

PREPARED BY:

VILLAGE OF CHANNAHON
24555 S. NAVAJO DRIVE
CHANNAHON, IL 60410

MAIL TO:

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RECORDER'S STAMP

ORDINANCE NO. 1647

**AN ORDINANCE AMENDING THE
CHANNAHON CODE OF ORDINANCES WITH
RESPECT TO THE IMPOUNDMENT OF VEHICLES**

**ADOPTED BY THE
BOARD OF TRUSTEES
VILLAGE OF CHANNAHON**

THIS 18th DAY OF April, 2011

**PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE BOARD OF TRUSTEES OF THE
VILLAGE OF CHANNAHON, WILL AND GRUNDY COUNTIES, ILLINOIS**

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RESPECT TO THE IMPOUNDMENT OF VEHICLES**

WHEREAS, the Village of Channahon is a home-rule municipal corporation; and

WHEREAS, it is necessary and in the best interest of the Village and to protect the public and the property of persons arrested that certain vehicles be impounded as hereafter provided.

NOW THEREFORE BE IT ORDAINED by the President and Board of Trustees of the Village of Channahon, Will and Grundy Counties, Illinois as follows:

SECTION 1. AMENDMENT.

That Sections 97.01 through 97.06 of the Channahon Code of Ordinances be and the same are hereby repealed and the following inserted in its place:

§97.01 IMPOUNDMENT OF VEHICLES.

Any motor vehicle which is used in connection with the violation of:

- (1) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 1961; or
- (2) Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of this Code; or
- (3) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act; or
- (4) Operation or use of a motor vehicle in the commission of, or in an attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
- (5) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1, 24-1.5, or 24-3 of the Criminal Code of 1961; or
- (6) Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of this Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or

- (7) Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or
- (8) Operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of this Code, if the period of expiration is greater than one year; or
- (9) Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of this Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
- (10) Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of this Code.

Or a similar local ordinance shall be subject to seizure and impoundment and the owner of record of such impounded vehicle shall be liable to the Village for an administrative fee in connection with such impounding not to exceed \$500 plus all applicable towing and storage fees as hereinafter provide.

§97.02 STOLEN VEHICLE EXCEPTION.

Section 97.01 of this chapter shall not apply:

(A) 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; or

(B) If the vehicle is being operated as a common carrier when the violation occurs without the knowledge of the person in control of the vehicle.

§97.03 TOWING OF VEHICLE/NOTICE TO OWNER.

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this chapter, the police officer shall provide for the towing of the vehicle to a facility controlled by the Village or by its agents. Before or at the time the vehicle is towed, 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, of the fact of the seizure and of the vehicle owner's right to request the vehicle impoundment hearing under §97.04 of this chapter.

§97.04 VEHICLE IMPOUNDMENT HEARING.

(A) Whenever the owner of record of a vehicle seized pursuant to §97.01 of this chapter makes a request of the Police Department in person and in writing for a vehicle impoundment hearing after the seizure, a hearing officer shall conduct a vehicle impoundment hearing within 24 hours after the seizure, excluding Saturdays, Sundays and legal holidays. All interested persons shall be given a reasonable opportunity to be heard at the vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle is subject to seizure and impoundment under §97.01, the hearing officer shall order the continued impoundment of the vehicle unless the owner of the vehicle posts with the Police Department a cash bond in an amount not to exceed \$500 plus all applicable towing and accrued storage fees.

(B) Unless a hearing is held pursuant to division (A) above, within ten days after the vehicle is seized and impounded pursuant to §97.01, the Village shall notify by certified mail, return receipt requested, the owner of record of the date, time and location of a hearing which will be conducted pursuant to this division (B). The hearing shall be scheduled and held, unless continued by owner of the hearing officer, no later than 30 days after the vehicle is seized. The hearing shall be conducted by owner of the hearing officer appointed by the Village President. All interested persons shall be given a reasonable opportunity to be heard at the hearing. If, after the hearing, the hearing officer determines by a preponderance of the evidence that the vehicle was used in connection with a violation of an offense set forth in 97.01, and that none of the exceptions apply, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the Village for an administrative fee in an amount not to exceed \$500. If the owner of record fails to appear at the hearing, the hearing officer shall enter a default order in favor of the Village requiring the payment to the Village of an administrative fee in the amount not to exceed \$500. If the hearing officer finds that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle or cash bond.

(C) The hearing shall be recorded. The hearing officer is authorized to administer oath and to issue subpoenas to compel the attendance and testimony of witnesses and the presence of relevant books and records.

§97.05 ADMINISTRATIVE FEE/DISPOSITION OF VEHICLE.

(A) If an administrative fee is imposed pursuant to this section, such fee shall constitute a debt due and owing to the Village. If a cash bond has been posted, the bond shall be applied to the fee. If a vehicle has been 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 by law. Except as provided otherwise in this section, a vehicle shall continue to be impounded until:

- (1) The fee, plus any applicable towing and storage fees, 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

(2) The vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law. If the administrative fee and applicable fees are not paid within 30 days after an administrative fee is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles under Chapter 90 of this Code. In all other cases, if the administrative fee and applicable fees are not paid within 30 days after the expiration of the time during which administrative review of the hearing officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed abandoned and shall be disposed of in the manner provided by law for the disposition of abandoned vehicles under Chapter 90 of this Code.

(B) Except as otherwise specifically provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this section until the civil fee of all other towing, storage and other fees applicable 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 to 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 \$500 plus all applicable towing and storage fees.

(C) The administrative fee provided in this chapter shall be in addition to any Fee that may be assessed by a court of law or other entity for the underlying offense.

§97.06 OWNER OF RECORD.

For purposes of this chapter, the ***OWNER OF RECORD*** of a vehicle shall mean and include the owner or owners as shown on a valid certificate of title of the vehicle and/or as shown on a valid vehicle registration identification document; and, in the case of leased vehicles the ***OWNER OF RECORD*** shall include the named lessee of the vehicle.

SECTION 2. SEVERABILITY. If any section, paragraph, clause or provision of this Ordinance is held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

SECTION 3. REPEALER. All ordinances, resolutions, orders or parts thereof, which conflict with the provisions of this Ordinance, is to the extent of such conflict, hereby repealed.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect after its passage, approval, and publication in pamphlet form. Provided however the prior provisions of 97.01 through 97.06 shall remain in full force and effect for vehicle impoundments made before the effective date hereof.

PASSED this 18th day of April, 2011 with 3 members voting aye, 1 members voting nay, the President aye voting, with 2 members abstaining or passing and said vote being:

MILITELLO nay

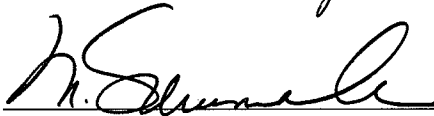
NASH absent

GRECO aye

McMILLIN absent

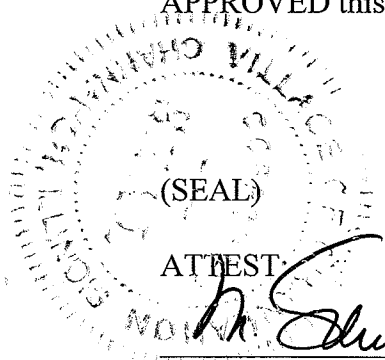
SLOCUM aye

PAPESH aye



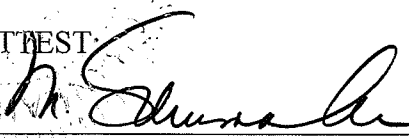
JANET SCHUMACHER, Village Clerk

APPROVED this 18th day of April, 2011.



(SEAL)

ATTEST



JANET SCHUMACHER, Village Clerk

JOSEPH COOK, Village President