

VILLAGE OF DUPO  
ORDINANCE No. 18-01

**AN ORDINANCE ADOPTING PROCEDURES AND GUIDELINES FOR  
VEHICLE IMPOUNDMENT TO INCLUDE ADMINISTRATIVE FEES AND  
RIGHT TO HEARING FOR THE VILLAGE OF DUPO, ILLINOIS**

WHEREAS, the Illinois Vehicle Code (625 ILCS 5/11-208.7) allows and provides for the establishment of certain procedures for the impoundment and release of vehicles, as well as administrative fees and a right to hearing by the Village of Dupu, St. Clair County, Illinois (the "Village"); and

WHEREAS, the Village may exercise its authority to legislate for the protection of the public health, safety, morals and welfare; and

WHEREAS, the Corporate Authorities of the Village have determined that it is in the best interest of the Village to provide for a system of impoundment of motor vehicles operated by persons in connection with the commission of certain offenses; and

WHEREAS, the Corporate Authorities of the Village have determined that it is in the best interest of the Village to establish administrative penalties and hearing procedures for such violations; and

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Dupu, as follows:

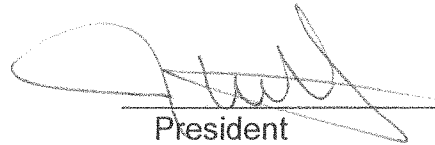
- Section 1. The foregoing recitals are adopted as the findings of the Corporate Authorities of the Village.
- Section 2. The Corporate Authorities of the Village hereby determine that it is advisable, necessary and in the public interest that the Village adopts procedures and guidelines for the impoundment and release of certain motor vehicles, administrative fees and a right to hearing associated with said impoundment and release.
- Section 3. There is hereby adopted and approved, procedures and guidelines for vehicle impoundment to include administrative fees and right to a hearing, attached hereto as Exhibit A.
- Section 4. The Ordinance shall be effective immediately following its passage and publication as required by law.

PASSED and APPROVED this 2<sup>ND</sup> day of JANUARY 2018.

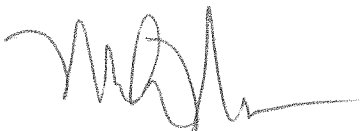
Yeas: Kenner, Besinski, Smith, Foster, Ragsdale, Phillips

Nays: NONE

Absent: NONE

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Village Clerk

## Exhibit A

### IMPOUNDMENT OF MOTOR VEHICLE

#### I. DEFINITIONS.

For purposes of this provision, the following words and phrases shall have the following meanings ascribed to them respectively.

**BUSINESS DAY.** Any day in which the offices of Village Hall are open to the public for a minimum of seven (7) hours.

**LEVEL 1 ADMINISTRATIVE FEE.** Means and shall be \$400.

**LEVEL 2 ADMINISTRATIVE FEE.** Means and shall be \$200.

**MOTOR VEHICLE.** Every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles and motor scooters.

**OWNER OF RECORD.** The record title holder(s) of the motor vehicle as registered with the Secretary of State, State of Illinois; or if not registered in Illinois, the particular state where the motor vehicle is registered.

**ADMINISTRATIVE HEARING OFFICER.** Officer who is an attorney licensed to practice law in this State for a minimum of three (3) years.

#### II. VIOLATIONS AUTHORIZING IMPOUNDMENT.

(A) Any motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said motor vehicle shall be liable to the Village for a Level 1 administrative fee, as provided for in this subchapter, in addition to any towing and storage fees as hereinafter provided.

STATE STATUTE	VIOLATIONS
ILCS Ch. 625, Act 5, § 6-303	Driving while license revoked
ILCS Ch. 625, Act 5, § 11-2	Fleeing or attempting to elude a peace officer
ILCS Ch. 625, Act 5, § 11-501	Driving under the influence of alcohol/drugs
ILCS Ch. 625, Act 5, § 11-503	Reckless driving or aggravated reckless driving
ILCS Ch. 625, Act 5 § 11-504	Drag racing

ILCS Ch. 625, Act 5 § 11-601.5	Driving at 31 mph more, but less than 40 mph over applicable speed limit Class B misdemeanor  Speeding in excess of 40 mph Class A misdemeanor
ILCS Ch. 625, Act 5 § 11-6	Indecent solicitation of a child
ILCS Ch. 625, Act 5 § 12-2	Aggravated assault
ILCS Ch. 720, Act 5 § 12-3.05	Aggravated battery
ILCS Ch. 720, Act 5 § 16A-3	Retail theft of merchandise exceeding \$300 value
ILCS Ch. 720, Act 5 § 18-1	Robbery
ILCS Ch. 720, Act 5 § 18-2	Armed robbery
ILCS Ch. 720, Act 5 § 19-1	Burglary
ILCS Ch. 720, Act 5 § 19-3	Residential burglary
ILCS Ch. 720, Act 5 § 230-1	Arson
ILCS Ch. 720, Act 5 § 20-1.1	Aggravated arson
ILCS Ch. 720, Act 5 § 20-2	Possession of explosives or incendiary devices
ILCS Ch. 720, Act 5 § 21-1	Criminal damage to property
ILCS Ch. 720, Act 5 § 25-1	Mob action
ILCS Ch. 720, Act 570 § 401	Manufacture or delivery unauthorized controlled substance
ILCS Ch. 720, Act 570 § 401.1	Controlled substance trafficking
ILCS Ch. 720, Act 570 § 402	Unauthorized possession under the Controlled Substances Act
ILCS Ch. 720, Act 550 § 4	Possession of more than ten (10) grams of any substances containing Cannabis
ILCS Ch. 720, Act 550 § 5	Manufacture or delivery of Cannabis
ILCS Ch. 720, Act 550 § 5.1	Cannabis trafficking
ILCS Ch. 720, Act 550 § 5.2	Delivery of Cannabis on school grounds
ILCS Ch. 720, Act 550 § 8	Unauthorized production or possession of Cannabis Sativa plant
ILCS Ch. 720, Act 5 § 24-1	Unlawful use of weapons
ILCS Ch. 720, Act 5 § 24-3.1	Unlawful possession of firearms and firearm ammunition
ILCS Ch. 720, Act 5 § 24-3.3	Unlawful sale or delivery of firearms on the premises of a school

(B) For any motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with any violation of federal, state or local law that is not listed in division (A) of this section, including arrest warrants, which results in seizure and impoundment of the vehicle by the Village, the owner of record of said motor vehicle shall be liable to the Village for a Level 2 administrative fee, as provided for in this subchapter, in addition to any towing and storage fees as hereinafter provided.

### **III. SEIZURE AND IMPOUNDMENT.**

(A) Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment pursuant to this subchapter, the police officer shall provide for the towing of the motor vehicle to a facility approved by the Village. This subchapter shall not apply if the motor 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 or reasonably should have been discovered.

(B) The police officer shall notify any person identifying himself as the owner 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, if there is such a person, of the fact of the seizure and of the motor vehicle owner's right to an administrative hearing to be conducted under this section.

### **IV. ADMINISTRATIVE HEARING.**

(A) Within ten (10) days after a motor vehicle is seized and impounded pursuant to this subchapter, the Village shall notify by personal service or by first class mail the owner of record, lessee and all lien holders of record, of the right to a hearing, along with the date, time and location of the hearing, to challenge whether a violation of this subchapter has occurred. The hearing date must be scheduled and convened no later than forty-five (45) days after the mailing of the notice, or issuance of the Notice of Hearing. 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 evidence shall be admissible.

(B) If, after the hearing, the Hearing Officer determines by a preponderance of the evidence that the motor vehicle was used in violation of this subchapter, then the Hearing Officer shall enter an Order finding the owner of record of the motor vehicle liable to the Village for the applicable administrative fee.

(C) If, after the hearing, the Hearing Officer does not determine by a preponderance of the evidence that the motor vehicle was used in such a violation, the Hearing Officer shall enter an Order finding for the owner and for the return of the motor vehicle, or the administrative fees if already paid.

(D) If the owner of record fails to appear at the hearing, the owner of record shall be deemed to have waived his or her right to a hearing. If the owner of record pays such administrative fee and the motor vehicle is returned to the owner, no Default Order need be entered if the owner was informed of his or her right to a hearing, in which case an Order of Liability shall be deemed to have been made when the Village receives the written waiver.

(E) If a bond in the amount equal to the applicable administrative fee is posted with the Police Department, the impounded motor vehicle shall be released to the owner of record. The owner of the motor vehicle shall still be liable to the towing agent for any applicable towing fees.

(F) If an administrative fee is imposed for a violation of this subchapter, the bond will be forfeited to the Village; however, if a violation of this subchapter is not proven by preponderance of the evidence, the bond will be returned to the person posting the bond. The Village shall hold all bond money posted pursuant to this subchapter until the Hearing Officer issues a decision, or, if there is a Judicial Review, until the Court of Jurisdiction issues its orders.

(G) All decisions of the Administrative Hearing Officer shall be subject to review under the provisions of the Illinois Administrative Review Law.

## **V. DISPOSITION OF IMPOUNDED MOTOR VEHICLE.**

An administrative fee imposed pursuant to this subchapter shall constitute a debt due and owing the Village. A motor vehicle impounded pursuant to this subchapter shall remain impounded until:

(A) The administrative fee is paid to the Village and all applicable towing fees are paid to the towing agent, in which case the owner of record shall be given possession of the motor vehicle;

(B) A bond in an amount equal to the applicable administrative fee is posted with the Police Department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record; or

(C) The motor vehicle is deemed abandoned in which case the motor vehicle shall be disposed of in the manner provided by law for the disposition of abandoned motor vehicles.

## **VI. MOTOR VEHICLE POSSESSION.**

Any motor vehicle that is not reclaimed within thirty-five (35) days after: 1) the expiration of the time during which the owner of record may seek Judicial Review of the Village's action under this subchapter, or 2) the time at which a final judgment is rendered against an owner of record who is in default; may be disposed of as an unclaimed motor vehicle as provided by law; provided, however, that where proceedings have been instituted under state or federal drug asset forfeiture laws, the subject motor vehicle may not be disposed of by the Village except as consistent with those proceedings.

## **VII. TOWING AGENCY.**

(A) It shall be the duty of the towing or storage company in possession of the motor vehicle to obtain documentation issued by the Police Department confirming compliance with foregoing requirements, and retain photocopies of that documentation in their files for a period of not less than six (6) months following release of the motor vehicle. The towing or storage company shall make the foregoing information available to the authorities of the Village for inspection and copying, upon their request. The towing or storage company is prohibited from releasing any motor vehicle they may tow within the Village until and unless they obtain documentation as aforesaid.

(B) The towing or storage company shall be entitled to receive a reasonable fee from the owner or person entitled to possession of any such motor vehicle prior to the release of the motor vehicle. The fee shall be to cover the cost of removing said motor vehicle and, in addition thereto, the cost of storage of said motor vehicle for each day or fraction thereof that said motor vehicle shall have remained stored.

(C) The fees in this section shall be in addition to any fee levied or assessed against the owner or operator of said motor vehicle by reason of violation of any ordinance or statute and any arrest that may have resulted from such violation.

#### **VIII. REFUND OF ADMINISTRATIVE FEE.**

In the event a judgment of "Not Guilty" is entered by a court of competent jurisdiction on all underlying charges that could have resulted in the impoundment of a motor vehicle, or the prosecuting attorney dismisses all underlying charges that could have resulted in the impoundment of a motor vehicle, then within thirty (30) days of presentation of a certified copy of said judgment to the Police Department, any administrative fees or posted bonds obtained by the Village shall be refunded to the paying party.