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**THE VILLAGE OF WILLOW SPRINGS  
COOK COUNTY, ILLINOIS**

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**ORDINANCE  
NUMBER 2014-O-20**

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**AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, SECTION 8  
"SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES" OF THE  
VILLAGE CODE FOR THE VILLAGE OF WILLOW SPRINGS, COOK  
COUNTY, ILLINOIS**

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**ALAN NOWACZYK, President  
ADENA BASKOVICH, Village Clerk**

**GEORGE BARTIK  
MARIO IMBARRATO  
ANNETTE KAPTUR  
KEVIN J. MALONEY  
KATHRYN STANPHILL  
JERRY STRAZZANTE**

**Trustees**

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## ORDINANCE # 2014-O-20

### AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, SECTION 8 “SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES” OF THE VILLAGE CODE FOR THE VILLAGE OF WILLOW SPRINGS, COOK COUNTY, ILLINOIS

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**WHEREAS**, the Village of Willow Springs (the “*corporate authorities*”) is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

**WHEREAS**, the corporate authorities designate regulations regarding seizure and impoundment of motor vehicles for the Village in Title 6, Chapter 1, Section 8; and

**WHEREAS**, the corporate authorities have decided to amend Title 6, Chapter 1, Section 8 of the Village Code.

**NOW, THEREFORE, BE IT ORDAINED** by the Village President and Board of Trustees of the Village of Willow Springs, Cook County, Illinois, as follows:

**SECTION 1:** That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

**SECTION 2:** Title Six of the Village Code shall be amended by adding the underlined language and deleting the stricken language to read as follows:

- 6-1-8: **IMPOUNDMENT OF MOTOR VEHICLES USED IN CONNECTION WITH  
ILLEGAL ACTIVITIES**
- 6-1-8a: **SEIZURE AND IMPOUNDMENT**
- 6-1-8b: **PRELIMINARY HEARING**
- 6-1-8c: **ADMINISTRATIVE HEARING**

6-1-8d: DISPOSITION OF IMPOUNDED MOTOR VEHICLE

6-1-8e: APPLICABILITY OF OTHER LAWS

6-1-8: IMPOUNDMENT OF MOTOR VEHICLES USED IN CONNECTION WITH ILLEGAL ACTIVITIES:

(a) For purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. The term "Hearing Officer" means a licensed attorney who is not an officer or employee of the Village.
2. The term "Owner of Record" means the record titleholder to a motor vehicle as registered with the Secretary of State of the state of Illinois.
3. The term "motor vehicles" will include First and Second Division vehicles as defined in Chapter 625 ILCS 5/1-146.

(b) Violations Authorizing Impoundment: A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations, shall be subject to tow and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative fee in addition to any towing and storage fees, as hereinafter provided. 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:

1. Operation or use of a motor vehicle in the commission or attempted commission of any offense for which a motor vehicle may be seized and forfeited pursuant to 720 Illinois Compiled Statutes 5/36-1 et seq., shall subject the owner to an administrative fee of five hundred dollars (\$500.00).

2. Driving under the influence of alcohol, other drug or drugs, intoxicating compounds, in violation of 625 Illinois Compiled Statutes 5/11-501, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
3. Operation or use of a motor vehicle in connection with the commission or attempted commission of any felony offense in violation of the provisions of the Illinois Cannabis Control Act, 720 Illinois Compiled Statutes 550/1, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
4. Operation or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the Illinois Controlled Substances Act, 720 Illinois Compiled Statutes 570/100, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
5. Operation or use of a motor vehicle in connection with the commission or attempted commission of the offense of Unlawful Use of a Weapon in violation of 720 Illinois Compiled Statutes 5/24-1; aggravated discharge of a firearm in violation of 720 Illinois Compiled Statutes 5/24-1.5; and unlawful possession of a firearm and firearm ammunition, in violation of 720 Illinois Compiled Statutes 5/24-3.1, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
6. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to section 6-303 of the Illinois vehicle code shall subject the owner to an administrative fee of five hundred dollars (\$500.00); except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing.
7. Operation or use of a motor vehicle while soliciting, possessing or attempting to solicit or possess cannabis or a controlled substance, as defined by the cannabis control act or the Illinois controlled substances act, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
8. Operation or use of a motor vehicle with an expired driver's license, in violation of section 6-101 of the Illinois vehicle code, if the period of expiration is greater than one year, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
9. Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of section 6-101 of the Illinois vehicle code, or operation of a motor vehicle without ever having been issued a

driver's license or permit due to a person's age, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).

10. Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated section 6-101(Drivers must have licenses or permits), 6-303(Driving while driver's license or permit is suspended or revoked), or 11-501(Driving under the Influence of Alcohol or Drugs) of the Illinois vehicle code, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
11. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of article 16 (Theft and Related Offenses) of the criminal code of 2012, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
12. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the criminal code of 1961 or the criminal code of 2012, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).
13. Operation or use of a motor vehicle in violation of Illinois Vehicle Code Section 11-503 (Reckless Driving), while the vehicle is part of a funeral procession; or in a manner that interferes with a funeral procession, shall subject the owner to an administrative fee of five hundred dollars (\$500.00).

(c) General Regulations:

1. This chapter shall not replace or otherwise abrogate any existing laws pertaining to vehicle seizure, towing and impoundment, and the owner shall be subject to these penalties in addition to any penalties that may be assessed by a court for any criminal charges.
2. This Section shall not apply if the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within twenty four (24) hours after the theft was discovered.
3. Fees for towing and storage of a vehicle under this Section shall be those approved by the chief of police for all tow companies authorized to tow for the police department.
4. All forms and administrative paperwork shall be maintained by the Willow Springs Police Department and may be amended as needed.

## **6-1-8a: Seizure and Impoundment**

1. Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Section, the police officer shall cause the motor vehicle to be towed to a facility controlled by the Village or its agents.
2. When the vehicle is towed, the police officer shall notify any person identifying himself or herself 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 the seizure and of the vehicle owner's right to request a preliminary hearing as provided in this Section.
3. Said motor vehicle shall be impounded pending the completion of the hearings provided for in this Section, unless the owner of the motor vehicle posts with the Village a ~~cash bond as set forth in subsection (d) below.~~ bond equal to the administrative fee as provided by this ordinance and pays for all towing and storage charges. All bond money posted pursuant to this Section shall be held by the Village until the hearing officer issues a decision, or, if there is a judicial review, until a reviewing court issues a final decision.
4. The administrative fees established by this Section are to be paid by the owner of record/interested person, or the agents of the owner or record/interested person, of the vehicle involved in the incident leading to custodial arrest regardless of whether that person was operating the vehicle at the time of the incident.
5. The person purporting to be the owner of record/interested person, or the agents of the owner of record/interested person, must present proof of ownership, current proof of insurance and possess a valid driver's license prior to release.

6. A police officer who has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this chapter shall first ascertain whether the seizure and impoundment is necessary and reasonable under the circumstances. If the motor vehicle is capable of being removed from the scene by an individual who is present on the scene, and who has permission from the owner of the motor vehicle to drive the motor vehicle, and the individual is otherwise fully capable of lawfully operating a motor vehicle in the State of Illinois, the police officer shall allow that individual to 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 (b)(1) above or seizure and impoundment of the motor vehicle is contemplated pursuant to sections (b)(8)-(9) above.
7. Similarly, if the motor vehicle is parked legally and will not present a hazard to the public safety or otherwise jeopardize the efficient movement of vehicular traffic at its location, the police officer shall permit the motor vehicle to remain at its location without it being seized and impounded if seizure and impoundment of the motor vehicle is discretionary pursuant to section (b)(1) above or seizure and impoundment of the motor vehicle is contemplated pursuant to sections (b)(8)-(9) above.
8. The determination required by this section is not required to be made when a motor vehicle is required to be seized and impounded due to investigative measures or when a motor vehicle is seized and impounded pursuant to another lawful purpose.

**6-1-8b: Preliminary Hearing**

1. Where the owner of a motor vehicle towed and impounded pursuant to this Section desires to appeal said seizure, said owner shall request a preliminary hearing within forty-eight (48) hours of the seizure of the motor vehicle. Such notice shall be in writing and shall be filed with the chief of police or the chief of

police's designee who shall conduct said preliminary hearing within forty-eight (48) hours after the request for a preliminary hearing is received, excluding Saturdays, Sundays or Village holidays. For purposes of this Section, the following shall apply:

- (a). All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing.
  - (b). The formal rules of evidence shall not apply at the hearing, and hearsay testimony shall be allowed, and shall be admissible.
2. If, after the conclusion of the hearing, the chief of police or the chief of police's designee determines that there is probable cause to believe that the vehicle is subject to impoundment pursuant to this Section, he or she shall order the continued impoundment of the vehicle, unless the owner of the vehicle posts a cash bond with the village in the amount of five hundred dollars (\$500.00), plus the towing and storage costs.
  - (a) At the conclusion of the preliminary hearing, the vehicle owner may appeal the outcome of the preliminary hearing or file a request for a final hearing. The chief of police or his designee shall serve the owner of record immediate notice of the date and time of the final hearing.
3. If the chief of police or the chief of police's designee determines that there is not probable cause to believe that the vehicle is subject to impoundment pursuant to this Section, the motor vehicle shall be returned to the owner of record of the vehicle without any fees or other costs, but the owner of record shall be responsible for any towing or storage charges.

#### **6-1-8c: Administrative Hearing**

1. Unless the owner of the motor vehicle prevails at a preliminary hearing, or the owner affirmatively requests or waives his or her right to a final administrative hearing, the Village shall notify the owner of record within ten (10) business days

after the vehicle is towed and impounded, by personal service or certified mail, return receipt requested, of the date, time and location of a hearing being conducted pursuant to this Section. Said notice shall state the fees that may be imposed by the Village, and shall further state that a motor vehicle not released by cash bond or other form of acceptable payment may be sold or disposed of by the Village in accordance with applicable law.

2. A person whose vehicle is seized pursuant to this Section may apply for a hearing to assert that he or she or the person driving the vehicle was not in violation of this Section at the time the vehicle was seized, The application for hearing shall be made no later than five (5) days after notice has been given either personally or by certified mail, whichever is applicable in the given circumstance. The application to request a hearing shall be provided by the Village at the time notice is given. The bond shall be forfeited in the event a hearing is not requested as provided for in this Section. After an application for hearing is received by the Village, a subsequent notice shall be sent to the person that requested the hearing notifying that person of the date, time and location of the hearing.
3. For purposes of this section, the following shall apply at an owner's final hearing:
  - a. The hearing shall be conducted by a hearing officer licensed to practice law in the state of Illinois for at least three (3) years designated by the village administrator.
  - b. Unless continued by order of the hearing officer, the hearing shall be held within forty-five (45) days after the motor vehicle was seized.
  - c. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing, and hearsay testimony shall be allowed, and shall be admissible.

- d. The violation citation shall be prima facie evidence that the violation was committed as provided in the citation, and the burden of proof shall be upon the defendant to prove that the violation was not committed.
  - e. If, after the conclusion of the hearing, the hearing officer determines by a preponderance of the evidence that the vehicle was used in connection with a violation set forth in section 6-1-8(B) above, the hearing officer shall enter an order finding the owner of record of the motor vehicle civilly liable to the Village for the applicable administrative fee, and order the continued impoundment of the vehicle until the owner of the vehicle pays to the Village a fee in the amount of five hundred dollars (\$500.00), plus the towing and storage costs. The fee and costs shall be a debt due to the Village.
  - f. If, after the hearing, the hearing officer determines, by a preponderance of the evidence, that the vehicle was not used in connection with a violation set forth in section 6-1-8(B) above, the hearing officer shall enter an order finding for the owner and the motor vehicle shall be returned to the owner of record of the vehicle without any administrative fees or other costs, or, if a cash bond had previously been posted, the cash bond shall be returned, but the owner of record shall be responsible for any towing or storage charges.
  - g. If the owner of record fails to appear at the hearing, the hearing officer shall enter an order of default in favor of the Village, which order shall require the payment to the Village of an administrative fee of five hundred dollars (\$500.00).
4. All decisions of the hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law.

5. Unless stayed by a court of competent jurisdiction, any administrative fee imposed under this Section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

#### **6-1-8d: Disposition of Unclaimed Vehicles**

1. If the administrative fee and any other applicable fees are not paid within thirty-five (35) days after said fees are imposed against an owner of record who has defaulted by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code (625 ILCS 5/1 *et seq.*), as may be amended from time to time.
2. In all other cases, if the administrative fee and any other applicable fees are not paid within thirty (30) days after the expiration of time in which judicial review of the hearing officer's determination may be sought, or within thirty (30) days after an action seeking judicial review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code (625 ILCS 5/1 *et seq.*), as may be amended from time to time.

**6-1-8e: Applicability of Other Laws:** 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 impoundment of motor vehicles, and any fee 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 twenty-four (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 150/1 et seq., as amended ("Drug Asset Forfeiture Procedure Act"), 720 ILCS 5/36-1 et seq., as amended ("Seizure and Forfeiture of Vessels, Vehicles and Aircraft"), or state or federal forfeiture laws.

**SECTION 3:** If any section, paragraph, clause or provision of this ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this ordinance.

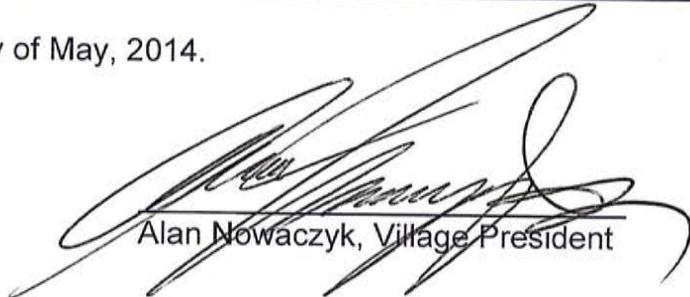
**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** This ordinance shall be in full force and effect from and after its passage, approval by the Village Board, and publication as provided by law.

ADOPTED this 8<sup>th</sup> day of May, 2014, pursuant to a roll call vote as follows:

	PRESENT	ABSENT	AYE	NAY	ABSTAIN
Bartik	✓		✓		
Imbarrato	✓		✓		
Kaptur	✓		✓		
Maloney	✓		✓		
Stanphill	✓		✓		
Strazzante	✓		✓		
(Mayor Nowaczyk)	✓				
<b>TOTAL</b>	7	0	6	0	0

APPROVED this 8<sup>th</sup> day of May, 2014.



Alan Nowaczyk, Village President

ATTEST:



Adena Baskovich, Village Clerk

STATE OF ILLINOIS     )  
                                  ) SS  
COUNTY OF COOK        )

**CERTIFICATION**

I, Adena Baskovich, DO HEREBY CERTIFY that I am the duly qualified and appointed Clerk of the Village of Willow Springs, Cook County, Illinois, and that as such Clerk I do have charge of and custody of the books and records of the Village of Willow Springs, Cook County, Illinois.

I DO HEREBY FURTHER CERTIFY that the foregoing is a full, true and correct copy of **ORDINANCE No. 2014-O-20** "AN ORDINANCE AMENDING TITLE 6, CHAPTER 1, SECTION 8 'SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES' OF THE VILLAGE CODE FOR THE VILLAGE OF WILLOW SPRINGS, COOK COUNTY, ILLINOIS" adopted and approved by the President and Board of Trustees of the Village of Willow Springs, Illinois, on May 8, 2014.

IN WITNESS WHEREOF, I have hereunto affixed my hand and the Corporate Seal of the Village of Willow Springs, Cook County, Illinois this 8<sup>th</sup> day of May, 2014.



  
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Adena Baskovich, Village Clerk  
Village of Willow Springs, Cook County, Illinois