



ORDINANCE 2041-20

AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF HAWTHORN WOODS - TITLE 6, CHAPTER 7, VEHICLE SEIZURE AND IMPOUNDMENT

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Lake County, Illinois, as follows:

SECTION ONE: That Title 6, Section 6-7-2 of the Village Code of the Village of Hawthorn Woods, entitled "VIOLATIONS AUTHORIZING SEIZURE" is hereby deleted in its entirety and the following language shall be substituted:

..."6-7-2: VIOLATIONS AUTHORIZING SEIZURE:

A motor vehicle, operated with the permission, express or implied, of the owner of record, which is used in connection with the following violations, may be subject to seizure and impoundment by the village if the violation prevents the driver from lawfully operating the vehicle, or if a police officer determines that seizure and impoundment of the vehicle is reasonably necessary as a community caretaking function so that the vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. The owner shall be liable to the village for an administrative fee in an amount not to exceed five hundred dollars (\$500.00), in addition to all towing and storage fees, as hereinafter provided:

- A. 625 ILCS 5/11-501(a) Driving under the influence, as provided in section 11-501(a) of the Illinois vehicle code.
- B. 625 ILCS 5/6-303 Driving with a suspended or revoked license, as provided in section 6-303 of the Illinois vehicle code, as a result of a conviction pursuant to section 11-501(a) of the Illinois vehicle code or suspension under section 11-501.1 of the Illinois vehicle code.
625 ILCS 5/11-501(a)
625 ILCS 5/11-501.1
- C. 625 ILCS 5/11-204 Fleeing or attempting to elude a peace officer, as provided in section 11-204 of the Illinois vehicle code.
- D. 625 ILCS 5/11-506 Street racing or aggravated street racing as provided in section 11-506 of the Illinois vehicle code.

- E. 625 ILCS 5/11-503 Reckless driving as provided in section 11-503 of the Illinois vehicle code.
- F. 625 ILCS 5/11-401 Leaving the scene of a motor vehicle accident involving death or personal injuries as provided in section 11-401 of the Illinois vehicle code.
- G. 625 ILCS 5/6-101 No valid driver's license (unlicensed) excluding expired drivers' licenses (or a similar local ordinance).

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SECTION TWO: That Title 6, Section 6-7-3 of the Village Code of the Village of Hawthorn Woods, entitled "GENERAL REGULATIONS" is hereby deleted in its entirety and the following language shall be substituted:

...”6-7-3: GENERAL REGULATIONS:

- A. This chapter shall not replace or otherwise abrogate any existing state or federal laws or village ordinances pertaining to vehicle seizure and impoundment.
- B. All fees and charges contained in this chapter shall be in addition to any fines or penalties assessed by a court for criminal charges.
- C. This chapter shall not apply if the vehicle was reported stolen to the appropriate police authorities within twenty four (24) hours of discovery of such theft.
- D. The amount of fees imposed for towing and storage of a vehicle impounded under this chapter shall be subject to the approval of the chief of police.
- E. Prior to vehicle seizure, if in the judgment of the police officer then present, if a person authorized by the owner or operator of the vehicle is present and able to provide for the lawful immediate removal of the vehicle, the vehicle shall be released to that person and prompt removal of the vehicle effected, and no administrative fees or other charges shall be imposed.
- F. Except to the extent otherwise provided for in this chapter, the administrative hearing provided for in this chapter shall be in accordance with the procedures set forth in title 1, chapter 11 of this code. In the event of a conflict, the procedures contained in title 1, chapter 11 of this code shall control.”

SECTION THREE: That Title 6, Section 6-7-5 of the Village Code of the Village of Hawthorn Woods, entitled "PRELIMINARY HEARING" is hereby deleted in its entirety and the following language shall be substituted:

...”6-7-5: PRELIMINARY HEARING:

If the owner of a vehicle seized pursuant to this chapter desires to preliminarily appeal the seizure, said owner must make a request for a preliminary hearing within one day of the seizure. All requests shall be in writing and filed with the police chief, or her designee, who shall conduct such preliminary hearing within one day after receipt of the request. This hearing is informal and shall be conducted in the police department offices. All interested persons shall be given a reasonable opportunity to be heard. The formal rules of evidence shall not apply at the

preliminary 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 preliminary hearing, the police chief, or her designee, determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this chapter, she shall order the continued impoundment of the vehicle, as provided in this chapter, unless the owner posts with the village a cash bond in the amount of five hundred dollars (\$500.00) and pays all towing and storage charges. If the police chief, or her designee, determines that there is no such probable cause, the vehicle shall be returned without additional fees.”

SECTION FOUR: That Title 6, Section 6-7-6 of the Village Code of the Village of Hawthorn Woods, entitled "PLEA AND HEARING" is hereby deleted in its entirety and the following language shall be substituted:

...”6-7-6: PLEA AND HEARING:

The owner shall be notified of the hearing as provided in title 1, chapter 11 of this code and the hearing conducted as provided for therein. All interested persons shall be given an opportunity to be heard. The formal rules of evidence shall not apply and hearsay evidence shall be admissible if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. In such hearing any sworn or affirmed report, citation or ticket that: a) is prepared in the performance of a law enforcement officer's duties and b) 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 the evidence that the vehicle was used in connection with a violation set forth in this chapter, the hearing officer shall enter an order finding the owner civilly liable to the village for an administrative fee in an amount not to exceed five hundred dollars (\$500.00) and requiring the vehicle's continued impoundment until the owner pays the administrative fee to the village plus towing and storage charges, all as applicable. The owner shall further be responsible for reasonable hearing costs as assessed by the hearing officer. If the owner fails to appear at the hearing, the hearing officer shall enter a default order in favor of the village. If the hearing officer finds no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond without any additional fees.”

SECTION FIVE: That Title 6, Section 6-7-7 of the Village Code of the Village of Hawthorn Woods, entitled "ADMINISTRATIVE FINE" is hereby deleted in its entirety and the following language shall be substituted:

...”6-7-7: ADMINISTRATIVE FEE:

The purpose of the administrative fee is to recover the administrative and processing costs associated with the prosecution of an offender or the removal, impoundment, storage and release of the vehicle. If an administrative fee is imposed pursuant to this chapter, such fee shall

constitute a debt due and owing the village. If a cash bond has been posted pursuant to this chapter, the bond shall be applied to the fee and all charges. If a vehicle is impounded when such a fee is imposed, the village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided for by law. Except as provided otherwise in this chapter, a vehicle shall remain impounded until the administrative fee and all applicable towing and storage charges are paid to the village, 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 said administrative fee and all applicable towing and storage charges are not paid to the village within thirty (30) days from and after the expiration of the time in which the owner could seek judicial review of the hearing officer's determination, 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 for by law for the disposition of unclaimed vehicles under the Illinois vehicle code. For the purposes of this chapter, the hearing officer's determination, including, but not limited to, a finding of default, shall constitute a final administrative decision subject to judicial review."

SECTION SIX: That Title 6, Section 6-7-8 of the Village Code of the Village of

Hawthorn Woods, entitled "VEHICLE POSSESSION" is hereby deleted in its entirety and

the following language shall be substituted:

..."6-7-8: VEHICLE POSSESSION:

Except as otherwise specifically provided by law, no owner, lienholder, or other person shall be legally entitled to take possession of a vehicle impounded under this chapter until the administrative fee and all other applicable fees applicable under this chapter 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 the village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lienholders of record, not to exceed the administrative fee, plus all other applicable fees."

SECTION SEVEN: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, superseded by this Ordinance.

SECTION EIGHT: That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication in pamphlet form as provided by law.

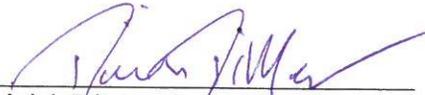
The foregoing Ordinance was adopted by a roll call vote as follows:

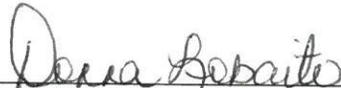
AYES: _____

NAYS: Kaiser, Kasik, Rizzo, Corrigan, McCarthy

ABSTENTIONS: 0

ABSENT: David

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

PASSED: September 29, 2020

APPROVED: September 29, 2020

PUBLISHED: October 1, 2020