

ORDINANCE NO. 2302-24

AN ORDINANCE AMENDING THE VILLAGE CODE OF THE VILLAGE OF HAWTHORN WOODS—ADDING TITLE 5, CHAPTER 7, REGULATION OF UNSCHEDULED BUS STOPS

WHEREAS, pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et. seq.*, generally, the Corporate Authorities of each municipality may exercise powers and perform functions for the protection of the public health, safety, morals and welfare; and

WHEREAS, the Mayor and Board of Trustees of the Village of Hawthorn Woods (the “Corporate Authorities”) are charged with the responsibility of protecting the health, safety and welfare of the residents of the Village; and

WHEREAS, pursuant to 65 ILCS 5/1-2-1, the Corporate Authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed or proper; and

WHEREAS, the Corporate Authorities have the authority to adopt to promulgate rules, regulations or policies pertaining to its government and affairs; and

WHEREAS, the Corporate Authorities of the Village of Hawthorn Woods find and determine that dropping off passengers from a bus or other transportation provider within the Village without prior provisions being made for the proper housing and care of such individuals is inhumane, creates a dangerous condition for the persons being dropped off, and threatens public safety; and

WHEREAS, the Corporate Authorities find and determine that dropping off passengers from a bus or other transportation provider within the Village without prior provisions being made for their proper housing and care can have deadly consequences when the weather conditions are adverse; and

WHEREAS, the Corporate Authorities find and determine that the health and safety is jeopardized when individuals are being dropped off within the Village without prior provisions being made for their proper housing and care; and

WHEREAS, the Corporate Authorities find and determine that the health, welfare and safety of the Village, its residents, and others coming to the Village are jeopardized when individuals are being dropped off within the Village without prior provisions being made for their proper housing and care; and

WHEREAS, the Corporate Authorities find and determine that the Village’s best interests and the public health, welfare of the Village require that the unscheduled dropping off of individuals within the Village from busses or other transportation providers shall be regulated.

NOW, THEREFORE, be it ordained by the Mayor and Board of Trustees of the Village of Hawthorn Woods, as follows:

SECTION ONE: That Title 5 of the Village Code of the Village of Hawthorn Woods, entitled “POLICE REGULATIONS” is hereby amended by adding a new Chapter 7 entitled, “REGULATION OF UNSCHEDULED BUS STOPS”:
...”

CHAPTER 7
REGULATION OF UNSCHEDULED BUS STOPS

- 5-7-1: Definitions
- 5-7-2: No Unscheduled Bus Stops
- 5-7-3: Application
- 5-7-4: Application Approval
- 5-7-5: Violations
- 5-7-6: Penalties
- 5-7-7: Seizure and Impoundment of Bus
- 5-7-8: Administrative Tow Hearing
- 5-7-9: Requirements for Recovery of a Seized and Impounded Bus
- 5-7-10: Posting Fee
- 5-7-11: Disposition of an Unclaimed Bus

5-7-1: DEFINITIONS:

For the purposes of this chapter, the following terms shall have the meanings stated in this Section:

APPLICATION: A request for approval to make a bus stop in the Village of Hawthorn Woods on a form to be provided by the Director of Public Safety of the Village's Police Department that meets all the requirements of this Chapter 5-7.

APPROVAL: A written notice signed by the Director of Public Safety of the Village's Police Department which approves an Application submitted in conformance with this Chapter 5-7.

BUS: Any type of motor vehicle that is designed to carry, or is actually carrying, more than 10 individuals. For the purposes of this Chapter, Bus shall not include a bus operated by a School District, Park District, organizations representing sporting events or other scheduled events in the Village, or unit of local government created pursuant to the Illinois Compiled Statutes, which is transporting passengers to locations and/or events in the Village.

CHIEF: The Director of Public Safety of the Village's Police Department.

REGULARLY SCHEDULED SERVICE: Bus service that operates trips involving the dropping off of passengers in the Village on a predictable and recurring basis, following a schedule that is published in advance and available to the general public, and provides service in exchange for paying a fare.

UNSCHEDULED BUS STOP: Any location in the Village of Hawthorn Woods where individuals are dropped off by a Bus that is not providing regularly scheduled service and not operating pursuant to the written approval of the Chief pursuant to this Chapter 5-7.

5-7-2: NO UNSCHEDULED BUS STOPS:

It shall be a violation of this Ordinance for the owner, operator, or driver of any Bus to make an Unscheduled Bus Stop for the purpose of dropping off passengers in the Village of Hawthorn Woods.

5-7-3: APPLICATION:

The owner, operator, or driver of any Bus that is not providing Regularly Scheduled Service that desires to make a Bus stop to drop off passengers in the Village of Hawthorn Woods shall file an Application with the Chief using a form to be prepared by the Chief. The completed Application and all required information shall be submitted to the Chief at least 5 calendar days prior to the date of the proposed drop-off date. The Application shall include and provide the following information:

1. The full name, full address, email address, and telephone numbers of the Owner, Operator, and Driver of the Bus. The mobile phone number of the driver of the Bus shall also be provided.
2. The full name, full address, email address, mobile and land-line telephone numbers of the entity or individuals that has either directed, paid for, or financed the transport of persons to be dropped off in the Village of Hawthorn Woods by the Bus.
3. The full name of all persons that are proposed to be dropped off in the Village of Hawthorn Woods along with copies of ID's for said persons to the extent such ID's exist or are in the possession of the passengers. Such ID's must be issued by a government that is recognized by the United States government and the dates of validity must include the present date.
4. Background checks of all persons 18 years of age and older that are proposed to be dropped off in the Village of Hawthorn Woods.
5. The name, address, or location in the Village of Hawthorn Woods at which the Bus proposes to drop off passengers.
6. The date and time at which the Bus passengers will be dropped off in the Village of Hawthorn Woods which shall be from 8:00 a.m. to 5:00 p.m. on a Monday through Friday, excluding any holidays.
7. The name and address of all locations from which the passengers are being picked-up for transport to the Village of Hawthorn Woods.
8. The full name, full address, email address, mobile and land-line telephone numbers of all entities or individuals that shall be present in

the Village of Hawthorn Woods to meet the Bus and receive the passengers when they are dropped off.

9. A detailed plan identifying how the individuals being dropped off will be cared for, housed, and fed, either temporarily or permanently, upon being dropped off in the Village of Hawthorn Woods. The plan shall include the full names, full addresses, email addresses, and landline and mobile telephone numbers of all persons that will be present at the date and time of the drop-off and responsible for the care, housing and feeding of the passengers. The plan shall be signed by the entity that agrees to be responsible for the care of the individuals and at least one additional individual that will be present to receive the passengers and responsible for their care. The entity and the individual that will present to receive the passengers and be responsible for their care shall each by their signature certify that they will be responsible for providing the actions detailed in the plan.

5-7-4: APPLICATION APPROVAL:

Upon receipt of an Application pursuant to this Chapter 5-7, the Chief shall review same and undertake a review of the information contained in the Application to verify its truth and authenticity. If the Application is not complete, the Chief shall, in writing, advise the Applicant of the additional items needed to complete the Application. If within four (4) calendar days after receiving a completed Application, the Chief, provided he/she has not received any information that the Application is false or untrue in any manner, shall inform the Applicant that the Application is approved or disapproved, in the sole discretion of the Chief which shall be exercised considering the totality of the circumstances including, but not limited to, the best interests and safety and welfare of the residents of the Village for the stated location. The Chief shall further provide a telephone number to the Applicant or driver to coordinate the arrival of the bus in the Village of Hawthorn Woods. The Chief is hereby authorized to promulgate rules pertaining to the administration of this Chapter as needed to maintain the public health and welfare. All promulgated rules shall be published and available in pamphlet form to any applicant.

5-7-5: VIOLATIONS:

It shall be a violation of this Chapter 5-7 for any individual or entity to violate any of the terms of this Chapter 5-7 and/or engage in the following actions:

1. The submission of an Application that is false or untrue in any manner.
2. The failure of any entity or individual that is responsible for the care, housing, or feeding of any passengers dropped-off in the Village of Hawthorn Woods to implement or perform the detailed plan pursuant to the terms of an approved Application.
3. Making an **Unscheduled Bus Stop** in the Village of Hawthorn Woods.
4. Initiating any Bus transportation to the Village of Hawthorn Woods requires the approval of the Bus stop location without submitting an Application or failing to obtain approval of an Application as required by this Chapter 5-7.

5-7-6: PENALTIES:

Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of, any of the provisions of this Chapter 5-7, upon conviction thereof, shall be punishable by a fine of not less than Three Hundred Dollars (\$300.00) per passenger nor more than One Thousand Dollars (\$1,000.00) per passenger for each offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. The Village at its discretion may enforce this Chapter 5-7 by: (1) a quasi-criminal action seeking the payment of a monetary penalty adjudicated under the Village's Administrative adjudication system; or (2) an action seeking monetary and injunctive relief, including but not limited to any costs and expenses incurred by the Village as a result of any violation of this Chapter, filed in the Circuit Court of Lake County or any other Court having jurisdiction over the violator.

5-7-7: SEIZURE AND IMPOUNDMENT OF BUS:

Whenever a police officer has reason to believe that a violation of Chapter 5-7 has occurred the Bus is subject to seizure and impoundment in addition to any other monetary penalty or other remedy that may be pursued. The police officer shall, in the exercise of discretion, provide for the towing of the Bus to a facility approved by the Police Department. Any police officer shall have the authority to refuse to allow any and all passengers from disembarking the bus and shall escort the bus out of our corporate limits.

Upon the towing of a Bus, the police officer shall notify or make a reasonable attempt to notify the owner of record, lessee, person claiming to be the owner or lessee, 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 seizure and of the vehicle owner's right to request an administrative hearing.

5-7-8: ADMINISTRATIVE TOW HEARING:

Within five (5) business days after a Bus is seized and impounded, the Village shall notify, by personal service, first class mail, or certified mail, the owner of record, lessee, and any lienholder of recorder of the owner's right to request a hearing to determine whether a violation of this Chapter 5-7 actually occurred. The name and address of the person to whom a vehicle is registered as shown on the records of the State in which the vehicle is registered shall be conclusive evidence of the name and address of the owner of record of the vehicle, unless the owner of record gave the Village actual written notice of a different name or address.

In order to obtain a hearing, the owner of record must file a written request for a hearing with the Village Clerk or the Police Department no later than ten (10) business days after the date the notice was mailed. The hearing date must be scheduled for a date that is no more than fifteen (15) business days after a request for a hearing has been filed. The person requesting the hearing shall be given at least five (5) business days' notice of the date of the hearing.

The hearing shall be conducted by a hearing officer appointed in accordance with this Code's Administrative Hearing Procedures. The owner of the Bus shall have the right to be represented by an attorney; the right to notice of the charges causing the seizure and impoundment of the Bus; the right to present witness and documentary evidence; and the right to cross-examine all witnesses.

If, after the hearing, the hearing officer determines, by a preponderance of evidence, that a violation of this Chapter 5-7 has occurred involving the seized and impounded Bus, then the hearing officer shall enter an order finding the owner of record of the vehicle liable to the Village for the administrative fees of seven hundred and fifty dollars (\$750.00), which shall be in addition to any other penalties, fines and remedy sought. If, after a hearing, the hearing officer does not determine, by a preponderance of the evidence, that the vehicle was used in violation of Chapter 5-7 of this Code, the hearing officer shall enter an order finding for the owner and ordering the return of the vehicle.

If the owner of record fails to request a hearing on the seizure and impoundment of the Bus in a timely manner or fails to appear at the hearing, the owner of record shall be deemed to have waived the owner's right to a hearing, and the hearing officer may enter a default order in favor of the Village in the amount of the

administrative fees. However, if the owner of record pays such penalty and the vehicle is returned to the owner, no default order need be entered if the owner is informed of his or her right to a hearing and signs a written waiver, in which case, an order of liability shall be deemed to have been made when the Village receives the written waiver.

5-7-9: REQUIREMENTS FOR RECOVERY OF A SEIZED AND IMPOUNDED BUS:

A vehicle impounded pursuant to this chapter shall remain impounded until:

1. The administrative fees of seven hundred and fifty dollars (\$750.00) 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 Bus; or
2. The Bus is deemed abandoned, in which case, it shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

5-7-10: POSTING FEE:

If a fee in the amount of seven hundred fifty dollars (\$750.00) is posted with the Police Department, the impounded Bus shall be released to the owner of record, and the owner of the Bus shall still be liable to the towing agent for any applicable towing fees.

If a after an Administrative Hearing on the seizure and impoundment of the Bus, it is determined that the Bus was used in violation of Chapter 5-7 the posted fee shall be forfeited to the Village; however, if a violation of Chapter 5-7 is not proven by a preponderance of the evidence, the fee will be returned to the person posting the fee.

All money posted pursuant to this chapter shall be held by the Village until the hearing officer issues a decision or, if there is a judicial review, until a final order is entered in the judicial proceeding in which review is sought.

5-7-11: DISPOSITION OF AN UNCLAIMED BUS:

Any Bus that is not reclaimed or subject to judicial review within thirty-five (35) days after the administrative hearing officer issues a final written decision shall be deemed abandoned and disposed of as an unclaimed vehicle as provided by law.”

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

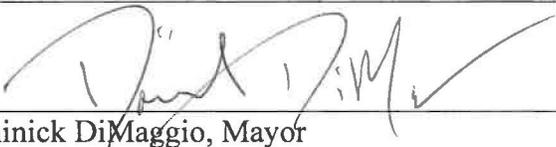
The foregoing Ordinance was adopted by a roll call vote as follows:

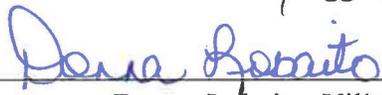
AYES: McCarthy, Lynch, Bayer, Hunt, Roman

NAYS: 0

ABSTENTIONS: 0

ABSENT: Kaiser

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

PASSED: January 8, 2024

APPROVED: January 8, 2024

PUBLISHED: January 9, 2024