

VILLAGE OF PLAINFIELD

ORDINANCE NO. 3204

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE VIII OF THE
CODE OF ORDINANCES OF THE VILLAGE OF PLAINFIELD

An Ordinance Amending the Chapter and Articles
Regulating Vehicle Impoundment

ADOPTED BY THE
PRESIDENT AND BOARD
OF TRUSTEES OF THE
VILLAGE OF PLAINFIELD
THIS 2ND DAY OF FEBRUARY 2015.

Published in pamphlet form by
the authority of the President
and Board of Trustees of the
Village of Plainfield, Will and
Kendall Counties, Illinois,
this 3rd day of February, 2015.

ORDINANCE NO. 3204

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE VIII OF THE
CODE OF ORDINANCES OF THE VILLAGE OF PLAINFIELD

An Ordinance Amending the Chapter and Articles
Regulating Vehicle Impoundment

WHEREAS, the Village of Plainfield ("Village"), Will County, Illinois, as a home rule municipality in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970, is enacting this Ordinance pursuant to its home rule authority; and

WHEREAS, pursuant to the laws of the State of Illinois, the Village has the authority to adopt ordinances regulating impoundment of motor vehicles operated within the Village in violation of certain state laws or local ordinances; and

WHEREAS, regulation of the operation of motor vehicles in connection with violations of certain state laws or local ordinances is a matter that affects the safety and general welfare of the citizens of the Village; and

WHEREAS, the Village President and the Village Board of Trustees ("Village Board") have determined that, in the interest of promoting the safety and general welfare of the citizens of the Village, it is necessary and desirable to amend the Village's Code of Ordinances to further comprehensively regulate the impoundment of motor vehicles operated within the Village in violation of certain state laws or local ordinances; and

WHEREAS, the Village President and the Village Board specifically find that the passage of this Ordinance will promote the safety and general welfare of the citizens of the Village.

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

SECTION ONE. That the Preamble to this Ordinance and Exhibits are adopted by this reference as if fully set forth herein.

SECTION TWO. That Chapter 5, Article VIII of the Village's Code of Ordinances, entitled "Vehicle Impoundment", be and hereby is amended as set forth in Section Three below. The amended text with document markings is attached hereto as Exhibit "A". Deletions from the Code are ~~overstruck~~ and additions to the Code are double underlined.

SECTION THREE.

Sec. 5-211. Authorization.

The Police Department of the Village is hereby authorized to direct and supervise a program of vehicle impoundment pursuant to the provisions of this Chapter. The Police Department, and any other duly authorized agent of the village, is hereby authorized to seize and impound any vehicle eligible for impoundment pursuant to this Chapter.
(Ord. 2008 -2737)

Sec. 5-212. Vehicle Impoundment.

(A) Violation: 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 impoundment by the village, and the owner of record of said vehicle shall be liable to the village for an administrative fee in the amount of Five Hundred Dollars (\$500.00), in addition to any towing and storage fees as hereinafter provided. For purposes of this article "motor vehicle" or "vehicle" shall mean every vehicle defined by section 5/1-146 of the Illinois Vehicle Code (625 ILCS 5/1-146).

(1) Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is failure to have liability insurance, as described in 625 ILCS 5/7-601, as amended, or a similar provision of local ordinance.

(2) Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is leaving the scene of a motor vehicle accident involving personal injury or death, as described in 625 ILCS 5/11-401, as amended, or similar provision of local ordinance.

(3) Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as described in 625 ILCS 5/11-501, as amended, or similar provision of local ordinance.

(4) Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is zero tolerance, as described in 625 ILCS 5/11-501.8, as amended, or similar provision of local ordinance.

(5) Operating a motor vehicle without having ever been issued a driver's license or permit, or without currently possessing a valid driver's license, permit or restricted driving permit, as described in 625 ILCS 5/6-101, as amended, or similar provision of local ordinance, when also in violation of 625 ILCS 5/7-601, as amended, or similar provision of local ordinance.

(6) Operating a motor vehicle in violation of 625 ILCS 5/11-501 (driving under the influence of alcohol, other drug(s), intoxicating compound(s) or any combination thereof), as described in 625 ILCS 5/11-501, as amended, or similar provision of local ordinance.

(7) Operating a motor vehicle in violation of 625 ILCS 5/11-204.1 (aggravated fleeing or attempting to elude a peace officer), as amended, or similar provision of local ordinance.

- (8) Operating a motor vehicle in violation of 625 ILCS 5/6-101, as amended, or similar provision of local ordinance, when the operator's driver's license has been expired for more than one year, regardless of whether such license was previously issued by the State of Illinois or a foreign jurisdiction.
- (9) Operating a motor vehicle in violation of 625 ILCS 5/11-501.8 (zero tolerance), as amended, or similar provision of local ordinance.
- (10) Operating a motor vehicle in violation of 625 ILCS 5/11-502 (transportation or possession of open alcoholic liquor in a motor vehicle), as amended, or similar provision of local ordinance.
- (11) Operating a motor vehicle in violation of 625 ILCS 5/11-506 (street racing/aggravated street racing), as amended, or similar provision of local ordinance.
- (12) Operating a motor vehicle in violation of 625 ILCS 5/11-601.5(a) (aggravated speeding – driving 26 miles per hour or more but less than 35 miles per hour in excess of the applicable maximum speed limit), as amended, or similar provision of local ordinance.
- (13) Operating a motor vehicle in violation of 625 ILCS 5/11-601.5(b) (aggravated speeding – driving 35 miles per hour or more in excess of the applicable maximum speed limit), as amended, or similar provision of local ordinance.
- (14) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 2012.
- (15) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of 720 ILCS 550/1 *et seq.* (Cannabis Control Act), as amended, or similar provision of local ordinance.
- (16) 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, 6-303 or 11-501 of the Illinois Vehicle Code.

(B) Applicability; Fees:

- (1) This article shall not replace or otherwise abrogate any existing state or federal laws or village ordinance pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.

(2) This article 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 twenty four (24) hours after the theft of the vehicle was discovered.

(3) Fees for towing and storage of a vehicle under this article shall not exceed those approved by the Chief of Police for all towers authorized to tow for the village's Police Department.

(C) Impoundment: Whenever a police officer has probable cause to believe a vehicle is subject to impoundment pursuant to this article, the police officer shall provide for the towing of the vehicle to a facility authorized by the village. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the impoundment of the vehicle and of the owner's right to request a preliminary vehicle impoundment hearing to be conducted under this article. Said vehicle shall be impounded pending the completion of the hearings provided for in the following subsections, unless the owner of the vehicle posts with the village a cash bond in a form of payment acceptable to the village in the amount of Five Hundred Dollars (\$500.00) and pays all towing and storage charges for the vehicle.

(D) Towing and Storage Charges: The cost for towing a motor vehicle impounded pursuant to this article shall be that approved by the Chief of Police for all tow companies authorized to tow for the Police Department. The cost for storage of a motor vehicle impounded pursuant to this article shall be thirty dollars (\$30.00) per day. Storage fees shall accrue commencing on the third day after the impoundment date and shall accrue daily thereafter at a rate of thirty dollars (\$30.00) per day.

(E) Appeal; Preliminary Hearing: If the owner of record of a vehicle seized and impounded pursuant to this article desires to appeal the impoundment, said owner must make a request for a preliminary impoundment hearing within forty eight (48) hours of the impoundment. Said request shall be in writing and filed with the Chief of Police or his designee, who shall conduct such a preliminary hearing within two (2) business days of receipt of the owner's request for the hearing. For purposes of this article, "business days" shall mean Monday through Friday, excluding holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the Chief of Police or his designee determines there is probable cause to believe that the vehicle is subject to impoundment pursuant to this article, he shall order the continued impoundment of the vehicle as provided in this article, unless the owner of the vehicle posts with

the village an administrative fee in a form of payment acceptable to the village in the amount of Five Hundred Dollars (\$500.00), and pays all applicable towing and storage fees. If the Chief or Police or his designee determines there is no such probable cause, the vehicle will be released without penalty or payment of other fees.

(F) Notification of Hearing: Within ten (10) business days after a vehicle is impounded pursuant to this article, the village shall notify the owner of record, lessee and lienholder, by first class mail or personal service at the address registered with the Secretary of State, of the date, time, and location of a hearing that will be conducted, pursuant to this article. If a plea of guilty is entered, the case will be disposed of at that time. If a plea of not guilty is entered, a final hearing may be scheduled and held. The Village Administrator shall appoint a hearing officer to preside over the final hearing, which hearing officer must be an attorney licensed to practice law in the State of Illinois for a minimum of three (3) years and be in good standing with the Illinois Attorney Disciplinary and Registration Committee. The hearing officer shall be empowered and is hereby authorized and directed to:

- (1) preside over the final hearing as the adjudicator;
- (2) administer oaths;
- (3) issue subpoenas to secure the attendance of witnesses and production of relevant documentation;
- (4) hear testimony and accept evidence that is relevant to the basis of the impoundment or seizure;
- (5) assess fines and penalties as established by this Code;
- (6) make final determinations of violation liability; and
- (7) provide for an accurate recordation of the final hearing.

All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In a hearing on the propriety of impoundment of a vehicle any sworn or affirmed report that: 1) is prepared in the performance of a law enforcement officer's duties and 2) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the vehicle owner's liability, unless rebutted by clear and convincing evidence. If, after the hearing, the

hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this article, the hearing officer shall enter a written order finding the owner of record of the vehicle civilly liable to the village for an administrative penalty in the amount of Five Hundred Dollars (\$500.00) and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty to the village and all towing and storage charges due for the vehicle. If the owner of record fails to appear at the hearing, the hearing officer shall enter a written default order in favor of the village. If the hearing officer finds that no such violation occurred, the hearing officer shall issue a written order for the immediate return of the owner's vehicle or cash bond without fees. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

(G) Payment: If an administrative penalty is imposed pursuant to this article, such penalty shall constitute a debt due and owing to the village. If a cash bond has been posted pursuant to this article, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this article, a vehicle shall continue to be impounded until the penalty is paid to the village and any applicable towing and storage fees are paid in full, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within thirty (30) days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within thirty (30) days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within thirty (30) days after an action seeking administrative 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.

(H) Possession of Vehicle:

(1) Except as otherwise specifically provided by law, no owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under this article until the administrative penalty and fees applicable under this article have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that

person if he or she agrees in writing to refund to the village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

(2) The provisions of this article authorizing an owner or other party to regain possession of a motor vehicle are not applicable when vehicle or asset forfeiture proceedings have been instituted under state or federal drug asset forfeiture laws or Article 36 of the Illinois Criminal Code of 1961. In such case, the village shall not release, or dispose of, the vehicle to any person except as consistent with those proceedings.

(3) In the event the village's Police Department determines that the vehicle impounded pursuant to this article should not be released to its owner or other persons, or disposed of as an unclaimed vehicle, due to the need to retain the vehicle as part of a continuing criminal investigation, or as evidence in a crime, then the village shall notify the owner that the vehicle will be retained and not released except as required by law.

(4) For purposes of this article, the "owner" or "owner of record" of a vehicle is the record title holder as registered with the Illinois Secretary of State or applicable agency for a foreign jurisdiction. When in this article the word "owner" or "owner of record" is used it shall apply to all owners. This article presumes that all owners have equal rights to an impounded vehicle. In instances of multiple owners of a vehicle, the village shall not have a duty or responsibility to inquire or determine whether all owners concur with, or object to, any action taken, or omissions by any one owner in relation to the impounded vehicle.

(Ord. 2737; § 3, 2-4-08; Ord. No.2817, § 3, 12-15-08; Ord. No. _____ - 2015)

Secs. 5-213-- 5-223 Reserved.

***State law references:** 625 ILCS 5/6-303; 625 ILCS 5/7-601; 625 ILCS 5/11-501; 625 ILCS 5/6-101; 625 ILCS 5/11-204.1; 625 ILCS 5/11-401

SECTION FOUR. That any Village Ordinance or Resolution, or part thereof, in conflict with the provisions of this Ordinance is, to the extent of such conflict, expressly repealed.

SECTION FIVE. If any provision of this Ordinance is held invalid by a court of competent jurisdiction, such provision shall be stricken and shall not affect any other provision of this Ordinance.

SECTION SIX. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form as provided by law.

SECTION SEVEN. This Ordinance shall be numbered as Ordinance No. 3204.

PASSED THIS 2ND DAY OF FEBRUARY, 2015.

AYES: Fay, Lamb, Peck, Bonuchi

NAYS: None

ABSENT: Racich

APPROVED THIS 2ND DAY OF FEBRUARY, 2015.

MICHAEL P. COLLINS

Michael P. Collins
Village President

ATTESTED AND FILED IN MY OFFICE:

MICHELLE GIBAS

Michelle Gibas
Village Clerk

EXHIBIT A

Sec. 5-211. Authorization.

The Police Department of the Village is hereby authorized to direct and supervise a program of vehicle impoundment pursuant to the provisions of this Chapter. The Police Department, and any other duly authorized agent of the village, is hereby authorized to seize and impound any vehicle eligible for impoundment pursuant to this Chapter.
(Ord. 2008 -2737)

Sec. 5-212. Vehicle Impoundment.

(A) Violation: 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 impoundment by the village, and the owner of record of said vehicle shall be liable to the village for an administrative fee in the amount of Five Hundred Dollars (\$500.00), in addition to any towing and storage fees as hereinafter provided. For purposes of this article "motor vehicle" or "vehicle" shall mean every vehicle defined by section 5/1-146 of the Illinois Vehicle Code (625 ILCS 5/1-146).

(1) ~~Driving~~ Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is failure to have liability insurance, as described in 625 ILCS 5/7-601, as amended, or a similar provision of local ordinance.

(2) ~~Driving~~ Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is leaving the scene of a motor vehicle accident involving personal injury or death, as described in 625 ILCS 5/11-401, as amended, or similar provision of local ordinance.

(3) ~~Driving~~ Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof, as described in 625 ILCS 5/11-501, as amended, or similar provision of local ordinance.

(4) Driving Operating a motor vehicle while the operator's driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to action of the Illinois Secretary of State or equivalent action of an agency of a foreign jurisdiction, when the basis of the suspension or revocation is zero tolerance, as described in 625 ILCS 5/11-501.8, as amended, or similar provision of local ordinance.

(5) Operating a motor vehicle without having ever been issued a driver's license or permit, or without currently possessing a valid driver's license, permit or restricted driving permit, as described in 625 ILCS 5/6-101, as amended, or similar provision of local ordinance, when also in violation of 625 ILCS 5/7-601, as amended, or similar provision of local ordinance.

(6) Operating a motor vehicle in violation of 625 ILCS 5/11-501 (driving under the influence of alcohol, other drug(s), intoxicating compound(s) or any combination thereof), as described in 625 ILCS 5/11-501, as amended, or similar provision of local ordinance.

(7) Operating a motor vehicle in violation of 625 ILCS 5/11-204.1 (aggravated fleeing or attempting to elude a peace officer), as amended, or similar provision of local ordinance.

(8) Operating a motor vehicle in violation of 625 ILCS 5/6-101, as amended, or similar provision of local ordinance, when the operator's driver's license has been expired for more than one year, regardless of whether such license was previously issued by the State of Illinois or ~~another state~~ a foreign jurisdiction.

(9) Operating a motor vehicle in violation of 625 ILCS 5/11-501.8 (zero tolerance), as amended, or similar provision of local ordinance.

(10) Operating a motor vehicle in violation of 625 ILCS 5/11-502 (transportation or possession of open alcoholic liquor in a motor vehicle), as amended, or similar provision of local ordinance.

(11) Operating a motor vehicle in violation of 625 ILCS 5/11-506 (street racing/aggravated street racing), as amended, or similar provision of local ordinance.

(12) Operating a motor vehicle in violation of 625 ILCS 5/11-601.5(a) (aggravated speeding – driving 26 miles per hour or more but less than 35 miles per hour in excess of the applicable maximum speed limit), as amended, or similar provision of local ordinance.

(13) Operating a motor vehicle in violation of 625 ILCS 5/11-601.5(b) (aggravated speeding – driving 35 miles per hour or more in excess of the

applicable maximum speed limit), as amended, or similar provision of local ordinance.

(14) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 2012.

(15) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of 720 ILCS 550/1 et seq. (Cannabis Control Act), as amended, or similar provision of local ordinance.

(16) 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, 6-303 or 11-501 of the Illinois Vehicle Code.

(B) Applicability; Fees:

(1) This article shall not replace or otherwise abrogate any existing state or federal laws or village ordinance pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.

(2) This article 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 twenty four (24) hours after the theft of the vehicle was discovered.

(3) Fees for towing and storage of a vehicle under this article shall not exceed those approved by the Chief of Police for all towers authorized to tow for the village's Police Department.

(C) Impoundment: Whenever a police officer has probable cause to believe a vehicle is subject to impoundment pursuant to this article, the police officer shall provide for the towing of the vehicle to a facility authorized by the village. Before or at the time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the impoundment of the vehicle and of the owner's right to request a preliminary vehicle impoundment hearing to be conducted under this article. Said vehicle shall be impounded pending the completion of the hearings provided for in the following subsections, unless the owner of the vehicle posts with the village a cash bond in a form of payment acceptable to the village in the amount of Five Hundred Dollars (\$500.00) and pays all towing and storage charges for the vehicle.

(D) Towing and Storage Charges: The cost for towing a motor vehicle impounded pursuant to this article shall be that approved by the Chief of Police for all tow companies authorized to tow for the Police Department. The cost for storage of a motor vehicle impounded pursuant to this article shall be thirty dollars (\$30.00) per day. Storage fees shall accrue commencing on the third day after the impoundment date and shall accrue daily thereafter at a rate of thirty dollars (\$30.00) per day.

(E) Appeal; Preliminary Hearing: If the owner of record of a vehicle seized and impounded pursuant to this article desires to appeal the impoundment, said owner must make a request for a preliminary impoundment hearing within forty eight (48) hours of the impoundment. Said request shall be in writing and filed with the Chief of Police or his designee, who shall conduct such a preliminary hearing within two (2) business days of receipt of the owner's request for the hearing. For purposes of this article, "business days" shall mean Monday through Friday, excluding holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the Chief of Police or his designee determines there is probable cause to believe that the vehicle is subject to impoundment pursuant to this article, he shall order the continued impoundment of the vehicle as provided in this article, unless the owner of the vehicle posts with the village an administrative fee in a form of payment acceptable to the village in the amount of Five Hundred Dollars (\$500.00), and pays all applicable towing and storage fees. If the Chief or Police or his designee determines there is no such probable cause, the vehicle will be released without penalty or payment of other fees.

(F) Notification of Hearing: Within ten (10) business days after a vehicle is impounded pursuant to this article, the village shall notify ~~by certified mail, return receipt requested,~~ the owner of record, lessee and lienholder, by first class mail or personal service at the address registered with the Secretary of State, of the date, time, and location of a hearing that will be conducted, pursuant to this article. ~~The owner shall notify the Chief of Police or his designee, of a plea of not guilty at least two (2) business days prior to the hearing.~~ If a plea of guilty is entered, the case will be disposed of at that time. ~~If the owner pleads a plea of not guilty is entered and had not notified the Chief of Police or his designee of the intent to plead not guilty,~~ a final hearing may be scheduled and held. The Village Administrator shall appoint a hearing officer to preside over the final hearing, which hearing officer must be an attorney licensed to practice law in the State of Illinois for a minimum of three (3) years and be in good standing with the Illinois Attorney Disciplinary and Registration Committee. The hearing officer shall be empowered and is hereby authorized and directed to:

- (1) preside over the final hearing as the adjudicator;
- (2) administer oaths;
- (3) issue subpoenas to secure the attendance of witnesses and production of relevant documentation;
- (4) hear testimony and accept evidence that is relevant to the basis of the impoundment or seizure;
- (5) assess fines and penalties as established by this Code;
- (6) make final determinations of violation liability; and
- (7) provide for an accurate recordation of the final hearing.

All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In a hearing on the propriety of impoundment of a vehicle any sworn or affirmed report that: 1) is prepared in the performance of a law enforcement officer's duties and 2) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the vehicle owner's liability, unless rebutted by clear and convincing evidence. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this article, the hearing officer shall enter an written order finding the owner of record of the vehicle civilly liable to the village for an administrative penalty in the amount of Five Hundred Dollars (\$500.00) and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty to the village and all towing and storage charges due for the vehicle. If the owner of record fails to appear at the hearing, the hearing officer shall enter a written default order in favor of the village. If the hearing officer finds that no such violation occurred, the hearing officer shall issue a written order for the immediate return of the owner's vehicle or cash bond without fees. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law, 735 ILCS 5/3-101 et seq.

- (G) Payment: If an administrative penalty is imposed pursuant to this article, such penalty shall constitute a debt due and owing to the village. If a cash bond has been posted pursuant to this article, the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the village may seek to obtain a judgment on the debt and enforce such

judgment against the vehicle as provided by law. Except as provided otherwise in this article, a vehicle shall continue to be impounded until the penalty is paid to the village and any applicable towing and storage fees are paid in full, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within thirty (30) days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within thirty (30) days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within thirty (30) days after an action seeking administrative 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.

(H) Possession of Vehicle:

(1) Except as otherwise specifically provided by law, no owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under this article until the administrative penalty and fees applicable under this article have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund to the village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

(2) The provisions of this article authorizing an owner or other party to regain possession of a motor vehicle are not applicable when vehicle or asset forfeiture proceedings have been instituted under state or federal drug asset forfeiture laws or Article 36 of the Illinois Criminal Code of 1961. In such case, the village shall not release, or dispose of, the vehicle to any person except as consistent with those proceedings.

(3) In the event the ~~Plainfield~~ village's Police Department determines that the vehicle impounded pursuant to this article should not be released to its owner or other persons, or disposed of as an unclaimed vehicle, due to the need to retain the vehicle as part of a continuing criminal investigation, or as evidence in a crime, then the village shall notify the owner that the vehicle will be retained and not released except as required by law.

(4) For purposes of this article, the "owner" or "owner of record" of a vehicle is the record title holder as registered with the Illinois Secretary of State or applicable agency for a foreign jurisdiction. When in this article the word "owner" or "owner of record" is used it shall apply to all owners. This article presumes that all owners have equal rights to an impounded vehicle. In instances of multiple owners of a vehicle, the village shall not have a duty or responsibility to inquire or determine whether all owners concur with, or object to, any action taken, or omissions by any one owner in relation to the impounded vehicle.

(Ord. 2737; § 3, 2-4-08; Ord. No.2817, § 3, 12-15-08; Ord. No. _____ - 2015)