

Chapter 13 - Motor Vehicles and Traffic Control

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**Article 1 – Adoption of the Illinois Vehicle Code and
Establishment of Certain Minimum Fines**

1301 Adoption of Illinois Vehicle Code

The Village hereby adopts the Illinois Vehicle Code, Chapter 625 of the Illinois Compiled Statutes, Section 5/1-100, et seq., as may be amended from time to time, pursuant to the authority granted to the Village by 625 ILCS 5/20-204.

Other than where a fine or other penalty is provided by statute or by Supreme Court Rule, in addition to any other penalties which may be imposed, including but not limited to imprisonment or community service, the Village establishes the following minimum fines for those who plead guilty or are found guilty of traffic offenses charged under the Illinois Vehicle Code or this Village Code:

- | | |
|---|------------|
| A. Driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof | \$1,250.00 |
| B. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked for a violation of 625 ILCS 5/6-303(c)(1), (2) or (3) or a similar provision of the Village Code | \$1,250.00 |
| C. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked for a violation of any provision other than 625 ILCS 5/6-303(c)(1), (2) or (3) or a similar provision of the Village Code | \$500.00 |
| D. Driving in excess of the posted speed limit | |
| 0-15 miles per hour over limit | \$40.00 |
| 16-25 miles per hour over limit | \$60.00 |
| Greater than 26 miles per hour over limit | \$75.00 |
| E. Any motor vehicle collision involving property damage or personal injury | \$75.00 |
| F. All other moving violations | \$40.00 |

Article 2 - Supplemental Parking Rules

1302 Street Cleaning

It shall be unlawful to park any vehicle on any public street or portion thereof in the Village at any time when such street is being cleaned or snow removed.

1303 Time Limit Parking

It shall be unlawful to park any vehicle on any Village street or Village parking lot for a period of time in excess of the amount of time designated by ordinance and so posted.

1304 Towing Cars Away

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 vehicle which has been parked in any public street or other public place for a period of 24 consecutive hours.

Cars or vehicles so towed away shall be stored in a pound designated by the Police Department and shall be restored to the owner or operator of such vehicle upon the payment of all towing and storage fees.

1305 Vehicles for Sale

It shall be unlawful to park any vehicle upon any street for the purpose of displaying it for sale, or to park any vehicle upon any street from which vehicle merchandise is peddled or sold.

1306 Loading Zone

It shall be unlawful for the driver of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, in any place designated by the Village Board as a loading zone and marked as such, or in any of the following designated places.

1306.1 At any place not to exceed 75 feet along the curb before the entrances to any hospital or hotel at any time.

1306.2 At any place not to exceed 75 feet along the curb line before the entrance to a public building between 8:00 a.m. and 6:00 p.m., except on a Sunday.

1306.3 Directly in front of the entrance to any theater at any time that the theater is open.

1307 All Night Parking

No person shall park any vehicle for a period of time longer than 30 minutes between the hours of 2:00 a.m. and 6:00 a.m. of any day except physicians on emergency calls, on any public street or portion thereof in the Village. However, this section shall not apply to the designated parking row located at Blivin and Main Streets, where over night parking shall be allowed.

1308 Alleys

No person shall park a vehicle within an alley except for the purpose of loading and unloading merchandise and then in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.

1309 Cab Stations - Bus Stands

No vehicle other than a licensed taxicab shall be parked in any area designated by ordinance as a cab stand; and no vehicle other than a bus shall be parked in a place so designated as a bus loading zone.

1310 Parking Motor Vehicles on Private Property

It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

1311 Signs

Appropriate signs shall be posted in all areas where parking is limited to prohibited, indicating such limitations or prohibitions.

1312 Unattended Motor Vehicles

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, or when standing upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.

1313 Parking Violations

Any person, partnership, or corporation accused of a violation of this Article may pay the claim against said person, partnership or corporation for the illegal parking by paying to the Village as follows.

- A. The minimum fine for all parking violations shall be \$50.00 and the fine must be paid within 7 days. *(Revised Ord. No. 2011-23)*
- B. If the above fine is not paid within 7 days from the date of the offense, a traffic complaint will be filed in the Municipal Court of Spring Grove and the fine shall be not less than \$100.00 nor more than \$750.00. *(Revised Ord. No. 2011-23)*

All parking violations may be paid by placing the offender's copy of the violation notice in the envelope provided with the notice and by mailing or by depositing the envelope and notice with the appropriate fine in the courtesy box located at the Municipal Centre.

A judgment or a fine imposed upon an offender may be enforced in the same manner as any judgment entered in a civil action.

Article 3 - Inoperable Vehicles

1314 Purpose

The purpose of this Article is hereby set forth. Inoperable, abandoned, dismantle, junked, discarded or unlicensed vehicles upon privately owned or public property in the Village are detrimental to the safety, the health, and the public welfare. They constitute an attractive nuisance to children and are a peril to their safety. They are a source of vexation and annoyance. They depreciate the value of neighboring properties. They are a fire hazard and source of fire and explosions. The preservation of public health and protection of property and the elimination of public peril compels the Village Board to regulate this matter.

1315 Definitions

For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meanings given herein.

Abandon Vehicle. Any vehicle that by its condition and/or location appears deserted or forsaken and has not been moved for a period of 7 days.

Antique Vehicle. A motor vehicle that is more than 25 years of age or older or a bona fide replica thereof and which is capable for being driven on the highways or is used for demonstrating or exhibiting.

Discarded. Presently useless, thrown away, or unclaimed.

Dismantled. Vehicles which are stripped or have parts removed.

Highway. Any street, alley or public dedication way within this Municipality.

Inoperative Vehicle. Any vehicle from which, for a period of at least 7 days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. Said definition does not include a vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

Junked. Of little use or value.

Person. Any person, firm, partnership, association, corporation, company, or organization of any kind.

Private Property. Any real property within the Village which is privately owned and which is not public property as defined in this section.

Public Property. Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

Unlicensed. Vehicles not bearing current license plates and registration.

Vehicle. A machine propelled by power, other than human power, designed to travel on the ground or upon the roads by the use of wheels, treads, runners or sliders, to transport persons or property, or to pull machinery, and includes, but is not limited to, all automobiles, trucks, trailers, motorcycles, tractors, and all trailers, wagons or other machinery designed to be pulled by such a vehicle.

Village. The Village of Spring Grove.

1316 Nuisance Created

It is hereby declared and found that inoperable, abandoned, dismantled, junked, discarded and/or unlicensed vehicles in and upon property within the Village are a matter affecting the public interest, that they constitute a nuisance, in that health, fire and safety hazards are created, and that consequently this matter is subject to supervision and control for the purposes of safeguarding this public health, safety and general welfare of the people in the Village.

1317 Store or Deposit

It shall be unlawful for any person, firm or corporation, either as owner, lessee, occupant or otherwise, to store or deposit, or cause or permit to be stored or deposited, an inoperable, abandoned, dismantled, junked, discarded and/or unlicensed vehicle on any lot or land, enclosed or otherwise, within the Village. Nothing in this Article shall be construed to prohibit the storing of any such vehicle in a private garage or in a legally constructed structure. It shall be an affirmative defense that an unlicensed vehicle that falls within the class of vehicles commonly collected by car owners because of the economic value attached to said class of vehicles as established by trade magazines and journals. This affirmative defense applies only to the offense of maintaining an unlicensed vehicle on land within the Village as set forth in this Article.

1318 Removal, Authorized, Responsibility for Costs

1318.1 **Abandoned on Highways.** When a motor vehicle or other vehicle is left on the highway in the Village 10 hours or more, its removal by a towing service may be authorized by the Chief of Police or his duly authorized agent.

1318.2 **Traffic Hazards.** When an abandoned, unattended, wrecked, burned or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway, or its physical appearance has caused the impending of traffic, its immediate removal from the highway by a towing service may be authorized by order of Chief of Police or his duly authorized agent.

1318.2 **Responsibility for Costs.** When a vehicle is removed from either public or private property pursuant to this section, the owner of the vehicle shall be responsible for all towing and storage costs, and shall pay the same before such vehicle is released to his custody or possession.

1319 Notification of Police Department

When an inoperable, abandoned, lost, stolen or unclaimed motor vehicle comes into the temporary possession or the custody of a person in the Village not the owner of the vehicle, such person shall immediately notify the Police Department. Upon receipt of such notification, the Chief of Police or his duly authorized agent shall authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed motor vehicle or other vehicle. The towing service shall tow the vehicle and its contents, and maintain a record of the tow until the vehicle is claimed by the owner or any other person legally entitled to possession thereof, or until it is disposed of as provided in this Article.

1320 Notice to Remove

Whenever it comes to the attention of the Police Department that a nuisance as defined herein exists in the Village, a notice in writing shall be served upon the owner of such vehicle, or the occupant of the land where the nuisance exists, or the owner of the property of his agent. In the event the last known address of the person cannot be ascertained, notice shall be served upon the person paying taxes on the subject property. A copy of the notice shall also be placed on the subject vehicle.

1321 Service of Notice

The notice shall be sent by normal mailing with the postage pre-paid. The notice shall state the existence of the nuisance and request its removal within 10 days of the date of the mailing. The owner of the vehicle, occupant of the land or owner of the land shall be responsible for removal of the vehicle.

1322 Locating Owners

1322.1 Record Searches

1324 Notice of Removal

Within 48 hours of removal of such vehicle, the Chief of Police or his duly authorized agent shall give notice to the registered owner of the vehicle, if known, and also the owner or occupancy of the private property from which the vehicle was removed, if known. The notice shall state that said vehicle or vehicles have been impounded and stored for violation of this Article and give the location where the vehicle or vehicles are stored, and the costs incurred by the Village for the removal.

1325 Redemption of Impounded Vehicles

The owner of any vehicle seized under the provisions of this Article may redeem such vehicle at anytime after its removal but prior to the sale or destruction thereof upon proof of ownership and payment to the Chief of Police or his duly authorized agent of the actual and reasonable expense of removal, and any preliminary sale advertising expenses.

1326 Disposition of Vehicles

Upon removing the vehicles as provided for in this Article, the Village shall, after 10 days, cause the vehicle to be appraised.

1326.1 If the vehicle is appraised at \$150.00 or less, the Chief of Police or his duly authorized agent shall execute an affidavit so attesting and describing the vehicle, including license plates, if any, and stating the location and appraised value of the vehicle. The Chief of Police or his duly authorized agent, after complying with the above, may summarily dispose of the vehicle and execute a certificate of sale.

1326.2 If the vehicle is appraised over \$150.00, the Chief of Police or his duly authorized agent shall give notice of a public sale not less than 10 days before the date of the proposed sale.

1327 Public Sale Notice

1327.1 **Contents.** The notice of sale shall state.

- A. The sale is of abandoned property in the possession of the Village.
- B. A description of the vehicle, including make, model, license number and any other information which will accurately identify the vehicle.
- C. The terms of the sale.
- D. The date, time, and place of the sale.

1327.2 Notice shall be by posting in a prominent place at the Village Hall visible to members of the public. No other notice shall be required.

1328 Public Sale

The vehicle shall be sold to the highest and best bidder. At the time of payment of the purchase price, the Chief of Police or his duly authorized agent shall execute a certificate of sale in duplicate, the original of which shall be given to the purchaser, and the copy thereof to be filed with the Village Clerk. Should the sale for any reason be invalid, the Village's liability shall be limited to the return of the purchase price.

1329 Liability of Parties Involved

1329.1 **Liability of the Owner of the Vehicle.** If the sale or disposition of the vehicles as hereinabove specified does not produce sufficient funds to pay the expenses incurred by the Village in such removal and sale, the owner of the vehicle shall be liable for such unrecovered expenses.

1329.2 **Liability of Owner or Occupant of the Property**

- A. The owner and/or occupant of any property from which a vehicle was removed by the Village in accordance with this Article, shall be liable for any unrecovered expenses incurred by the Village in connection with such removal and recovery of said expenses may be enforced against the individuals or by the placing of a lien upon the property in the amount of such expense.
- B. The notice and service requirements for foreclosing the lien shall be the same as those in foreclosure of mortgages.

1329.3 **Liability of Party Towing Vehicles.** No police officer, towing service owner, operator or employee shall be held to answer or be liable for damages in any action brought by the registered owner, former registered owner or his legal representative, or any person legally entitled to possession of the motor vehicles or other vehicle when the vehicles was processed and sold or disposed of as authorized by this Article and Chapter 625ILCS, Section 5/4-213.

1330 Reports on Towed Vehicles

When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, including if available, the color, year, manufacturer, model, body style, vehicle identification number and license plate year and number displayed on the vehicle. The records shall also include the date and hour of tow, location towed to, reason for towing, the name of the officer in charge, as designated by the Chief of Police or his duly authorized agent.

1331 Prima Facie Presumption

The registered owner of a vehicle found in violation of any section of this Article shall be held prima facie responsible for any such violation.

1332 Compliance with Removal Order Required

When the registered owner or person entitled to possession of the vehicle can be ascertained, and such person shall fail to remove the vehicle within 10 days after being requested to do so by the Chief of Police or his duly authorized agent under the notice provisions of this Article, the penalty provided in Section 1320 shall be in addition to the provisions for removal and reclamation of such vehicle provided herein.

Article 4 - Overweight Vehicles

1333 Purpose

To promote the safety of the general public and to preserve the roads and streets under the jurisdiction of the Village for the use of the general public, it is declared that the following rules and regulations as to maximum weight and load shall apply to all vehicles using posted public roads and streets under the jurisdiction of the Village, pursuant to Chapter 625ILCS, Section 5/15-316.

1334 Maximum per Vehicle

It shall be unlawful to operate any vehicle (including any tractor, trailer, or any combination of units with or without accompany load) on any street within the Village, which is marked as a weight-restricted road when:

1. The weight per axle of such vehicle exceeds two tons; or
2. The gross weight of such vehicle exceeds the number of axles times two tons; or
3. The gross weight of such vehicle exceeds ten tons, for vehicles with 5 axles or more.
4. **Spring Restrictions.** Commencing March 1 through and including May 15, it shall be unlawful to operate any vehicle on any street within the Village weight 4 tons in gross weight or more. The following vehicles are hereby exempt from the provisions of this paragraph:
 - A. Fire-fighting apparatus and equipment for snow and ice removal operations or any other vehicle being operated for immediate public emergency purposes;
 - B. Implements of husbandry;
 - C. Public utility vehicles as defined in the Vehicle Code of the State of Illinois for garbage refuse and septic vehicles operated as service properties located on Village streets with posted weight restrictions;
 - D. Vehicles owned or operated by the Village or operated by other persons under contract with the Village for Village purposes and other vehicles owned by governmental entities; and
 - E. School buses as defined by the State of Illinois Vehicle Code. Notwithstanding any of the above, the provisions of Section 1334.1 remain in full force and effect during the period of time specified above.

5. **Construction Vehicles.** It shall be unlawful to operate any construction vehicle on any street within the Village when the gross weight of such vehicle, unladen or with load, exceeds 16,000 pounds (8 tons).
 - A. **Construction Vehicle Defined.** For purposes of this Article, a construction vehicle is defined as any vehicle used in and that is hauling, picking up or delivering materials, equipment and related apparatus then being used in the construction, remodeling, repair, replacement, enlargement or addition of roads or to any improvement on a lawful site within the corporate limits of the Village, which a building permit has been duly issued and is then outstanding, by the Building Inspector of the Village under the provisions of the Building Code.
 - B. **Signs.** The Village Board shall cause to be erected and maintained signs designating the weight restriction at each end of that portion of any highway or road, or parts thereof, affected thereby, and this provision shall not be effective unless and until such signs are erected and maintained.

1335 Exemptions

The following vehicles and uses are hereby exempt from the provisions of Section 1334.

- A. Fire-fighting apparatus and equipment for snow and ice removal operations or any other vehicle being operated for immediate public emergency purposes.
- B. A vehicle which has a lawful delivery or pick-up destination point on a weight-restricted road within the Village, or a vehicle which has a lawful delivery or pick-up destination point on a road that can only be accessed by using a weight-restricted road within the Village, may use said weight-restricted road as long as and provided that the vehicle turns onto the weight-restricted road from an intersection nearest the destination point, and once the delivery or pick up is completed, the vehicle thereafter turns off the weight-restricted road at an intersection nearest the destination point.
- C. Implements of husbandry defined as follows, with destination points located on Village streets with posted weight restrictions. Every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicle used in connection therewith, or for lifting or carrying an implement of husbandry provided that no farm wagon, wagon trailer or like vehicle having a gross weight of more than 36,000 pounds shall be included hereunder.
- D. Public utility (as defined in Chapter 625ILCS, Section 5/15-100) vehicles which are engaged in the repair, maintenance, construction or installation of utility service to persons or properties located on Village streets with posted weight restrictions.

- E. Garbage, refuse and septic vehicles operated to service properties located on Village streets with posted weight restrictions.
- F. Vehicles owned or operated by the Village or operated by other persons under contract with the Village for Village purposes and other vehicles owned by governmental entities.
- G. School buses operated within the Village to pick up from or return children to residences within the Village located on Village streets with posted weight restrictions.
- H. Vehicles operating under special permits as issued pursuant to Section 1344.
- I. Feed trucks, trucks hauling livestock, milk trucks, and fertilizer trucks with destination points and emergency service vehicles used in emergency maintenance repair of farm buildings and farm equipment with said buildings and equipment to be serviced on Village streets with posted weight restrictions.
- J. Notwithstanding any of the hereinabove described exceptions, no vehicle shall be operated on any Village roads which is not allowed to be operated on state roads and any vehicle prohibited from operation on state roads for any reason, including but not limited to weight and size, shall be prohibited from operation on Village roads without an appropriate permit for such.

1336 Special Permits

- 1336.1 The Village, with respect to highways under its jurisdiction, shall upon written application authorized the applicant to operate or move a vehicle or combination of vehicles of a weight exceeding the maximum specified in Section 1336.2 upon showing that there is no other route available on public roads except for a route including Village roads.
- 1336.2 The form of application for a Special Permit shall be made available through the Chief of Police or his duly authorized agent upon showing of the following information.
 - A. Name, address and telephone number of applicant;
 - B. A specific description of the vehicle(s) and load(s) to be operated or moved pursuant to the special permit;
 - C. The point of origin and destination of the overweight vehicle(s) and load(s);

Article 5- Vehicle Sticker Requirements

1339 Definitions

For the purposes of this Article, the following definitions shall apply:

Motor Vehicle. All vehicles as defined by the Vehicle Code of the State of Illinois with the exception of husbandry vehicles.

Administrative Warning Ticket (AWT). A ticket issued at the discretion of the Village in cases of violations of this Article.

1340 Sticker Required

1340.1 It shall be unlawful for the owner or operator of any motor vehicle to store, use or to cause or permit any of his or her agents or employees to store or use any motor vehicle in the Village of Spring Grove unless a sticker is displayed on said vehicle as hereinafter provided. Vehicles not otherwise licensed in some manner by the State of Illinois are exempt from the provisions of this Article.

1340.2 All vehicles for which a license is required by this Article not owned by persons residing in the Village of Spring Grove but kept in the Village and used for a period longer in time than 30 days are hereby declared to be subject to the provisions of this article if said vehicle is stored or used in the Village.

1340.3 This Article applies to all vehicles as defined above even if not in operating condition.

1341 Application

Application for a vehicle sticker shall be made in writing to the Village Clerk and shall give the name and address of the owner, the description of the vehicle for which the license is desired and the place where such vehicle is kept when not in use. Upon payment of the fee, the Village Clerk shall issue the sticker.

1342 Sticker Fees

(Revised Ord. 2009-32)

The sticker fee to be paid annually to the Village Clerk shall be as follows.

	Fee Through October 1
Passenger Vehicles for private use and trucks bearing Illinois license plates suffixed "A" or "B".	\$20.00
Trucks and other freight and merchandise carrying vehicles bearing Illinois license plates suffixed "C" through "VDB" inclusive and all trucks bearing Illinois plates with special designations.	\$50.00
Motorcycles and motorized pedal cycles.	\$15.00
Automobile dealer - for rental purposes (for each vehicle in excess of 5).	\$20.00
Replacement sticker.	\$2.00

1343 Payment Due

The sticker fees as set forth above shall be due and payable annually on or before October 1st of each year. All issued licenses expire on the 1st day of October the following year. When issued for a period less than one year the sticker fee shall be a proportional part of the annual rate, but no fee shall be less than 1/3 of the annual rate.

Applicants who have purchased a motor vehicle after October 1st or who store, use or cause or permit any of its agents or employees to store or use such a vehicle after the October 1st deadline shall have 30 days in which to purchase a sticker for said usage. The applicant shall be entitled to pay a proportional fee for said license provided the motor vehicle purchased, used or stored after the October 1 deadline.

1344 Senior Citizens

Stickers purchased by persons over the age of 64 shall be charged ½ of the amount as set forth in Section 1342.

1345 Penalties for Non-Payment

1345.1 **Procedure.** At the discretion of the Village, an AWT may be issued in lieu of a formal complaint being issued.

1345.2 **Program Administered.** The AWT program shall be administered as follows:

- A. Any owner or operator of any motor vehicle who is required to obtain a vehicle sticker under this Article, but fails to pay for said sticker by the end of business day October 15 may be served with an AWT. When AWT is issued and served, the person or entity accused of the violation may settle the charge by paying to the Village Treasurer a fine in the amount of \$50.00 plus an additional sum of money which equals two times the required application fee, said amounts to be paid within ten (10) days of the date of the issuance of the AWT. Where compliance with the Article is otherwise required, the owner operator accused shall also satisfy the proper Village authorities that compliance is completed within said ten-day period.
- B. In the event that payment of the \$50.00 fine and the doubled application fee is not satisfied within said ten-day period, the fine shall be increased to \$100.00 for the period beginning the eleventh day and including the thirtieth day after the issuance of the AWT. The offender shall have until the close of business day on the thirtieth day to satisfy the \$100.00 charge, pay the double fee, and otherwise come into compliance with this Code.
- C. If the accused does not settle the charge, including payment of the fine and payment of the double application fee and otherwise come into compliance, by the thirtieth day, a complaint shall be filed in the Twenty-Second Judicial Circuit, McHenry County, Illinois for said violation. The offender shall be subject to a fine of not less than \$100.00, plus that sum of money which represents two times the application fee, as well as penalties and court costs, as authorized under the Village Code and Illinois statute.

1346 Transferring Sticker

If an applicant is transferring a sticker to a vehicle for which the sticker fee is less than the original sticker fee, the applicant shall pay a \$2.00 transfer fee. If the applicant is transferring a sticker to a vehicle for which the sticker fee is more than the original sticker fee, the application shall pay addition to the \$2.00 transfer fee the proportional part of the annual rate of the new sticker but no fee shall be less than 1/3 the annual rate for that sticker. The applicant shall be given credit for that amount already paid on the original sticker fee.

1347 Replacement of Sticker

Any applicant whose sticker is mutilated, destroyed or otherwise requires replacement may secure a replacement by payment of \$2.00 replacement fee to the Village Clerk.

1348 Placement of Sticker

Each applicant upon payment of the applicable fee shall be given a windshield sticker of a design approved by the President and Board of Trustees. Said sticker shall be affixed on the driver's side of the windshield and remain on the vehicle on all times that it is operated in the Village.

Article 6 - Motor Driven or Electric Cycles, Minibikes, Scooters, or Skateboards, All-Terrain Vehicles, Go-Karts, and Off-Highway Motorcycles

1349 Definitions

For the purposes of this Article, the following definitions shall apply:

Motor Driven or Electric Cycle, Minibike, Scooter or Skateboard. Any motorcycle, motor scooter, motorized pedal cycle or bicycle, or motor driven skateboard with less than one hundred fifty (150) cubic centimeter piston displacement; or any electric scooter, electrical pedal driven cycle or electric drive skateboard; or any vehicle defined by 625 ILCS 5/1-145.001 or 5/1-148.2, as amended.

All-Terrain Vehicle. Any motorized off-highway device as further defined by 625 ILCS 5/1-101.8, as amended.

Off-Highway Motorcycle. Any motorized device designed to travel primarily off-highway on two wheels, as further defined by 625 ILCS 5/1-153.1, as amended.

Go-Kart. Any motorized vehicle regulated by 430 ILCS 85/2-1, et seq., and rules promulgated thereunder.

1350 Prohibition

No person shall operate a motor driven or electric cycle, minibike, scooter, or skateboard, or an all-terrain vehicle, off-highway motorcycle, or go-kart upon any public or private street, public right-of-way, public sidewalk, parking lot, bike path or public park.

1351 Penalty

A motor driven or electric cycle, minibike, scooter or skateboard, or an all-terrain vehicle, off-highway motorcycle, or go-kart operated in violation of this Article shall be subject to a \$30 fine.

1352 Exemptions

1352.1 The provisions of this Article shall not apply to any of the devices referenced in Section 1349 when operated by law enforcement officers, firefighters, medical emergency personnel, rescue personnel, or other individuals employed by or under contract to the Village in the performance of official or officially sanctioned duties.

1352.2 Motorized wheelchairs as defined by 625 ILCS 5/1-148.3, as amended, are exempt from the prohibitions of this Article.

Article 7 - Automated Traffic Law Enforcement System

1353 Definitions

Automated Traffic Law Enforcement System. A device within the Village with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a steady or flashing red signal indication in violation of Section 11-306 of the Illinois Vehicle Code (“Code”), 625 ILCS 5/11-306, or similar violation of the Village Municipal Code.

Disregarding a Traffic Control Device. Failure to stop and remain stopped before an intersection that is controlled by a red signal as provided for in Section 11-306 of the Code.

Hearing Officer. The person appointed by the Village President with the advice and consent of the Village Board to preside over hearings and to hear evidence and make determinations as provided in this Article. The hearing officer shall be an attorney licensed to practice law in Illinois.

No Turn on Red. Failure to stop and remain stopped, and not proceeding to turn right at, an intersection controlled by both a sign indicating “No turn on red,” or other similar language, and a red signal as provided for in Section 11-306 of the Code.

Recorded Images. Images produced by the automated traffic law enforcement system, which consist of either 2 or more photographs; 2 or more microphotographs; 2 or more electronic images; or, a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

Traffic Compliance Administrator. The person appointed by the Village to administer this Article and who shall have the following additional powers: adopt, distribute and process automated traffic law violation notices and other notices required by this Article, collect money paid as fines and penalties, operate the automated traffic law enforcement system, and make certified reports to the Secretary of State as required by this Article.

1354 Violations

It shall be a violation of this Article for a vehicle to disregard a traffic control device or turn on red in violation of Section 11-306 of the Code.

1355 Defenses

The following may be considered defenses by the Hearing Officer for a violation of Section 1354:

- A. that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred, and not under the control of or in the possession of the owner at the time of the violation;
- B. that the driver of the vehicle passed through the intersection when the light was red either (i) in order to yield the right-of-way to an emergency vehicle or (ii) as part of a funeral procession.

To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

1356 Notice of Violation

When the automated traffic law enforcement system records a motor vehicle entering an intersection in violation of Section 1354, the Village shall issue a written Notice of Violation to the registered owner or lessee of the vehicle, which shall be delivered by U.S. mail within 30 days after the Illinois Secretary of State notifies the Village of the identity of the registered owner or lessee of the vehicle, and in no event later than 90 days following the violation. The Village shall only be required to notify a lessee if the leasing company/lessor provides the lessee's name by an affidavit and a copy of the lease within 60 days of the notice's issuance. If the driver information is not provided within 60 days, the leasing company/lessor may be found liable. If any notice to an address is returned as undeliverable, a second notice shall be sent to the last known address recorded in a United States Post Office approved database of the owner or lessee of the cited vehicle. The second notice shall be made by first class mail postage prepaid.

A Notice of Violation associated with an automated traffic law violation shall require a review of the associated recorded image by the Traffic Compliance Administrator, who shall inspect the image and determine whether the motor vehicle was being operated in violation of Section 1354, or whether one of the defenses enumerated in Section 1355 is visibly applicable upon inspection. Upon determination that the recorded image captures a violation and that no defense applies, the notice of violation shall be served upon the registered vehicle owner in the manner provided for above. The Traffic Compliance Administrator shall retain a copy of all violation notices, recorded images and other correspondence mailed to the owner of the vehicle. Each Notice of Violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of the above-noted statutory and local provisions and shall be *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in this Article.

The Notice of Violation shall include the following information:

- A. the name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in a United States Post Office approved database;
- B. the make (only if discernable) and registration number of the motor vehicle involved in the violation;
- C. the violation charged;
- D. the location where the violation occurred;
- E. the date and time of the violation;
- F. a copy of the recorded images;
- G. the amount of the civil penalty and the date by which the penalty should be paid (21 days from the date of issuance), if a hearing is not requested, and a statement that the payment of the fine shall operate as a final disposition of the violation;
- H. a statement that a failure to pay the civil penalty by the date noted may result in an additional late fee being assessed against the owner or lessee;
- I. the amount of the late fee;
- J. a statement that the failure to pay by the date specified will result in a final determination of liability and may result in the suspension of driving privileges for the registered owner of the vehicle;
- K. a statement that the recorded images constitute *prima facie* evidence of a violation;
- L. a statement that the person may elect to proceed by paying the fine or challenging the charge in court, by mail or by administrative hearing; and
- M. a statement of how an administrative hearing may be requested.

1357 Hearing

The owner of a vehicle being operated in violation of Section 1354 may request a hearing by the respond-by date on the Notice of Violation (21 days from the date of issuance), to challenge the evidence or set forth an applicable defense. The Notice of Violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of Section 1354. The Notice of Violation shall be *prima facie* evidence of a violation, subject to rebuttal on the basis of the defenses established in Section 1355.

The owner's failure to appear at the hearing will result in a finding of liability. In the event of a failure to appear, a "Findings, Decision and Order" letter will be sent to the owner. The owner's failure to pay the amount by the date specified in that letter will result in a final determination.

1358 Non-Residents

Where the registered owner or lessee of the cited vehicle is not a resident of the Village but seeks to contest the merits of the alleged violation, such person may contest the charges using the same available defenses as stated above, but rather than attend the administrative hearing, they may submit any and all documentary evidence to the Traffic Compliance Administrator no later than the hearing date, together with a written statement reflecting that they are non-residents of the Village. The Traffic Compliance Administrator shall forward all timely-submitted materials to the Hearing Officer for review and determination.

1359 Final Determination

A final determination of an automated traffic law violation(s) liability shall:

- A. Occur following the failure to pay the total assessed fine or penalty after the hearing officer's determination of vehicular standing, parking, compliance regulation or automated traffic law violation(s) liability and the exhaustion of or the failure to exhaust any administrative review procedures hereinafter set forth, or
- B. Where a person fails to appear at a prior requested hearing or administrative hearing provided to contest the alleged standing, parking or compliance regulation violation(s) on the date and at the time and place specified in a prior served or mailed notice, or fails to appear at the hearing for an automated traffic law violation on the date and at the time and place specified in a prior mailed notice. The hearing officer's determination of vehicular standing, parking, compliance regulation or automated traffic law violation(s) liability shall become final upon the exhaustion of or the failure to exhaust any administrative or judicial review procedures hereinafter set forth:
 1. Upon denial of a timely petition to set aside that determination, or

2. Upon the expiration of the period for filing a petition without a filing having been made.

1360 Notice of Determination of Liability

A determination of Automated Traffic Law Violation liability shall occur following failure to pay the fine or penalty, or to contest the alleged violation within twenty-one (21) days of the Notice of Violation. Where a person fails to appear at a hearing to contest the alleged violation in the time and manner specified in a prior mailed notice, the Hearing Officer will enter Findings, Decision and Order. The determination of Automated Traffic Law Violation Liability shall become final: (a) upon denial of a timely petition to set aside that determination, or (b) upon expiration of the period for filing such a petition without a filing having been made. If a person appears at a hearing and is found liable or contests the Violation by mail and is found liable, the Hearing Officer will enter Findings, Decision and Order, which is a final determination of Automated Traffic Law Violation Liability that is a final, appealable order.

1361 Notice of Final Determination

A Notice of Final Determination shall be sent following the final determination of automated traffic law violation liability and the conclusion of judicial review. The Notice of Final Determination shall include the following information:

- A. A statement that the unpaid fine is a debt due and owing to the Village of Spring Grove;
- B. A warning that a failure to pay any fine due and owing to the Village of Spring Grove within 14 days may result in a petition to the Circuit Court of Mc Henry County to have the unpaid fine rendered as a judgment or may result in the suspension of the person's drivers license for failure to pay fines or penalties for 5 or more violation under this Article.

1362 Petitions to Set Aside Determination

A Petition to Set Aside Determination of an automated traffic law violation must be filed with or mailed to the Traffic Control Administrator within 14 days of the date of mailing of the Notice of Determination of Liability. The grounds for the petition are limited to:

- A. The person was not the owner or lessee of the cited vehicle on the date the violation notice was issued;
- B. The person has already paid the fine for the violation in question; and

- C. Excusable failure to appear at or to request a new date for a hearing.

Upon receipt of a timely petition to set aside the determination of liability, the Hearing Officer shall review the petition to determine if cause has been shown to set aside the determination. If cause has been shown, the Village shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The Village shall notify the petitioner of the Hearing Officer's decision to grant a hearing or deny the petition within 14 days of the Village's receipt.

1362.1 **Notice of Impending Drivers License Suspension**

A Notice of Impending Drivers License Suspension shall be sent to the person liable for any fine or penalty that remains due and owing on 5 or more violations of this Article. The Notice of Impending Drivers License Suspension shall state the following information:

- A. The failure to pay the fine owing within 45 days of the notice's date will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of the Code;
- B. A statement that the person may obtain a copy of the original ticket imposing a fine by sending a self-addressed, stamped envelope to the Village along with a request for the copy.

The Notice of Impending Drivers License Suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database.

1362.2 **Drivers License Suspension**

The Traffic Compliance Administrator, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of 5 automated traffic violations. The report shall be certified and contain the following:

- A. The name, last known address as recorded with the Secretary of State, as provided by the lessor of the cited vehicle at the time of lease, or as recorded in a United States post office approved database if any notice sent under this Article is returned as undeliverable, and driver's license number of the person who failed to pay the fine or penalty and the registration number of any vehicle known to be registered to such person in the state;

- B. The name of the municipality making the report pursuant to this section; and
- C. A statement that a Notice of Impending Driver's License Suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this Article is returned as undeliverable at the last known address recorded at a United States Post office approved database; the date on which such notice was sent; and address to which such notice was sent.

The Traffic Compliance Administrator shall notify the Secretary of State whenever a person named in the certified report has paid the previously recorded fine or penalty or whenever the municipality determines that the original report was in error. A certified copy of such notification shall also be given upon request, and at no additional charge, to the person named therein.

Any person receiving notice from the Secretary of State that their driving privileges may be suspended at the end of a specified period may challenge the accuracy of the certified report prepared by the Traffic Compliance Administrator. The person shall, within 7 days after having received notice from the Secretary of State, request an opportunity to speak with the Traffic Compliance Administrator to challenge the accuracy of the certified report. If the Traffic Compliance Administrator determines that the original report was in error due to the fact that the person challenging the report was not the owner or lessee of the vehicle or that the person has already paid their fine for the 5 or more automated traffic violations, the Traffic Compliance Administrator shall immediately notify the Secretary of State of such error in a subsequent certified report.

1362.3 Penalty

The owner (or lessee) of a motor vehicle is subject to a penalty of one hundred dollars (\$100.00) per Automated Traffic Law Violation. In the event that such penalty is not paid within fourteen (14) days after service of a Notice of Determination of Liability or Findings, Decision and Order, an additional one hundred dollar (\$100.00) late payment penalty shall be imposed. A penalty shall not apply if the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation.

Article 8 - Absolute Maximum Speed Limit

1363 Maximum Speed Limit

Pursuant to 625 ILCS 5/11-604(a), the absolute maximum speed limit for any Village road, street, or highway shall be forty-five (45) miles per hour. Any decrease to the absolute maximum speed limit for a specific road, street, or highway shall be done in accordance with the procedure established in 625 ILCS5/11-604(b). (*Revised Ord. 2011-09*)

Article 9 - Seizure and Impoundment of Motor Vehicles

(Revised Ord. 2011-16)

1364 Definitions

For the purposes of this Article, and the interpretation and enforcement hereof, the following terms, phrases, words, and their derivations shall have the meanings given herein, unless the context in which they are used shall indicate otherwise. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The words shall and will are mandatory and may is permissive. Words not defined shall be given their common and ordinary meaning.

Hearing Officer. A licensed attorney, who is not an officer or employee of the Village, designated by the Village President.

Owner of Record. The record titleholder to a motor vehicle as registered with the Illinois Secretary of State or any other applicable governmental agency.

1365 Public Nuisance Declared

A motor vehicle, operated with the permission, express or implied, of the owner of record, shall be declared a public nuisance and subject to seizure and impoundment under this Section where such motor vehicle is used in the commission of any of the violations set forth in this Section 1365 or when the commission of any of the violations set forth in this Section 1365 makes impoundment of the motor vehicle reasonably necessary as a community care taking function so that the motor vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. It shall not be necessary for criminal charges to be filed, prosecuted, and/or proven in order to demonstrate that one of the following violations has been committed:

- A. 625 ILCS 5/6-303 (Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked) as amended,
- B. 625 ILCS 5/11-204 (Fleeing or attempting to elude a peace officer), as amended;
- C. 625 ILCS 5/11-501 (Driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof), as amended;
- D. 625 ILCS 5/11-502(a) (Illegal transportation of alcohol by a driver), as amended;
- E. 625 ILCS 5/11-503 (Reckless driving or aggravated reckless driving), as amended;
- F. 625 ILCS 5/11-506 (Drag racing), as amended;
- G. 625 ILCS 5/6-101 (Drivers must have licenses or permits), as amended;
 - a. except a person who had a valid driver's license that is expired for less than six months unless the person is also in violation of 625 ILCS 7/601 relating to mandatory insurance; (b) except a person who is less than 17 years of age operating a motor vehicle on any street or highway when in violation of the Child Curfew Act (720 ILCS 550/0.0 et seq.);

- H. 720 ILCS 5/11-6 (Indecent solicitation of a child), as amended;
- I. 720 ILCS 5/12-2 (Aggravated assault), as amended;
- J. 720 ILCS 5/12-4 (Aggravated battery), as amended;
- K. 720 ILCS 5/12-4.2 (Aggravated battery with a firearm), as amended;
- L. 720 ILCS 5/12-4.3 (Aggravated battery of a child), as amended;
- M. 720 ILCS 5/12-4.6 (Aggravated battery to a senior citizen), as amended;
- N. 720 ILCS 5/16A-3 (Retail theft), as amended, when the value of the merchandise exceeds \$150.00;
- O. 720 ILCS 5/18-1 (Robbery), as amended;
- P. 720 ILCS 5/18-2 (Armed Robbery), as amended;
- Q. 720 ILCS 5/19-1 (Burglary), as amended;
- R. 720 ILCS 5/19-3 (Residential Burglary), as amended;
- S. 720 ILCS 5/20-1 (Arson), as amended;
- T. 720 ILCS 5/20-1.1 (Aggravated arson), as amended;
- U. 720 ILCS 5/20-2 (Possession of Explosives or explosive or incendiary devices), as amended;
- V. 720 ILCS 5/21-1 (Criminal damage to property), as amended;
- W. 720 ILCS 5/25-1 (Mob Action), as amended;
- X. 720 ILCS 570/401 (Manufacture or delivery of controlled substance), as amended;
- Y. 720 ILCS 570/401.1 (Controlled substance trafficking), as amended;
- Z. 720 ILCS 570/402 (Possession of controlled substance), as amended;
- AA. 720 ILCS 550/4(d)-(g) (Possession of any substance containing cannabis);
- BB. 720 ILCS 550/5 (Manufacture or delivery of cannabis), as amended;
- CC. 720 ILCS 550/5.1 (Cannabis trafficking), as amended;

- DD. 720 ILCS 550/5.2 (Delivery of cannabis on school grounds), as amended;
- EE. 720 ILCS 550/8 (Unauthorized production or possession of cannabis sativa plant), as amended;
- FF. 720 ILCS 5/24-1 (Unlawful use of weapons), as amended;
- GG. 720 ILCS 5/24-3.1 (Unlawful possession of firearms and firearm ammunition), as amended;
- HH. 720 ILCS 5/24-3.3 (Unlawful sale or delivery of firearms on the premises of any school), as amended; however, this subsection shall not apply when any of the exemptions set for in 720 ILCS 5/24-2, as amended, are met;
- II. 720 ILCS 5/24-1.1 (Unlawful or possession of weapons by felons or person in the custody of the Department of Corrections facilities);
- JJ. 720 ILCS 5/11-14 (Prostitution), as amended;
- KK. 720 ILCS 5/11-14.1 (Solicitation of a sexual act), as amended;
- LL. 720 ILCS 5/11-15 (Soliciting for a prostitute), as amended;
- MM. 720 ILCS 5/11-15.1 (Soliciting for a juvenile prostitute), as amended;
- NN. 720 ILCS 5/11-18 (Patronizing a prostitute), as amended;
- OO. 720 ILCS 5/11-18.1 (Patronizing a juvenile prostitute), as amended;
- PP. The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1, (Seizure)as amended;
- QQ. 720 ILCS 5/24.1.1 (Aggravated discharge of a firearm), as amended;
- RR. 720 ILCS 5/24.1.5 (Aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm), as amended;
- SS. 720 ILCS 5/24.1.5 (Reckless discharge of a firearm), as amended;
- TT. Any violation of a similar Village ordinance as those set forth in this Section; or
- UU. Any other circumstances under which the vehicle may be towed pursuant to this Ordinance, the Police Department Operating Procedures or the Police Department's Administrative Procedures.

1366 Seizure and Impoundment of Motor Vehicles

Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Article, the police officer shall cause the motor vehicle to be removed or towed to a facility authorized by the Village. When the motor vehicle is removed or towed, the police officer shall notify any person identifying himself or herself as the owner of record of the motor vehicle or any person who is found to be in control of the motor vehicle at the time of the alleged violation(s), if there is such a person, of the fact of the seizure as provided in this Section. Said motor vehicle shall be impounded pending the completion of the hearing provided for in this Section, unless the owner of record of the motor vehicle posts with the Village a cash bond as set forth in this Section 1366.

A police officer who has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Section shall first ascertain whether the seizure and impoundment is necessary and reasonable under the circumstances. If in the judgment of the police officer then present, a person authorized by the owner of record or the operator of the motor vehicle is present and capable to legally provide for the immediate removal of the motor vehicle, and said motor vehicle is not required to be held as evidence in regard to the violation, the police officer may allow that individual to promptly remove the motor vehicle without it being subject to seizure and impoundment if seizure and impoundment of the motor vehicle is discretionary pursuant to Section 1365 or seizure and impoundment of the motor vehicle is contemplated pursuant to Section 1365.

Posting Bond. If a bond in the amount of \$250.00 is posted with the Village, the impounded motor vehicle shall be released to the owner of record, upon the payment by the owner of record of the towing and storage costs to the applicable towing company. If an administrative fee is imposed pursuant to Section 1367, the bond will be applied to said fee; provided, in the event that a violation of this Section is not proven, the bond shall be returned to the person posting the bond. All bond money posted pursuant to this Section shall be held by the Village until a hearing officer issues a decision, or, if there is a judicial review, until a reviewing court issues a final decision.

Preliminary Hearing. Where the owner of a motor vehicle seized under the provisions of this Section makes a request in writing and files with the chief of police or his/her designee, for a preliminary hearing within 24 hours after the seizure of the motor vehicle, the chief of police or his/her designee must conduct a preliminary hearing within 24 hours after the request for a preliminary hearing is received by the Village; provided that if the date for the hearing falls on a Saturday, Sunday, or legal holiday, the preliminary hearing will be held on the next business day following the Saturday, Sunday or legal holiday. For purposes of this section, the following shall apply:

1. All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing.
2. The formal rules of evidence shall not apply at the preliminary hearing, and hearsay testimony shall be allowed, if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
3. If, after the conclusion of the hearing, the chief of police or his/her designee determines that there is probable cause to believe that the motor vehicle was used as provided in Section 1365, the chief of police or his/his designee shall order the continued impoundment of the motor vehicle, unless the owner of record posts a cash bond with the Village in the amount of

\$250.00, and pays the towing and storage costs to the applicable towing company, as set forth in Section 1365.

4. If the chief of police or his/her designee determines that there is not probable cause to believe that the motor vehicle was used as provided in Section 1365, the motor vehicle shall be returned to the owner of record of the motor vehicle without any fees or other costs, but the owner of record shall be responsible to pay any towing or storage charges to the applicable towing company.

1367 Plea Hearing/Evidentiary Hearing

Notice of Hearing. Within 10 days after a motor vehicle is impounded pursuant to this Article, the Village shall notify the owner of record of the date, time and location of a plea hearing that shall be conducted, pursuant to Section 1367. Such notice shall be mailed by certified mail, return receipt requested, to the owner of record, as shown on the records of the Illinois Secretary of State. Notice by certified mail need not be given when the owner of the motor vehicle has been personally served with notice, in written form, of the time, date and location of the plea hearing. The plea hearing shall be conducted by a hearing officer designated by the Village Board. The owner of record may appear at a plea hearing and enter a plea of guilty or not guilty. If a plea of guilty is entered, or if the owner of record fails to appear, the cause shall be disposed of at that time, with an order or a default order in favor of the Village which order or default order shall require the payment to the Village of the \$250.00 administrative fee and the payment of towing and storage costs to the applicable towing company, and the continued impoundment of the motor vehicle until the owner of record pays to the Village the \$250.00 administrative fee and the towing and storage costs to the applicable towing company. If the owner of record has previously posted the bond authorized by Section 1366 and paid the applicable towing and storage costs to the towing company for the release of the vehicle, then no further fees or costs shall be due. If the owner of record pleads not guilty, an evidentiary hearing shall be scheduled and held not later than 45 days after the motor vehicle was impounded, unless continued by the hearing officer. All interested persons shall be given a reasonable opportunity to be heard at the evidentiary hearing. At any time prior to the evidentiary hearing date, the hearing officer may, at the request of either the Village or the owner of record, direct witnesses to appear and give testimony at the evidentiary hearing. The formal rules of evidence shall not apply at the evidentiary hearing, and hearsay evidence shall be admissible if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

If, after the evidentiary hearing, the hearing officer determines, by a preponderance of the evidence, that the motor vehicle was used in connection with a violation set forth in Section 1365, the hearing officer shall enter an order finding the owner of the motor vehicle civilly liable to the Village for an administrative fee in the amount of \$250.00, and require the motor vehicle to continue to be impounded until the owner of record pays the administrative fee to the Village, and also pays the applicable towing and storage costs to the applicable towing company. If the owner of record fails to appear at the evidentiary hearing, the hearing officer shall enter a default order in favor of the Village, which order shall require the payment to the Village of the \$250.00 administrative fee and the payment of the towing and storage costs to the applicable towing company, and the continued impoundment of the motor vehicle until the owner of record pays the Village the \$250.00 administrative fee and pays the towing and storage costs to the applicable towing company. If the owner of record has previously posted the bond authorized by Section 1366 and paid the applicable towing and storage costs to the towing company for the release of the vehicle, then no further fees or costs shall be due. The \$250.00 administrative fee shall be a debt due to the Village and the Village may seek to obtain a judgment on the debt and enforce such judgment as provided by law.

If after a hearing the hearing officer finds no such violation occurred, the hearing officer shall order the immediate return of the motor vehicle to the owner of record without any fee or other costs, of, if a cash bond has previously been posted, the cash bond shall be returned. However, the Village shall not be responsible for the payment of towing or storage fees.

At the evidentiary hearing, the citation setting forth the violation shall be prima facie evidence that the violation was committed as provided in the citation, and the burden of proof shall be upon the owner of record to prove that the violation was not committed.

1368 Disposition of Impounded Motor Vehicle

If the administrative fee and other applicable fees are not paid within 30 days after an administrative fee is imposed against an owner of record who defaults by failing to appear at the hearing provided in Section 1367, or who admits guilt at the plea hearing, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100 et seq. as amended. In all other cases, if the administrative fee and applicable towing and storage costs to the applicable tow company are not paid within 30 days after the expiration of time by which administrative review of the hearing officer's determination may be sought pursuant to Section 1369, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100, et seq., as amended.

1369 General Regulations

Costs for towing and storage of a motor vehicles pursuant to this Section shall be those approved by the chief of police for all towing companies authorized to tow for the police department.

This Section is in addition to and shall not replace or otherwise abrogate any existing State or Federal laws or any ordinance that relates to the seizure or impoundment of motor vehicles, and any fee provided for in this Section shall be in addition to any and all penalties that may be assessed or imposed by a court for any criminal charges.

This Section shall not apply:

1. if the motor vehicle used in the violation was stolen at the time of the violation and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered;
2. if the motor vehicle is operated as a common carrier as defined by applicable law and the violation occurs without the knowledge of the person in control of the motor vehicle; or
3. if the motor vehicle is subject to successful forfeiture proceedings under 725 ILCS 1501, et seq., as amended (Drug Asset Forfeiture Procedure Act); 725 ILCS 5/31-1, et seq., as amended (Seizure and Forfeiture of Vessels, Vehicles and Aircrafts), or other State or Federal forfeiture laws.

All fees collected by the Village pursuant to this Section shall only be deposited and used for Village traffic safety and enforcement expenditures.

1370 Administrative Review

Any owner of record, lien holder or other person with a legal interest in the motor vehicle, shall have the right to appeal the decision of the hearing officer to the Circuit Court of the 22nd Judicial Circuit, McHenry County, Illinois, pursuant to the Administrative Review Act, 735 ILCS 5/3-101, et seq., as amended. The hearing in administrative review shall be limited to the record of the hearing before the hearing officer. Any person seeking administrative review of a final decision shall be required to reimburse the Village for the costs of preparing and certifying the record of proceedings. The failure of the person seeking administrative review to reimburse the Village shall be grounds for the dismissal of a complaint for administrative review which is brought pursuant to 735 ILCS 5/3-101. In the event the reviewing court reverses the findings, decision or order of the hearing officer, the Village shall reimburse the respondent for the costs for preparing and certifying the record of proceedings.