

ORDINANCE NO. 2021-03

AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 14 AND CHAPTER 50 OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS REGARDING VEHICLE TOWING AND IMPOUNDMENT

WHEREAS, the Village of Stickney (the "Village") is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret and amend its ordinances, rules and regulations; and

WHEREAS, the Village President (the "President") and the Board of Trustees of the Village (the "Village Board" and with the President, the "Corporate Authorities") are committed to ensuring the health, safety and welfare of individuals residing in, working in and visiting the Village; and

WHEREAS, the Municipal Code, Village of Stickney, Illinois (the "Village Code") currently sets forth certain regulations for the towing and impounding of vehicles (the "Existing Regulations"); and

WHEREAS, the Corporate Authorities recognize the need to amend, update and clarify the Existing Regulations from time to time; and

WHEREAS, the Corporate Authorities find that vehicles emitting noise as a result of certain vehicle modifications or a failure to maintain the vehicle, or from certain devices designed to receive broadcast sound or reproducing recorded sound which can be heard clearly by a person with normal hearing at a distance greater than 75 feet create a public nuisance and pose a danger to the health, safety and welfare of the residents of the Village; and

WHEREAS, the Corporate Authorities recognize this nuisance and threat to the health, safety and welfare of the residents of the Village and thus, wish to authorize the towing and impounding of vehicles on the public way if sound is generated by the vehicle itself or a modification thereto or a device within or upon the vehicle and is clearly audible to a person with normal hearing at a distance greater than 75 feet, unless the owner of such vehicle is participating in a parade or public assembly for which a permit has been obtained pursuant to Village ordinances, and to clarify the procedure regarding same; and

WHEREAS, the Corporate Authorities further wish to clean up and clarify some language and inconsistencies in the existing regulations; and

WHEREAS, based upon the foregoing, the Corporate Authorities have determined that it is in the best interests of the Village and its residents to amend various sections of Chapter 14 and Chapter 50, Section 50-33 of the Village Code as set forth below;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF STICKNEY, COOK COUNTY, ILLINOIS, as follows:

ARTICLE I. IN GENERAL

SECTION 1. INCORPORATION CLAUSE.

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

SECTION 2. PURPOSE.

The purpose of this Ordinance is to amend various sections of Chapter 14 and Chapter 50, Section 50-33 of the Village Code to update, amend, and clarify the Village's Existing Regulations, and to authorize the President or his designee to take all actions necessary to carry out the intent of this Ordinance.

ARTICLE II.

AMENDMENT OF CHAPTER 14, SECTION 14-195.03, SECTION 14-196, AND SECTION 14-197 AND CHAPTER 50, SECTION 50-33 OF THE MUNICIPAL CODE, VILLAGE OF STICKNEY, ILLINOIS

SECTION 3.0 AMENDMENT OF CHAPTER 14, SECTION 14-195.03.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 14, Section 14-195.03 as follows:

Sec. 14-195.03. - Notice of right to post-towing and impoundment hearing for unpaid parking tickets and vehicles towed pursuant to Section 50-33(3).

- (a) *Vehicles registered in Illinois.* The police department shall send a notice to the owner within 24 hours after towing and impoundment of a motor vehicle. Said notice shall be sent by certified mail and regular mail to the address of the owner of the motor vehicle as indicated in the most current registration list of motor vehicles in this state.
- (b) *Out of state vehicles.* If an out-of-state motor vehicle has been towed and impounded, written inquiry shall be made to the secretary of state of the relevant jurisdiction for the most current registered name and address of the owner of the motor vehicle, and notice shall be mailed to said address, though in no case will the village be required to delay towing and impoundment more than three days after the inquiry mailing date or be required to retain possession of an unclaimed motor vehicle more than 30 days after the inquiry mailing date before disposing of the motor vehicle.
- (c) The notice in all cases shall specify that the vehicle has been towed and impounded, the reason that the vehicle has been towed and impounded, the location where the impounded vehicle is being stored, any and all fines and fees that may be charged for towing and storing the impounded vehicles, and that the owner is entitled to recovery of the vehicle or a hearing if so requested by the owner. The notice shall set forth the payment from the owner to satisfy outstanding and unpaid parking and/or traffic tickets, and shall include any and all fees and costs for towing and storing the impounded vehicle and a statement that all outstanding and unpaid parking and/or traffic tickets and fees and costs for towing and storing the impounded vehicle must be paid prior to the vehicle being released to the owner.

(d) The notice shall substantially be in the following form:

ATTENTION: Owners or other persons lawfully entitled to possession of towed and impounded vehicles have the following options:

- (1) You may pay the cost for claiming your vehicle from the village, or its towing contractor, [insert the name of the towing contractor] and satisfy all unpaid parking and traffic tickets for which your motor vehicle was towed and impounded at the village police department; or
- (2) You may request a hearing for the next regularly scheduled hearing date, satisfying all parking and traffic tickets for which your motor vehicle was towed and impounded and satisfy any and all fees and costs incurred related to the towing and storage of the impounded vehicle, and post a ~~\$500.00~~ \$750.00 bond. At the hearing, you may assert any defenses against the relevant citations.

In the event that these citations are dismissed, you will receive a refund of the appearance bond and for any citations for which you are found not liable. You should appear to request the hearing at the village police department or call 708-788-2131.

- (3) A failure to request a hearing within 30 days of this notice may result in the village disposing of the vehicle in any manner authorized by law.

(e) Notice for vehicles towed pursuant to Section 50-33(3).

- (1) When a motor vehicle on a public roadway with a sound device, equipment or defective vehicle generating sound that can be heard clearly by a person with normal hearing from more than 75 feet away is towed, the police 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 a person, of the fact of the tow and the owner's right to request a hearing to be conducted pursuant to the procedures as set forth in Section 14-195.03
- (2) The owner of a vehicle towed pursuant to paragraph (1) of this subsection (e) may request a hearing for the next regularly scheduled hearing date. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at this hearing, and hearsay evidence shall be admissible.
- (3) If the owner of the vehicle does not request a hearing, within ten (10) days after a vehicle is towed and impounded pursuant to this section, the Village shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing that will be conducted pursuant to the procedures set forth in Section 14-195.03. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than thirty (30) days after the vehicle was towed. All interested persons shall be given a reasonable opportunity to be heard at the hearing.
- (4) If, after the hearing, the hearing officer determines by a preponderance of the evidence that a violation as described in Section 50-33(3) occurred, the hearing officer shall enter an order requiring the vehicle to continue to be impounded unless the owner pays a penalty of \$750.00 plus fees for towing and storage of the vehicle. The penalty and fees shall be a debt due and owing to 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 a violation, he or she shall order the return of the vehicle or cash bond.

- (5) As used in this section, the OWNER OF RECORD of a vehicle means the record title holder.

SECTION 3.1 AMENDMENT OF CHAPTER 14, SECTION 14-196.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 14, Section 14-196 as follows:

Sec. 14-196. - Other conduct prohibited.

A motor vehicle used in connection with any of the following violations may be subject to immediate seizure and/or impoundment by the village and the owner of record of said vehicle shall be liable to the village for any administrative penalty of \$750.00, plus any applicable towing and storage fees:

- (1) Driving under the influence of alcohol, other drug or drugs, intoxicating compound(s) or any combination thereof, or possession of drugs or intoxicating compound(s) as provided by the Illinois Compiled Statutes (625 ILCS 5/11-501(a)).
- (2) Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, pursuant to the Illinois Compiled Statutes (625 ILCS 5/6-303) or is suspended or revoked for any other reason and the vehicle is being operated in violation of 625 ILCS 5/6-303.
- (3) Driving without a valid driver's license pursuant to Illinois Compiled Statutes (625 ILCS 5/6-101).
- (4) Arrest for any felony offense pursuant to the Illinois Compiled Statutes (720 ILCS).
- (5) The operation of any motor vehicle with open alcohol in violation of 625 ILCS 5/11-502.
- (6) Any vehicle being operated or having been operated while the operator or occupants of the vehicle are in the commission of or fleeing from the commission of a crime constituting a charge of a class A misdemeanor, or any felony.
- (7) An accident involved motor vehicle.
- (8) A hazardous vehicle.
- (9) A derelict motor vehicle, including any vehicle which has been immobilized for 72 hours or more pursuant to section 14-195.10.
- (10) Any motor vehicle that is parked on a public way, alley or a loading zone in violation of sections 14-143, 14-145, 14-148, 14-150, or 14-154 of this Code.
- (11) Any motor vehicle that is illegally parked in a tow away zone.
- (12) Any motor vehicle that is inoperable due to the arrest of the owner or operator.
- (13) Playing, using or operating or permitting to be played, used or operated, any radio, tape recorder, cassette player or other device for receiving broadcast sound or reproducing recorded sound if the device is located in any motor vehicle on the public way; and if the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 75 feet. This section shall not apply to any person participating in a parade or public assembly for which a permit has been obtained pursuant to village ordinances.

SECTION 3.2 AMENDMENT OF CHAPTER 14, SECTION 14-197.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 14, Section 14-197 as follows:

Sec. 14-197. - Seizure and impoundment.

- (a) Whenever a police officer has a reason to believe that a vehicle is subject to seizure and/or impoundment pursuant to this ~~section~~ division, the police officer shall provide for the towing of the vehicle to a facility approved by the police chief. This section shall not apply if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 12 hours after the theft was discovered or reasonably should have been discovered.

The police officer shall notify any person identifying himself as the owner of the vehicle or any 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 seizure or impoundment and of the vehicle owner's rights and options under this division to reclaim his vehicle, including his right to demand a hearing.

SECTION 3.3. AMENDMENT OF CHAPTER 50, SECTION 50-33.

That the Village Code is hereby amended, notwithstanding any provision, ordinance, resolution or Village Code section to the contrary, by amending Chapter 50, Section 50-33 as follows:

Sec. 50-33. – Noise.

- (a) It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the village. Airport facilities and aircraft be and are hereby exempted from the terms of this section.
- (b) The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive, namely:
- (1) The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the village, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sounds; and the sounding of any such device for an unnecessary and unreasonable period of time. The uses of any signaling device, except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up. This subsection shall not apply to approved signaling or sound devices used by licensed street vendors.
 - (2) The using, operating or permitting to be played, used or operated any radio or television receiving set, musical instrument, phonograph, or other machine or device, for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of 10:00 p.m.

and 7:00 a.m. in such a manner as to be plainly audible at a distance of 30 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

- (3) The playing, using or operating or permitting to be played, used or operated, any radio, tape recorder, cassette player or other device for receiving broadcast sound or reproducing recorded sound if the device is located in any motor vehicle on the public way and if the sound generated by the device is clearly audible to a person with normal hearing at a distance greater than 75 feet. This section shall not apply to any person participating in a parade or public assembly for which a permit has been obtained pursuant to village ordinances.

A motor vehicle that is used in violation of this section shall be subject to seizure and impoundment pursuant to the procedures set forth in Division 9 of this Code. The owner of record shall be liable to the Village for a penalty of \$750.00 in addition to fees for the towing and storage of the vehicle.

- (~~34~~) The use and operation of power lawn mowers between the hours of 10:00 p.m. and 7:00 a.m. within or adjacent to areas used for residential purposes.
- (~~4-5~~) The using, operating or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure. This subsection shall not apply to political announcements.
- (~~56~~) Yelling, shouting, hooting, whistling, or singing at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office, or in any dwelling, hotel or other types of residences, or of any person in the vicinity.
- (~~67~~) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.
- (~~78~~) The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper village authorities.
- (~~89~~) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (~~910~~) The use of any automobile, motorcycle or vehicle so out of repair, so loaded, or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (~~4011~~) The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bails, boxes, crates, and containers.
- (~~4412~~) The erection (including excavation), demolition, alteration or repair of any building other than between the hours of 6:00 a.m. and sunset on weekdays or Saturday, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the building official shall determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the

prohibited hours, and if he shall further determine that loss or inconvenience would result to any party in interest, he may grant written permission for such work to be done upon application being made at the time the permit for the work is awarded or during the progress of the work. The prohibition contained in this subsection shall not apply to minor erection, demolition, alteration or repair, which work can be completed within a period of one hour, nor shall it apply to volunteer labor between the hours of 7:00 a.m. and 10:00 p.m.

- (~~42~~13) The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (~~43~~14) The shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (~~44~~15) The use of any drum or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale.
- (~~45~~16) The transportation of rails, pillars, or columns of iron, steel or other material, over and along streets and other public places upon carts, trays, cars, trucks, or in any other manner so loaded as to cause loud noises or as to disturb the peace and quiet of such streets or public places.
- (~~46~~17) The operation between the hours of 10:00 p.m. and 7:00 a.m. of any piledriver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, or other appliance, the use of which is attended by loud or unusual noise, unless the building official determines that the usage is necessary during such hours.
- (~~47~~18) The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- (~~48~~19) The collection of garbage, refuse, rubbish or other waste between 7:00 p.m. and 7:00 a.m. of the next day, inclusive.
- (~~49~~20) The running or idling of a motor vehicle, while such motor vehicle is standing, parked or resting on a side drive between adjacent buildings, or within alleyways when such vehicle is unattended.

SECTION 3.4. OTHER ACTIONS AUTHORIZED.

The officers, employees and/or agents of the Village shall take all action necessary or reasonably required to carry out, give effect to and consummate the amendments contemplated by this Ordinance and shall take all action necessary in conformity therewith, including, but not limited to, the installation of any street or parking signs as contemplated herein. The officers, employees and/or agents of the Village are specifically authorized and directed to draft and disseminate any and all necessary forms or notices to be utilized in connection with the intent of this Ordinance.

**ARTICLE III.
HEADINGS, SAVINGS CLAUSES, PUBLICATION,
EFFECTIVE DATE**

SECTION 4. HEADINGS.

The headings of the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

SECTION 5. SEVERABILITY.

The provisions of this Ordinance are hereby declared to be severable and should any provision of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable and as though not provided for herein and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect.

SECTION 6. SUPERSEDER.

All code provisions, ordinances, resolutions, rules and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

SECTION 7. PUBLICATION.

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall be effective and in full force ten (10) days after its passage, approval and publication in accordance with Illinois law.

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PASSED this 16th day of March, 2021.

AYES: Trustees Hrejsa, Kapolnek, Savopoulos , Torres and White

NAYS: None

ABSENT: Trustee Milenkovic

ABSTENTION: None

APPROVED by me this 16th day of March, 2021.

Jeff Walik, President

ATTESTED AND FILED in my

office this 17th day of March, 2021.

Audrey McAdams, Village Clerk