

ORDINANCE NO. 2017-12

AN ORDINANCE AMENDING CHAPTER 14, SECTION 14-141 AND VARIOUS SECTIONS OF CHAPTER 14, DIVISION 9 OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS REGARDING VEHICLE IMMOBILIZATION, TOWING AND IMPOUNDING

WHEREAS, the Village of Stickney (the "Village") is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules and regulations; and

WHEREAS, the Village President (the "President") and the Board of Trustees of the Village (the "Village Board" and with the President, the "Corporate Authorities") are committed to ensuring the health, safety and welfare of individuals residing in, working in and visiting the Village; and

WHEREAS, the Municipal Code, Village of Stickney, Illinois (the "Village Code") currently sets forth certain regulations for the towing and impounding of vehicles (the "Existing Regulations"); and

WHEREAS, the Corporate Authorities recognize the need to update and clarify the Existing Regulations from time to time; and

WHEREAS, based upon the foregoing, the Corporate Authorities have determined that it is in the best interests of the Village and its residents to amend Chapter 14, Section 14-141 and various section of Chapter 14, Division 9 of the Village Code as set forth below;

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

**ARTICLE I.
IN GENERAL**

SECTION 1. INCORPORATION CLAUSE.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to amend Chapter 14, Section 14-141 and various sections of Chapter 14, Division 9 of the Village Code to update and clarify the Village's Existing Regulations, and to authorize the President or his designee to take all actions necessary to carry out the intent of this Ordinance.

ARTICLE II.

AMENDMENT OF CHAPTER 14, SECTION 14-141 AND VARIOUS SECTIONS OF CHAPTER 14, DIVISION 9 OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS

SECTION 3.0 AMENDMENT OF CHAPTER 14, SECTION 14-141.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 14, Section 14-141 as follows:

Sec. 14-141. - Removal of illegally parked vehicles.

(a) In addition to Chapter 14, Division 9, ~~The~~ police department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away or have removed and towed away by commercial towing service, any car or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any other illegally parked vehicle which ~~has remained~~ is parked in any public street or any other public place ~~for a period exceeding 24 continuous hours.~~

(b) Cars so towed away shall be stored on village property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the village in removing and storing such vehicles.

(c) In lieu of or in addition to other remedies provided for under these codified ordinances, the police department is hereby authorized to use immobilization equipment on any vehicle found to be in violation of any of the provisions of these codified ordinances, ~~including vehicles found parked in any parking lot without a proper vehicle sticker and vehicles found parked in violation of parking meter or limited parking regulations.~~

(1) The use of such equipment is authorized for the purpose of reducing or eliminating costs of towing, impounding and inventorying such vehicles, reducing the additional time and expense concerning the issuance of tag-on citations and the processing of the same and deterring would-be "scofflaws" from consistent violations of these codified ordinances.

(2) No person shall injure, damage or otherwise destroy any immobilization equipment belonging to the police department and attached to any vehicle.

(3) Within 72 hours of the placement of any immobilization equipment, if the owner of the vehicle does not contact the police department and the equipment is still on the vehicle, the village and the police department are authorized to tow the vehicle at the owner's expense, including the following described expenses: The cost to remove the immobilization equipment shall be ~~\$100.00~~ \$150.00, plus the cost of any outstanding citations and/or traffic or parking violations, and towing charges and storage fees charged by the towing agent or the village, as applicable. A \$25.00 per day storage fee for vehicles stored on village property.

SECTION 3.1 AMENDMENT OF CHAPTER 14, DIVISION 9.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 14, Division 9 as follows:

DIVISION 9. – VEHICLE IMMOBILIZATION, SEIZURE AND IMPOUNDMENT

Sec. 14-195. – Definitions.

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Abandoned vehicle means a vehicle parked or otherwise located on the public way or public property and:

- (1) In such a state of disrepair that it is incapable of being driven; or
- (2) That has been unmoved for a period of five days.

Accident involved vehicle means a vehicle that is inoperable due to an accident and that is located so as to constitute an obstruction to the normal flow of traffic.

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.

Derelict motor vehicle means a vehicle that lacks wheels, motor, transmission, battery or any other component part such that it is inoperable and constitutes a hazard to the public.

Hazardous vehicle means a vehicle on any public way that, by its condition or location, constitutes a clear and present danger to the safety of the public or an obstruction to the normal flow of traffic. A vehicle is presumed to be hazardous when the vehicle has an uncovered cargo area, including but not limited to a pickup truck, and the uncovered cargo area contains cargo above the top portion of the manufacturer-provided sidewall of the cargo area.

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

Owner means the registered or legal owner or person who is otherwise entitled to possession of the motor vehicle.

Sec. 14-195.01. – Immobilization.

(a) Authorized. The immobilization of motor vehicles by the village or its contractor shall be authorized in accordance with the provisions of this division.

(b) Placement of locking devices without notice. A motor vehicle may be immobilized without prior notice by placing a locking device on the wheel where there are 5 or more

tickets for parking or traffic violations for which the owner or operator has been found liable.

(c) Service of notice after immobilization.

(1) Vehicles registered in Illinois. The police department shall send a notice to the owner within 24 hours after immobilizing a motor vehicle. Notice shall be sent by certified mail and regular mail to the address of the owner of the motor vehicle as indicated in the most current registration list of motor vehicles in this state.

(2) Out of state vehicles. If an out-of-state motor vehicle has been immobilized, written inquiry shall be made to the secretary of state of the relevant jurisdiction for the most current registered name and address of the owner of the motor vehicle, and notice shall be mailed said address, though in no case will the village be required to delay immobilization more than 3 days after the inquiry mailing date or be required to retain possession of an unclaimed motor vehicle more than 30 days after the inquiry mailing date before disposing of the motor vehicle.

(3) The notice in all cases shall specify that the vehicle has been immobilized, the reason for the immobilization and that the owner is entitled to recovery of the vehicle or a hearing, as the case may be. The notice shall set forth the payment from the owner to satisfy outstanding parking and/or traffic violations.

Sec. 14-195.02 – Removal of locking device.

(a) Before the owner shall be permitted to have the locking device removed, the owner shall furnish to the police department evidence of his identity and ownership of the vehicle and right of possession thereto; shall pay the costs of removing the locking device; and shall satisfy all parking and traffic citations for which the motor vehicle was immobilized and present proof of such satisfaction.

(b) Alternatively, the owner may post a \$150 bond, in addition to satisfying all parking and traffic citations for which the motor vehicle was immobilized and request a hearing be held on the next regularly scheduled hearing date.

(c) The locking device shall be removed upon either the payment of all costs and the satisfaction of all parking and traffic citations for which the motor vehicle was immobilized or upon the posting of the bond and the satisfaction of all parking and traffic citations for which the motor vehicle was immobilized.

(d) The hearing shall be conducted in conformity with sections 14-195.04 through 14-195.06 and shall determine the validity of the immobilization of the vehicle and any charges.

Sec. 14-195.03 – Notice of right to post-immobilization hearing.

A notice in substantially the same form as set forth herein shall be mailed within 24 hours to any owner whose vehicle is fitted with a locking device:

ATTENTION: Owners or other persons lawfully entitled to possession of immobilized vehicles have the following options:

(1) You may pay the cost for removing the locking device and satisfy all parking and traffic citations for which your motor vehicle was immobilized at the Village Police Department; or

(2) You may request a hearing for the next regularly scheduled hearing date, satisfying all parking and traffic citations for which your motor vehicle was immobilized, and post a \$150 bond for the locking device processing fee. At the hearing, you may assert any defenses against the relevant citations.

In the event that these citations are dismissed, you will receive a refund of the immobilization bond and for any citations for which you are found not liable. You should appear to request the hearing at the Village Police Department or call 708-788-2131.

(3) If your vehicle remains immobilized for 72 hours or more, your vehicle may be towed.

Sec. 14-195.04 – Request for post-immobilization hearing.

(a) Request for a post-immobilization hearing may be made by telephone, in person or by mail within 15 days of the mailing date of notification of the immobilization or release of the vehicle, whichever occurs first. Requests are to be made to the police department.

(b) Notwithstanding the foregoing, any vehicle which has been immobilized for 72 hours or more may be towed as a derelict vehicle, subject to the procedures set forth in this division.

Sec. 14-195.05 – Procedures for post-immobilization hearing.

Personnel designated by the Chief of Police shall, upon receipt of a hearing request pursuant to this division, fully and accurately complete a request for an immobilization hearing form and forward copies of those records to the village hearing officer to conduct the hearing. These records include but are not limited to a motor vehicle inventory report, any cash receipts for towing and immobilization storage fees, towing and other case reports, as well as registration information. Upon completion of a request for an immobilization hearing report and the attachment thereto of required records, personnel receiving and processing the request shall forward it to the hearing officer.

Sec. 14-195.06 – Processing fee for immobilization device.

The processing fee for the removal of a locking device on a vehicle shall be \$150.00.

Sec. 14-195.07 – Unregistered or unlicensed motor vehicles.

Notwithstanding anything to the contrary in this division, when a motor vehicle is subject to immobilization under this division and the vehicle has no vehicle license or registration, a sticker stating "notice of intent to tow or immobilize" shall be affixed to the vehicle windshield. If the owner or person entitled to possession of the vehicle has not contacted the village within 24 hours thereafter, the motor vehicle shall be subject to immediate tow.

Sec. 14-195.08 – Towing of Immobilized Vehicles.

Any vehicle which remains immobilized for a period of 72 hours or more is hereby declared to be a derelict vehicle and may be towed in accordance with the procedures set forth in this division.

Sec. 14-195.09 – No immobilization by parties other than the village or its agents.

Only the village and its agents may immobilize motor vehicles within the corporate limits of the village. Private landowners may not immobilize motor vehicles parked on their property, or in parking lots or spaces adjoining their property, by placing a locking device on the wheels of a vehicle. However, if a private landowner has posted that parking is reserved for residents of a particular building or to those visiting a particular building and that violators will be towed, the private landowner can tow motor vehicles that are parked in violation of the posted warning.

Sec. 14-196. – Conduct prohibited.

(a) A motor vehicle used in connection with any of the following violations may be subject to immediate seizure and/or impoundment by the village and the owner of record of said vehicle shall be liable to the village for any administrative penalty of \$500.00, 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, pursuant to the Illinois Compiled Statutes (625 ILCS 5/6-303) or is suspended or revoked for any other reason and the vehicle is being operated in violation of 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) The operation of any motor vehicle with open alcohol in violation of 625 ILCS 5/11-502.

(6) Any vehicle being operated or having been operated while the operator or occupants of the vehicle are in the commission of or fleeing from the commission of a crime constituting a charge of a Class A misdemeanor, or any felony.

(7) An accident involved motor vehicle.

(8) A hazardous vehicle.

(9) A derelict motor vehicle, including any vehicle which has been immobilized for 72 hours or more pursuant to section 14-195.10.

(10) Any motor vehicle that is parked on a public way, alley or a loading zone in violation of sections 14-143, 14-145, 14-148, 14-150, or 14-154 of this Code.

(11) Any motor vehicle that is illegally parked in a tow away zone.

(12) Any motor vehicle that is inoperable due to the arrest of the owner or operator.

(13) Any motor vehicle or motor vehicle displaying a license plate that has ten or more tickets for parking and/or traffic violations when no bond or payment has been received for the outstanding violations.

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, including his right to demand a hearing.

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 \$500.00 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 \$500.00 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 \$500.00 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 \$500.00.

(2) A finding that a vehicle was not used in violation of this division shall result in the ~~immediate return~~ refunding of the \$500 bond 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 shall pay the appropriate administrative fine. Such payment shall constitute and admission of liability and a waiver of a right to a hearing and will entitled to 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 ten 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 \$500.00 in addition to any and all outstanding parking and/or traffic citations for which the owner or operator has been found liable is paid to the village and all applicable towing fees are paid to the towing agent; or

(2) A bond in the amount of \$500.00 is posted with the police department and all applicable towing fees are paid to the towing agent. Notwithstanding the foregoing, the vehicle shall not be released until the owner/operator has satisfied any and all outstanding parking and/or traffic citations for which the owner/operator has already been found liable; 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~~ section 14-198, the owner of the vehicle shall remain liable to the towing agent for any applicable towing fees. If a \$500.00 penalty is imposed for a violation of this section 14-196, the \$500.00 bond will be forfeited to the village. If, however, the hearing officer does not find a violation of

this section 14-196, the \$500.00 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 or entity 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 or entity 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 are hereby declared to be severable and should any provision of this division be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and shall continue in full force and effect.

SECTION 3.1. OTHER ACTIONS AUTHORIZED.

The officers, employees and/or agents of the Village shall take all action necessary or reasonably required to carry out, give effect to and consummate the amendments contemplated by this Ordinance and shall take all action necessary in conformity therewith, including, but not limited to, the installation of any street or parking signs as contemplated herein. The officers, employees and/or agents of the Village are specifically authorized and directed to draft and disseminate any and all necessary forms or notices to be utilized in connection with the intent of this Ordinance.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES, PUBLICATION,
EFFECTIVE DATE**

SECTION 4. HEADINGS.

The headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

SECTION 6. SUPERSEDER.

All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

SECTION 7. PUBLICATION.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be effective and in full force ten (10) days after its passage, approval and publication in accordance with Illinois law.

PASSED this 18th day of July, 2017.

AYES: Trustees Hrejsa, Kapolnek, Milenkovic, Savopoulos, Torres and White

NAYS: None

ABSENT: None

ABSTENTION: None

APPROVED by me this 19th day of July, 2017.

Jeff Walik, President

ATTESTED AND FILED in my
office this 19th day of July, 2017.

Audrey McAdams, Village Clerk