

COPY

VILLAGE OF WILLIAMSFIELD

ORDINANCE NO. 2015-4

**AN ORDINANCE OF THE VILLAGE OF WILLIAMSFIELD,
KNOX COUNTY, ILLINOIS
PROVIDING FOR IMPOUNDMENT OF MOTOR VEHICLES USED IN CERTAIN
OFFENSES**

WHEREAS, 65 ILCS 5/2-3-8 provides that the Village of Williamsfield (“Village”) shall have all the powers conferred in this Code upon cities not exceeding 5,000 inhabitants, except as otherwise provided in this Code;

WHEREAS, pursuant to the general corporate powers and police powers of the Village, the Village may enact rules and regulations that are in the best interest of the health and safety of the residents of the Village;

WHEREAS, the Board of Trustees of the Village of Williamsfield finds and hereby declares that it is necessary and in the best interests of the health and safety of the residents of the Village to set forth rules and regulations as set forth below;

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF WILLIAMSFIELD, ILLINOIS:

SECTION 1: Definitions

For purposes of this article, the following definitions shall apply, unless the context clearly indicates or requires a different meaning:

Cannabis means any substance as defined in section 1 of the Cannabis Control Act (720 ILCS 550/1 et seq.) as now in force and as may be amended from time to time.

Controlled substance means any substance as defined and included in the schedule contained in Article II of the Illinois Controlled Substance Act (720 ILCS 570/201 et seq.), as now in force and as may be amended from time to time.

Driving under the influence means any violation as defined in section 11-501 of the Illinois Vehicle Code (625 ILCS 5/11-501) as now in force and as may be amended from time to time.

Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked means any violation as defined in section 6-303 of the Illinois Vehicle Code (625 ILCS 5/6-303), as now in force and as may be amended from time to time.

Drug paraphernalia means any equipment, product, and/or materials as defined in section 2 of the Drug Paraphernalia Act (720 ILCS 600/2), as now in force and as may be amended from time to time.

Fleeing and attempting to elude a police officer means any offenses as defined in section 5/11-204 or 5/11-204.1 of the Illinois Vehicle Code, 625 ILCS 5/11-204 and 5/11-204.1, as now in force and as may be amended from time to time.

Motor vehicle shall have the meaning ascribed to it in 625 ILCS 5/1-146

Owner means the record title holder of a motor vehicle as shown on the records of the Secretary of State of registration of the vehicle.

Unlawful use of weapons means a violation of section 24-1(a)(4) of the Illinois Criminal Code (720 ILCS 5/24-1(a)(4)).

SECTION 2: Seizure and impoundment of vehicles

(A) A motor vehicle is subject to seizure and impoundment under this article if such motor vehicle is used in the commission of any of the following:

- (1) The possession or delivery of a controlled substance, drug paraphernalia or cannabis;
- (2) Driving under the influence;
- (3) Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked;
- (4) Unlawful use of weapons;
- (5) Fleeing or attempting to elude a police officer;

(B) The owner of a vehicle found to be subject to seizure and impoundment as set forth herein shall be liable to the County for a penalty of five hundred dollars (\$500.00) in addition to fees for the towing and storage of the vehicle.

(C) Whenever a Law Enforcement Officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the Law Enforcement Officer shall provide for the towing of the vehicle. When the vehicle is towed, 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 seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under this section.

SECTION 3: Posting of bond

If a bond in the amount of five hundred dollars (\$500.00) is posted with the Williamsfield Police Department, the impounded vehicle will be released to the owner, provided, however, the owner first pays the towing and storage costs. If a penalty is imposed for a violation of this article, the bond will be forfeited to the County; provided, in the event that a violation of this article is not proven, the bond will be returned to the person posting the bond. Any bond posted pursuant to this article will be held by the County until the hearing officer issues a decision, or, if there is a judicial review, until the court issues its final decision.

SECTION 4: Preliminary hearing

(a) An owner of a motor vehicle seized under the provisions of this article may request a preliminary hearing by delivering a written request to Williamsfield Police Department within seventy-two (72) hours after the seizure of the motor vehicle.

(b) If the written request is timely made, a hearing officer shall conduct a preliminary hearing within seventy-two (72) hours after the request for preliminary hearing is received by the Police Department; provided that if the date for the hearing falls on a Saturday, Sunday, or legal holiday, the preliminary hearing will be held on the next business day following the Saturday, Sunday or legal holiday. For purposes of this section, the following shall apply:

(1) All interested persons will be given a reasonable opportunity to be heard at the preliminary hearing.

(2) The formal rules of evidence will not apply at the hearing. Hearsay testimony will be admissible.

(3) If, after the conclusion of the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any offense as Hereinabove provided in subsection Seizure and impoundment of vehicles, the hearing officer shall order the continued impoundment of the vehicle, unless the owner of the vehicle posts a cash bond with the Williamsfield Police Department in the amount of five hundred dollars (\$500.00), plus the towing and storage costs.

(4) If the hearing officer determines that there is not probable cause to believe that the vehicle was used in the commission of any offense as hereinabove provided in subsection seizure and impoundment of vehicles, the motor vehicle will be returned to the owner of the without any penalty or other costs excluding towing and storage fees owed to the commercial towing company.

(5) The hearing officer for the preliminary hearing shall be the Chief of Police or his designee.

SECTION 5: Final hearing

(a) Notice of right to request hearing. Within ten (10) days after a vehicle is seized or impounded pursuant to this chapter, the Knox County Sheriff Department shall provide notice to the owner of the motor vehicle of his or her right to request a hearing to determine whether the vehicle is subject to impoundment pursuant to this article. Such notice shall be in writing, and shall either be personally delivered or mailed by certified mail, return receipt requested, to the owner, as shown on the records of the Secretary of State of the state in which the vehicle is registered.

(b) Notice of hearing. If the owner files a written request for a hearing with the Williamsfield Police Department no later than fifteen (15) days after the notice was mailed or otherwise given as provided above, a hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than forty-five (45) days after the request for hearing was filed. Notice of the hearing shall be given by regular mail to the owner at his or her address as shown on the Secretary of State vehicle registration records.

(c) Hearing. For purposes of this section, the following shall apply to the final hearing:

(1) All interested persons will be given a reasonable opportunity to be heard at the hearing.

(2) The formal rules of evidence will not apply at the hearing. Hearsay testimony will be admissible.

(3) If the hearing officer determines by a preponderance of the evidence that the vehicle was used as hereinabove provided in subsection 8-2 (a) Sections 1-5 the hearing officer shall order the continued impoundment of the vehicle until the owner of the vehicle pays to the Village a penalty in the amount of five hundred dollars (\$500.00), plus the towing and storage costs. The penalty and costs shall be a debt due to the Village.

(4) If the hearing officer determines that the vehicle was not used as hereinabove provided in subsection seizures and impoundment of vehicles, the motor vehicle will be released to the owner of the vehicle without any penalty or other costs, or, if a cash bond had previously been posted, the cash bond shall be returned with the exception of the tow costs and storage fees owed to the commercial towing company.

(5) The hearing officer for the final hearing shall be the Knox County State Attorney or his designee.

SECTION 6: Vehicles with liens

Notwithstanding any other provision of this article, whenever a person with a lien of record against a vehicle impounded under this section 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 County 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 article. The lien must be shown on the title and recorded with the Secretary of State.

SECTION 7: Unclaimed vehicles

Any motor vehicle that is not reclaimed within thirty (30) days after a final administrative decision is rendered in favor of the Village upon a hearing or against an owner who is in default or upon the failure of the owner to timely request a hearing, will be considered abandoned and may be disposed of as an unclaimed vehicle as provided by law.

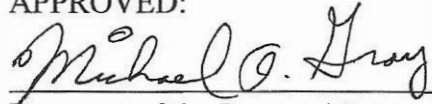
SECTION 8: When interpreting this ordinance, the singular shall include the plural.

SECTION 9: This ordinance shall be in full force and effect from and after its passage in the manner provided by law.

SECTION 10: This ordinance shall control over any prior, conflicting ordinance.

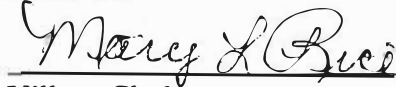
PASSED THIS 2nd day of March, 2015.

APPROVED:



President of the Board of Trustees
Village of Williamsfield
Knox County, Illinois

ATTEST:



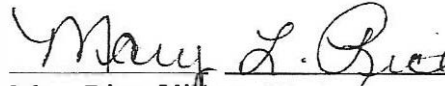
Village Clerk
Village of Williamsfield, Illinois

STATE OF ILLINOIS)
COUNTY OF KNOX) SS.
VILLAGE OF WILLIAMSFIELD)

CERTIFICATE

I, Mary Rice, DO HEREBY CERTIFY THAT I am the Village Clerk in and for the Village of Williamsfield; that the foregoing is a true and correct copy of an Ordinance duly passed by the President and Board of Trustees of the Village of Williamsfield being entitled: "AN ORDINANCE OF THE VILLAGE OF WILLIAMSFIELD, KNOX COUNTY, ILLINOIS, PROVIDING FOR IMPOUNDMENT OF MOTOR VEHICLES USED IN CERTAIN OFFENSES," at a regular meeting held on the 2nd day of March, 2015, the ordinance being a part of the official records of said village.

DATED: This 2nd day of March, 2015.



Mary Rice, Village Clerk
Village of Williamsfield
Knox County, Illinois

(SEAL)