mares, Trustee Morelli  
Trustee Schimel, Trustee Zeedyk

NAYS: \_\_\_\_\_

ABSENT: Trustee Roll


ABSTAIN: \_\_\_\_\_

APPROVED by me this 7th day of July, 2009.



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Mayor Daniel A. O'Reilly of the Village  
of Stickney, Cook County, Illinois

ATTESTED, Filed in my office,  
and published in pamphlet form  
this 9th day of July, 2009.

  
Audrey McAdams,  
Clerk of the Village of Stickney, Cook County, Illinois