

**VILLAGE OF PEORIA HEIGHTS  
ORDINANCE NO. ~~2008-1303~~**

**AN ORDINANCE AMENDING ORDINANCE NO. 2005-1251  
"AN ORDINANCE ESTABLISHING ADMINISTRATIVE FEE  
ON TOWED VEHICLES IN THE VILLAGE OF PEORIA HEIGHTS."**

**ADOPTED BY THE BOARD OF TRUSTEES OF  
THE VILLAGE OF PEORIA HEIGHTS, ILLINOIS  
ON OCTOBER 7, 2008.**

Published in pamphlet form by authority of the Board of Trustees of the Village of Peoria Heights,  
Peoria County, Illinois, this 7 day of October, 2008.

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"AN ORDINANCE ESTABLISHING ADMINISTRATIVE FEE  
ON TOWED VEHICLES IN THE VILLAGE OF PEORIA HEIGHTS."**

**WHEREAS**, in order to protect persons who operate motor vehicles within Village limits, to ensure that the street, public ways and public property of the Village of Peoria Heights remain open and free of hazard to the public and to further effectuate the efficient enforcement of the Village's traffic, parking, snow removal, and other regulatory ordinances, it is deemed necessary to register and regulate businesses engaged in vehicle wrecker or towing services when said services are performed for the Village of Peoria Heights.

**WHEREAS**, it has been determined that the Village of Peoria Heights has an interest in reducing and deterring illegal drug activity, illegal weapon activity, illegal operation of motor vehicles and other significant driving and vehicle-related offenses within the Village of Peoria Heights, while promoting the safety and welfare of persons and their property within the Village of Peoria Heights.

**WHEREAS**, the Village Board of Trustees has determined that establishing administrative and towing fees on towed vehicles would serve as a penalty and deterrent in reducing illegal drug and firearm activity, illegal driving while under the influence, illegal operation of motor vehicles and other significant driving and vehicle-related offenses by both vehicle owners and borrowers.

**WHEREAS**, the following regulations are promulgated pursuant to Section 2-3-8, Section 11-80-2 and Section 11-1-1 of the Illinois Municipal Code.

**THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF PEORIA HEIGHTS, ILLINOIS, A MUNICIPAL CORPORATION, THAT ORDINANCE NO. 2005-1251 SHALL BE AMENDED TO PROVIDE AS FOLLOWS:**

**SECTION I. IMMEDIATE SEIZURE AND IMPOUNDMENT OF VEHICLES**

**A. Offenses Leading to Motor Vehicle Seizure and Impoundment**

A motor vehicle used in violation of the statutes hereinafter set forth shall be subject to seizure and impoundment under this section:

- (1) Any violation of the Illinois Cannabis Control Act (720 ILCS 550/1 *et seq.*)
- (2) Any violation of Article IV of the Illinois Controlled Substances Act (720 ILCS 570)
- (3) Any violation of the Drug Paraphernalia Control Act (720 ILCS 600/1 *et seq.*)
- (4) Driving under the influence (625 ILCS 5/11-501)
- (5) Any violation of Article 24 (Deadly Weapons) of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/24-1 *et seq.*)
- (6) Driving with a suspended or revoked driver's license (625 ILCS 5/6-303)
- (7) Driving with no valid license, but not in cases where the driver has a valid driver's license but does not have the license on his or her person (625 ILCS 5/6-101)
- (8) Fleeing or attempting to elude a police officer (625 ILCS 5/11-204)

- (9) Aggravated fleeing or attempting to elude a police officer (625 ILCS 5/11-204.1)
- (10) Reckless driving (625 ILCS 5/11-503)
- (11) Any felony for which seizure is authorized under the Illinois Criminal Code of 1961 (720 ILCS 5/36-1)
- (12) Leaving the scene of or failing to report an accident with death or injury (625 ILCS 5/11-401)
- (13) Leaving the scene of an accident with vehicle damage (625 ILCS 5/11-402)
- (14) Failure to give aid or information (625 ILCS 5/11-403)
- (15) Failure to give information after striking unattended vehicle or other property (625 ILCS 5/11-404)
- (16) Failure to report accident to police authority (625 ILCS 5/11-407)

**B. Officers to Impound Vehicles**

When an officer has probable cause to believe that a motor vehicle is subject to seizure and impound as listed in Section I(A) of this Ordinance, the officer shall:

- (1) Notify the on-duty supervisor, or if no supervisor is on duty, notify the next supervisor that is on duty of the seizure and impoundment and the nature of the offense.
- (2) Inventory and provide for the towing of the vehicle to a facility listed on the Towing List as provided in Section II of this Ordinance. If the vehicle is towed to a location not on the Village's Towing List, the officer shall notify the person taking possession of the vehicle that it is to be held until the Peoria Heights Police Department authorizes its release.
- (3) When practical, the officer shall allow the removal of personal property from the vehicle prior to towing if the property is not needed for evidence, subject to forfeiture or otherwise needed to be maintained by the police. Officers generally will not wait at the scene of any seizure to allow the removal of personal property or the summoning of persons to remove property. Persons under arrest will generally not be allowed to remove property prior to their release.
- (4) Prepare a written police report, notice of seizure (when immediately deliverable) and tow report, when practical, prior to ending his or her shift. The preparation of the police report allows for the conduct of a preliminary hearing, supervisory review and review by the evidence custodian for possible release of personal property. The report shall state whether the vehicle or property contained therein is subject to forfeiture or is to be held for any other reason.

**C. Notice**

- (1) Immediately upon seizure of the vehicle pursuant to this Ordinance, the Officer shall notify the 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 vehicle's seizure and of the vehicle owner's right to request a Preliminary Hearing as provided by this Ordinance. When no person is present to receive said notification, officers shall make a reasonable attempt to notify the Owner of Record.
- (2) Within ten (10) days after a vehicle is seized and impounded pursuant to this Ordinance, the Village shall notify by certified mail, return receipt requested, the Owner of Record at his or her

last known address, as indicated by the vehicle's registration, of his or her right to request a Final Hearing before the Hearing Officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this section. However, no such notice need be sent to the Owner of Record if the owner is personally served with the notice within ten (10) days after the vehicle is impounded and the owner acknowledges receipt of the notice in writing.

- (3) The written notice as required in Section I(C)(2) above shall state the penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the penalty, fees and remaining towing/storage fees may be sold or disposed of by the Village in accordance with applicable law.

#### **D. Administrative Fee, Release and Disposal**

- (1) (a) A vehicle impounded under this Ordinance shall be released prior to hearing to a person entitled to lawful possession of said vehicle upon payment to the police agency of a fee of \$500.00, plus any and all towing and storage charges.

(b) The penalty set forth in Section I(D)(1)(a) above will be refunded by the Village in the event that, upon Final Hearing as provided in Section I(F) herein, the Hearing Officer determines that the vehicle was not used in the commission of a violation as set forth in Section I(A) of this Ordinance. Under such circumstance, the vehicle shall be released from impoundment to its owner.

- (2) Notwithstanding any other provision of this section, whenever a person, corporation, or business entity with a valid lien or valid security interest against a vehicle impounded under this Ordinance has commenced foreclosure proceedings, possession of the vehicle shall be given to the person or agent for said entity with a valid lien, to refund to the Village the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of penalties and fees imposed under this Ordinance.
- (3) If a person entitled to lawful possession does not redeem the impounded vehicle within thirty (30) days after the vehicle is impounded or after the Hearing Officer's written determination, whichever is later, then such vehicle shall be disposed of in accordance with the procedure set forth for disposal of unclaimed or abandoned vehicles as provided by law.

#### **E. Preliminary Hearing**

- (1) Whenever the owner of a vehicle seized pursuant to this Ordinance requests in writing, within twelve (12) hours after the seizure, and hand-delivered to the Peoria Heights Police Department, 4901 N. Prospect Road, Peoria Heights, Illinois, a preliminary hearing on probable cause, a Hearing Officer appointed by the Village shall conduct at the Peoria Heights Village Hall, such preliminary hearing within seventy-two (72) hours of the seizure, excluding Saturdays, Sundays, and holidays.
- (2) All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible.

- (3) If, after the hearing, the Hearing Officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime or violation described in Section I(A) of this Ordinance, the Hearing Officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the Village a cash bond of \$500.00 plus fees for towing and storing of the vehicle as provided in Section I(D)(1) herein. If the Hearing Officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.
- (4) For purposes of this section, the Hearing Officer shall be a licensed attorney who is not an employee of the Village of Peoria Heights.

#### **F. Final Hearing**

- (1) The Owner of Record seeking a hearing must file a written request for a hearing with the Chief of Police of the Village of Peoria Heights, at the Peoria Heights Village Hall, 4901 N. Prospect Road, Peoria Heights, Illinois, no later than fifteen (15) days after the notice was mailed or otherwise given under Section I(C) herein.
- (2) The hearing shall be scheduled and held, unless continued for good cause by order of the Hearing Officer, no later than forty-five (45) days after the request for a hearing has been filed.
- (3) All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible.
- (4) If after the hearing, the Hearing Officer determines by a preponderance of the evidence that the vehicle was used in the commission of any of the violations described in Section I(A) of this Ordinance, the Hearing Officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays a penalty of \$500.00 plus fees for towing and storage of the vehicle as provided in Section I(D)(1)(a) herein. The penalty and fees shall be a debt due and owing the Village. However, if a cash bond has been posted, the bond shall be applied to the penalty. If the Hearing Officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond as provided in Section I(D)(1)(b) herein.
- (5) For purposes of this section, the Hearing Officer shall be a licensed attorney who is not an employee of the Village of Peoria Heights.

### **SECTION II. TOWING OF VEHICLES AS REQUESTED OR ORDERED BY THE VILLAGE OF PEORIA HEIGHTS**

#### **A. Towing List**

- (1) The Chief of Police shall maintain a "Towing List" containing the names of four (4) qualified towing companies as determined by the Chief of Police to respond to requests for the towing of vehicles made by the Peoria Heights Police Department.
- (2) Those towing companies wishing to be considered for placement on the Towing List shall submit an application to the Peoria Heights Police Department within thirty (30) days of the adoption of this Ordinance. Those towing companies who previously submitted an application

pursuant to Ordinance No. 2005-1251 shall be considered for placement on the Towing List without the re-filing of an application.

- (3) The Chief of Police shall consider the applications of all towing companies submitted and shall select the four (4) towing companies, which in his judgment, are most qualified for inclusion on the Towing List. The applications of those towing companies not placed on the Towing List shall be placed on file and held by the Peoria Heights Police Department. The decision of the Chief of Police regarding selections for the Towing List shall be final.
- (4) The name and phone number of each of the four (4) selected towing companies shall be placed on the Towing List, which shall be utilized in all cases in which a vehicle is to be towed from a public way or public property or from any private property at the request or direction of the Peoria Heights Police Department. Towing companies not on the Towing List shall not be used unless all companies on the Towing List are unavailable.
- (5) The names on the Towing List shall be selected on a rotating basis; that is, the name shall be selected which next succeeds the last towing company called for towing services. However, the Chief of Police is authorized to use towing companies out of sequence where proximity to the vehicle to be removed and estimated response time make it more practical to do so, or where the size or weight of the vehicle to be removed require the use of specialized equipment, or when circumstances, in the judgment of the Chief of Police, make such action practical. In the event that a car owner requests that a particular towing company be used, that company may be used, and such use shall not affect the towing company's place in the rotation of use under this Ordinance.
- (6) Whenever a towing company is removed from the Towing List, the Chief of Police shall select from the applications on file, the towing company which, in his judgment, is most qualified to be added to the Towing List.

#### **B. Insurance**

Each listed towing company shall maintain the following insurance policies:

- (1) Garage Keeper's Policy A Garage Keeper's legal liability policy covering fire, theft, windstorm, vandalism and explosion in the amount of \$50,000.00, and providing that each vehicle suffering damage being deemed a separate claim.
- (2) Garage Liability Policy A Garage Liability policy covering the operation of the owner's business, equipment or other vehicles for any bodily injury or property damage. This policy shall be in the minimum amount of \$250,000.00 for any one (1) person injured or killed and a minimum of \$500,000.00 for more than one (1) person killed or injured in any accident, as well as an additional \$50,000.00 for property damage.
- (3) Each policy required under this Section must contain an endorsement by the carrier providing 90 days' notice to both the Village and the insured in the event of any change in coverage under the policy.

### **C. Duties and Requirements of Listed Towing Companies**

- (1) All tow trucks shall be equipped with warning lights and other equipment required under State law and have working two-way communications radio equipment on the same frequency as a base station located at the point where calls are received.
- (2) The towing company shall provide continuous 24-hour per-day service each day of the year, and there shall be an attendant available at all times for the purpose of receiving calls and receiving and releasing stored vehicles.
- (3) The towing company shall assume all liability and shall indemnify and hold harmless the Village of Peoria Heights from any such liability for damages sustained by vehicles while being towed or stored and for all personal injuries occurring to any of the towing company's employees or other persons and shall maintain the required insurance policies.
- (4) The Village shall assume no responsibility or liability for any vehicle removed from any place without the authority of the Chief of Police.
- (5) The towing company shall not release any vehicle directly impounded by the Village without authorization by the Chief of Police.
- (6) The towing company shall maintain records and a claim check system to assure release of vehicles to the rightful owner or authorized person. Such records shall be open to the Peoria Heights Police Department for investigation of specific complaints and for compiling surveys under this Ordinance.
- (7) The towing company shall permit any person appointed by the Chief of Police to inspect its wreckers, vault, security room or storage area at such times as the Chief of Police shall deem appropriate.

### **D. Fees and Release**

- (1) The owner or person in possession of any towed and stored vehicle shall pay all costs incidental to towing and storage to the towing company. A receipt for payment shall be issued to said person.
- (2) In the event that a vehicle is towed at the request of the Peoria Heights Police Department pursuant to Section I(A) of this Ordinance, said vehicle shall be held until the required fees have been paid pursuant to Section I(D) of this Ordinance.

### **E. Removal from Towing List**

The Chief of Police may remove or suspend any towing company from the Towing List in the event of any of the following:

- (1) The towing company violates or fails to comply with any of the provisions of this Ordinance or any other local, state or federal law or regulation.
- (2) The towing company is no longer actively engaged in the towing business.
- (3) The Chief of Police is not satisfied with the services rendered by the towing company to the Village.

**F. Solicitation of Business**

No towing company may respond to the scene of an accident or emergency for the purpose of towing vehicles unless specifically called there by the Police Department or a person involved in the accident or emergency. This Section is intended to prohibit towing companies from soliciting business at accident or emergency scenes and shall not be construed to prohibit any towing company from contracting with any person, firm or corporation provided that the towing company does not solicit towing contracts at the scene of any accident or emergency.

**G. Towing and Storage Fees**

(1) The following schedule of maximum fees shall be in effect for all tow calls received off the rotation Tow List and shall be prominently displayed at every office or storage facility:

- (a) Standard towing fee (i.e., use of flatbed truck, clean-up, dollies, etc.)..... \$80.00
- (b) Exception location fee (winching).....\$40.00
- (c) Lot storage fee (per day).....\$15.00
- (d) Inside storage fee (per day)..... \$20.00
- (e) Interrupted towing fee..... \$30.00
- (f) Service fee (i.e., jump start, tire change, fuel, etc.)..... \$40.00
- (g) Snow emergency tow.....\$50.00
- (h) Emergency openings after closing/special trips.....\$50.00

(2) Where special or unusual circumstances require an exceptional amount of extra work or equipment, a higher fee may be charged, provided that the owner or operator of the vehicle to be serviced is informed of the additional fee in advance, if such person is available to be notified.

**SECTION III. SEVERABILITY**

Should any section or portion of this Ordinance be held unlawful or unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section or portion thereof, directly specified in the decision. All other sections or portions of this Ordinance shall remain in full force and effect.

**SECTION IV. EFFECT**

Village of Peoria Heights Ordinance No. 2005-1251 is hereby amended as provided herein. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF PEORIA HEIGHTS, ILLINOIS THIS 7<sup>th</sup> DAY OF OCTOBER, 2008.**

AYES             
NAYS           

  
\_\_\_\_\_  
VILLAGE PRESIDENT

[SEAL]  
ATTEST:   
VILLAGE CLERK



STATE OF ILLINOIS            )  
  ) SS.  
COUNTY OF PEORIA            )

**CERTIFICATION**

I, Shauna Musselman, certify that I am the duly elected and acting Village Clerk of the Village of Peoria Heights, Peoria County, Illinois.

I further certify that on October 7, 2008, the Corporate Authorities of such municipality passed and approved Ordinance No. 2008-1303, entitled "An Ordinance Amending Ordinance No. 2005-1251 'An Ordinance Establishing an Administrative Fee on Towed Vehicles in the Village of Peoria Heights'" which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2008-1303, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on October 7, 2008 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

DATED at Peoria Heights, Illinois, this 7 day of October, 2008.

(SEAL)

  
Village Clerk