

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
SEPTEMBER 16, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Vehicle Seizure and Impoundment of Vehicles	Resolution ✓ Ordinance Motion Discussion Only	Robert Porter Chief of Police

SYNOPSIS

An ordinance has been prepared amending Section 14.10 of the Municipal Code to authorize the temporary seizure and impoundment of vehicles for the offense of No Valid Drivers License/Expired Drivers License when the license has been expired in excess of 12 months.

STRATEGIC PLAN ALIGNMENT

The Five Year Strategic Plan and Goals for 2007-2012 identified *Preservation of our Residential and Neighborhood Character*. A supporting objective of this goal is *Maintain Safe and Secure Neighborhoods*.

FISCAL IMPACT

The proposed ordinance amendment is projected to generate approximately \$150,000 annually to be allocated to the Village's General Fund.

UPDATE & RECOMMENDATION

This item was discussed at the September 9, 2008 Workshop. Staff recommends approval on the September 16, 2008 active agenda.

BACKGROUND

On June 7, 2005, the Village Council adopted Section 14.10 of the Village Code which provides for seizure and impoundment of vehicles upon commission of certain offenses set forth therein. Currently, only two offenses provide for the seizure and impoundment of vehicles in the Municipal Code: driving under the influence of alcohol and driving while license is suspended or revoked. Staff is recommending that driving with no valid drivers license/expired drivers license (in excess of 12 months) be added to the Municipal Code, allowing for the seizure and impoundment of the vehicle. This amendment would eliminate the inconsistency in the Code which allows the Village to seize and impound a vehicle driven by an individual with a suspended or revoked license, but not a vehicle driven by an individual with no valid license.

In 2007, the Village issued citations to 372 motorists for not possessing a valid driver's license. Of these 372 citations, approximately 300 were determined to be true no valid/expired drivers license cases which would result in seizure and impoundment of the owner's vehicle under the proposed ordinance amendment. The vehicle owner would then be liable for an administrative penalty to the Village of \$500, in addition to any applicable towing fees. Thus, the proposed ordinance is projected to generate approximately \$150,000 annually. Evidence suggests that drivers who do not possess a valid driver's license pose a public safety concern on the roadways. The addition of this offense to the Municipal Code would add another deterrent to the commission of this offense and would create safer roadways within the Village.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING PROVISIONS FOR
VEHICLE SEIZURE AND IMPOUNDMENT**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading/underline**; deletions by ~~strikeout~~):

Section 1. That Section 14.10. is hereby amended to read as follows:

14.10. Vehicle Seizure and Impoundment-Use of Motor Vehicles for Unlawful Purposes.

A. Definitions.

Business day. Any day in which the office of the Village Clerk of the Village of Downers Grove is open to the public for a minimum of seven (7) hours.

Motor vehicle. Every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles and motor scooters.

Owner of record. The record title holder(s) of the vehicle as registered with the Secretary of State, State of Illinois or if not registered in Illinois, the particular state where the vehicle is registered.

B. Conduct Prohibited.

A motor vehicle that is used in connection with any of the following violations may be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty of \$500.00 plus any applicable towing fees.

1. Driving under the influence of alcohol, other drug or drugs, intoxicating compound(s) or any combination thereof, as provided in Section 14-3 of the Downers Grove Municipal Code or section 5/11-501(a) of the Illinois Vehicle Code (625 ILCS 5/11-501(a)), as amended, or

2. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, as provided in Section 14-3 of the Downers Grove Municipal Code or section 5/6-303 of the Illinois Vehicle Code (625 ILCS 5/6-303), as amended, ~~or~~

3. Driving with no valid drivers license or an expired drivers license when it has been expired in excess of twelve (12) months, as provided in Section 14-3 of the Downers Grove Municipal Code or section 5/6-101 of the Illinois Vehicle Code (625 ILCS 5/6-101), as amended.

C. Seizure and Impoundment.

1. Whenever a police officer has reason to believe that a vehicle is subject to seizure and impoundment pursuant to this Section, the police officer may provide for the towing of the vehicle to a facility approved by the Chief of Police. 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 24 hours after the theft was discovered or reasonably should have been discovered.

2. 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 the seizure and of the vehicle owner's right to request an administrative hearing to be conducted under this Section.

D. Administrative Hearing.

Within five (5) business days after a vehicle is seized and impounded pursuant to this Section, the Village shall notify by personal service or by certified mail the owner of record of the owner's right to request a hearing to challenge whether a violation of this Section has occurred. The owner of record seeking a hearing must file a written request for a hearing with the Chief of Police or his/her designee no later than ten (10) business days after notice was mailed. The hearing date must be scheduled no more than ten (10) business days after a request for a hearing has been filed. All interested persons shall be

given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in violation of this Section, then the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the Village for the administrative penalty of \$500.00. If, after a hearing, the hearing officer does not determine by a preponderance of the evidence that the vehicle was used in such a violation, the hearing officer shall enter an order finding for the owner and for the return of the vehicle. If the owner of record requests a hearing but fails to appear at the hearing or fails to request a hearing in a timely manner, the owner of record shall be deemed to have waived his or her right to a hearing and the hearing officer shall enter a default order in favor of the Village in the amount of the administrative penalty. 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.

E. Disposition of impounded vehicle.

A penalty imposed pursuant to this Section shall constitute a debt due and owing the Village. A vehicle impounded pursuant to this Section shall remain impounded until:

1. the penalty of \$500.00 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 vehicle, or
2. a bond in the amount of \$500.00 is posted with the Police Department and all applicable towing fees are paid to the towing agent, at which time the vehicle will be released to the owner of record, or
3. the vehicle is deemed abandoned, in which case the vehicle shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

F. Posting of bond.

If a bond in the amount of \$500.00 is posted with the Police Department, the impounded vehicle shall be released to the owner of record; the owner of the vehicle shall still be liable to the towing agent for any applicable towing fees. If a \$500.00 penalty is imposed for violation of this Section, the \$500.00 bond will be forfeited to the Village; however if a violation of this Section is not proven by a preponderance of the evidence, the \$500.00 bond will be returned to the person posting the bond. All bond money posted pursuant to this Section shall be held by the Village until the hearing officer issues a decision, or, if there is a judicial review, until the court issues its decision.

G. Vehicle Possession.

Any motor vehicle that is not reclaimed within 30 days after the expiration of the time during which the owner of record may seek judicial review of the Village's action under this Section, or the time at which a final judgment is rendered in favor of the Village, or the time a final administrative decision is rendered against an owner of record who is in default, may be disposed of as an unclaimed vehicle as provided by law, provided, however, that where proceedings have been instituted under state or federal drug asset forfeiture laws, the subject vehicle may not be disposed of by the Village except as consistent with those proceedings.

Section 2. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 3. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

DL

Mayor

Passed:

Published:

Attest: _____
Village Clerk