

ORDINANCE NO. 04-06

**AN ORDINANCE REGULATING INOPERABLE AND ABANDONED MOTOR VEHICLES
AND REVOKING, SUPERCEDING, AND REPLACING IN ITS ENTIRETY ORDINANCE
NO. 02-05 PREVIOUSLY PASSED RELATING TO THE SAME**

WHEREAS, the problem of abandoned and inoperable motor vehicles on premises within the corporate limits of the Village of Winnebago for an extended period of time has become a recurring problem in the Village of Winnebago; and

WHEREAS, it was believed necessary to enact regulations regarding the same so as to protect the health and safety of the residents of the Village of Winnebago, as well as to protect the value of land and improvements so as to strengthen the economic base of the Village of Winnebago; and

WHEREAS, on August 19, 2002, the Board of Trustees of the Village of Winnebago enacted Ordinance No. 02-05 entitled "An Ordinance Regulating Inoperable and Abandoned Motor Vehicles" to deal with said problem; and

WHEREAS, subsequent Illinois case law has imposed additional requirements on municipalities for the enforcement of such a type of ordinance; and

WHEREAS, The Village of Winnebago Board of Trustees feels it is in the best interest of the Village to pass a new ordinance establishing all rules and regulations for dealing with abandoned and inoperable motor vehicles and revoking, superceding, and replacing in its entirety Ordinance No. 02-05 previously passed relating to the same, which ordinance shall provide for additional procedural safeguards for purported violators of the ordinance, and which shall incorporate may of the terms in Ordinance No. 02-05 referred to aforesaid; and

WHEREAS, the Village of Winnebago Board of Trustees deems it to be in the best interest of the Village to revoke, supercede, and replace Ordinance No. 02-05 in its entirety by the instant ordinance, effective ten (10) days after its final passage, and publication in pamphlet form as provided by law.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE
BOARD OF TRUSTEES OF THE VILLAGE OF WINNEBAGO AS FOLLOWS:**

**ARTICLE I
REVOCATION OF ORDINANCE NO. 02-05 AND EFFECTIVE DATE**

Ordinance No. 02-05 entitled "An Ordinance Regulating Abandoned and Inoperable Motor Vehicles, which ordinance was passed and adopted on August 19, 2002, shall be and hereby is revoked, superceded, and replaced in its entirety by the instant ordinance, effective ten (10) days after its passage, approval, and publication in pamphlet form as provided by law.

ARTICLE II
SHORT TITLE

The instant ordinance shall be known and may be cited as the "Village of Winnebago Abandoned and Inoperable Motor Vehicle Ordinance".

ARTICLE III
DEFINITIONS

For the purpose of this ordinance, the following definitions shall apply:

- A) **ABANDONED VEHICLE.** A motor vehicle or other vehicle located on private or public property other than a highway or other municipal property, that has not been moved or used for seventy-two (72) consecutive hours or more and is apparently deserted, or any motor vehicle or other vehicle located on a highway or other municipal property, other than duly authorized Village vehicles, that has not been moved or used for more than seventy-two (72) consecutive hours.
- B) **ANTIQUE VEHICLE.** A motor vehicle or other vehicle which is more than twenty-five (25) years old or is a bona fide replica thereof.
- C) **CHIEF OF POLICE.** The Chief of Police of the Village of Winnebago.
- D) **HIGHWAY.** The term "highway" means any street, alley, or public way within the Village.
- E) **INOPERABLE VEHICLE.** Any motor vehicle or other vehicle incapable of, or prohibited from, being driven due to the removal of the engine, wheels, or other parts, or the damage, disrepair, or disuse of such vehicle; also, any motor vehicle not displaying valid registration plates or proper evidence of application therefor shall be an inoperable vehicle under this ordinance.
- F) **PROPERTY OWNER.** The owner of the property, or the agent, employee of the owner, or the person lawfully in possession or control of the private property. For the purposes of this ordinance, no relocater shall be an authorized agent of a property owner for the purpose of removing unauthorized vehicles from the property of the property owner.
- G) **RELOCATOR.** Any person or entity engaged in the business of removing trespassing vehicles from private property by means of towing or otherwise, and thereafter relocating and storing such vehicles.
- H) **VILLAGE.** The Village of Winnebago, Illinois.

ARTICLE IV
ENFORCEMENT

This ordinance shall be enforced by the Police Department of the Village of Winnebago, Illinois.

ARTICLE V
ABANDONMENT OF VEHICLES AND INOPERABLE VEHICLES

Section 1. Abandoned vehicle on highway or other municipal property.

It shall be unlawful for any person to knowingly or intentionally abandon any motor vehicle, or to otherwise allow, permit, or cause such vehicle to be or remain an abandoned vehicle under this ordinance, on any highway or other municipal property in the Village after the date provided in the notice from the Village that such vehicle is subject to immediate towing.

Section 2. Inoperable vehicle on highway or other municipal property.

It shall be unlawful for any person to allow an inoperable vehicle to remain on any highway or other municipal property in the Village for more than seventy-two (72) consecutive hours, it being declared and determined that such inoperable vehicles are a nuisance and hazardous to the public safety because of such condition.

Section 3. Abandoned vehicle on private property.

It shall be unlawful for any person to knowing or intentionally abandon any motor vehicle, or to otherwise allow, permit, or cause such vehicle to be or remain an abandoned vehicle under this section, on private or public property, other than a highway or other municipal property, in the Village, except on property under the control of the owner or bailee of such vehicle, or with the permission of a person in control of such property, after the date provided in the notice from the Village that such vehicle is subject to immediate towing.

Section 4. Inoperable vehicle on private property.

A) It shall be unlawful for any person in control of any property, whether as owner, lessee, occupant, or otherwise, to allow or to suffer to remain on such property any inoperable vehicle outside of any enclosed building or other structure, if allowed by the Village Zoning Ordinance, which encloses the vehicle completely from lateral view on all sides, for more than fifteen (15) consecutive days, or any extension thereof granted as herein provided by subsection (c) of this section, after being provided with notice from the Village to remove or dispose of such vehicle. This section shall not apply to any inoperable vehicle located upon the property of any person lawfully engaged in the business of selling, repairing, wrecking, or junking such inoperable vehicle upon such property, or with regard to any inoperable vehicle in an appropriate storage place or depository maintained in a lawful place by the Village or any other public agency or entity.

B) Such notice by the Village shall be in substantially the form set forth below and shall be sent by U.S. mail, first class postage prepaid, to the person in control of the property on which an inoperable vehicle is located.

NOTICE TO REMOVE INOPERABLE VEHICLE

TO: NAME: DATE OF NOTICE

ADDRESS

CITY/STATE/ZIP

An Inoperable Vehicle described as:

MAKE

YEAR

COLOR

has been left on your property located at _____ outside of an enclosed building, or other structure, if allowed by the Village Zoning Ordinance, which encloses the vehicle completely from lateral view on all four sides. You are hereby notified that such vehicle must be removed, disposed of, or placed in an enclosed building within fifteen (15) days of the date of this notice as indicated above.

You may apply to the Village Chief of Police of the Village of Winnebago for an extension period upon proper application received by the Village, addressed as set forth below, within ten (10) days of the date of this notice. The Village Chief of Police or his designee shall, upon good cause being shown, grant an extension of not more than thirty (30) days if the owner, lessee, or occupant of the property upon which such vehicle is stored submits to the Village Chief of Police an affidavit that the owner of the inoperable vehicle is a bona fide resident of the property upon which the said vehicle is stored and that said vehicle is being held for sale or expeditious repair. To apply for such extension, submit the request in writing to the Village Chief of Police at 108 West Main Street, Winnebago, Illinois 61088.

If you fail to remove, dispose of, or place the inoperable vehicle in an enclosed building, or other structure, if allowed by the Village Zoning Ordinance, which encloses the vehicle completely from lateral view on all four sides, within the specified period, or within any extension granted by the Chief of Police or designee thereof, such vehicle is subject to being towed and impounded and you may be charged with a violation of this ordinance and subject to a fine of up to Two hundred and 00/100 dollars (\$200.00) for each day that such violation continues if this is a first violation, and a fine of up to Five hundred and 00/100 dollars (\$500.00) per day if this is a second violation.

C) Any such person in control of real property may apply for an extension of time by making a written request for such extension to the Village Chief of Police. Upon receipt of any such application for an extension of time, the Village Chief of Police or his designee shall, upon good cause being show, grant an extension of not more than thirty (30) days, if such person in control of such real property upon which such vehicle is stored submits to the hearing officer an affidavit that the owner of the inoperable vehicle is a bona fide resident of the property upon which the said vehicle is stored and that said vehicle is being held for sale or expeditious repair.

D) As used in this section, "expeditious repair" shall mean:

1) That the necessary parts for repair have been ordered, but are not available for installation in the inoperable vehicle for reasons not within the control of the owner of said vehicle; or

- 2) That the inoperable vehicle is scheduled to be repaired by a person whose regular course of business includes the repair of vehicles and the scheduled repair date is within thirty (30) days; or
- 3) That the inoperable vehicle is in such condition of being inoperable as a result of a vehicular accident, and the owner of such inoperable vehicle or any third party to whom or from whom a claim for damages sustained in such accident is anticipated is investigating or preparing a claim for such damages, but in no event shall such period exceed thirty (30) days.

ARTICLE VI
PENALTIES FOR VIOLATIONS.

Any person violating the provisions of Article V, Sections 1, 2, 3, or 4 of this ordinance shall be punished by a fine of not less than One hundred and 00/100 dollars (\$100.00) nor more than Two hundred and 00/100 dollars (\$200.00), and upon second a conviction within one year from the date of the first offence shall be punished by a fine of not less than Two hundred fifty and 00/100 dollars (\$250.00), nor more than Five hundred and 00/100 dollars (\$500.00), and each day's failure to comply with the provisions of this ordinance shall constitute a separate offense. Also each motor vehicle which is permitted to exist in the manner described above shall constitute the subject of a separate offense.

ARTICLE VII
EXPIRED REGISTRATION PLATES/NO REGISTRATION PLATES

Section 1. Any motor vehicle which would be required to have motor vehicle registration plates under the laws of the State of Illinois to be operated upon the public highways, must display registration plates issued by the State of Illinois or another state which are valid and unexpired at all times when such vehicle is on a public street in the Village of Winnebago, or in a parking lot owned by the Village of Winnebago.

Section 2. A vehicle found upon a public street in the Village of Winnebago, or in a parking lot owned by the Village of Winnebago, in violation of this section shall subject the owner thereof to a fine of not less than Twenty-five dollars (\$25.00), nor more than One hundred and 00/100 dollars (\$100.00), for each day that such vehicle remains in violation of this section.

ARTICLE VIII
TOWING

Section 1. Abandoned and inoperable vehicles on highways or other municipal property.

A) Any abandoned vehicle, or inoperable vehicle, which is found left on any highway or other municipal property in the Village for more than seventy-two (72) consecutive hours may be towed according to the following procedures.

1) If the abandoned vehicle or inoperable vehicle does not display any current license or registration plates or decals from which the last known owner may be determined in a reasonably expeditious manner, notice as set forth in subsection (3) immediately hereinbelow shall be conspicuously posted on the windshield of such vehicle prior to the authorization of towing such vehicle.

2) If the abandoned vehicle or the inoperable vehicle displays any current license or registration plates or decals from which the last known owner may be determined in a reasonably expeditious manner, notice as set forth in subsection (3) immediately hereinbelow shall be conspicuously posted on the windshield of such vehicle and, in addition, such notice shall also be sent by U.S. mail, first class postage prepaid, to the last known registered owner of such vehicle prior to the authorization of towing such vehicle.

3) When required by this section, notice shall be in substantially the form set forth below:

NOTICE

TO: NAME: DATE OF NOTICE

ADDRESS

CITY/STATE/ZIP

A vehicle described as:

MAKE

YEAR

COLOR

with registration plates number _____ is registered in your name with the State of _____. This vehicle has been located at _____ and is deemed to be an [Abandoned/Inoperable] Vehicle under the Village of Winnebago Ordinance No. _____, as amended. This violation subjects your vehicle to being towed and impounded and you may be charged with a violation of said ordinance and subject to such fine as may be provided in the notice therefor, which, if not paid as therein provided, may be in an amount of up to \$200.00 for each day that such violation continues, if this is a first violation and up to \$500.00 per day if this is a second violation within one year from the date of the first offense. In addition, the costs of towing and storage shall be assessed against you.

If you wish to have a hearing on the matter of whether the above described vehicle is subject to being towed under this ordinance, you must submit a written request for such a hearing to the Village of Winnebago Chief of Police, 108 West Main Street, Winnebago, Illinois 61088, within six (6) days of the date of this notice. At that time a hearing date will be set. If you do not wish to have a hearing, or fail to notify the Village Chief of Police within six (6) days of the date of this notice, or if you do not move or remove the above described vehicle before such date, then your vehicle is subject to immediate towing as of such date.

4) Nothing in section shall affect the ability of the law enforcement agency having jurisdiction to remove a vehicle within a shorter time frame as authorized by Section 5/4-203 of the Illinois Motor Vehicle Code if the vehicle poses a traffic hazard or impedes traffic, as specified in said section.

Section 2. Abandoned and inoperable vehicle in locations other than highways or other municipal property.

A) When an abandoned vehicle, located within the corporate limits of the Village, comes into the temporary possession of a person who is not the owner of said vehicle, such person shall immediately notify the Village police department. Upon the receipt of such notification, the Chief of Police, or the designee thereof, may authorize a towing service to remove and take possession of the abandoned vehicle, provided such vehicle is not otherwise subject to being removed pursuant to Article X of this ordinance.

B) The officer authorizing the towing of such abandoned vehicle shall cause notice in substantially the form set forth below to be sent by certified mail to the registered owner, lienholder, or other person legally entitled to such abandoned vehicle within twenty-four (24) hours of ascertaining the last known address of the registered owner, lienholder, or other person legally entitled to the vehicle, as determined by the Illinois Secretary of State's Office or the office of another state maintaining vehicle registration records:

NOTICE

TO: NAME: DATE OF NOTICE

ADDRESS

CITY/STATE/ZIP

You are hereby notified that a vehicle described as follows:

MAKE

MODEL

YEAR

COLOR

LICENSE PLATES (STATE AND YEAR)

was towed from _____ on the ____ day of _____, 200__, at _____ (a.m./p.m.) at the request of the owner of the property, or the agent or employee of the owner or person lawfully in possession or control of such property. If you wish to have a hearing on the question of whether your automobile was lawfully towed and impounded, you may do so by submitting a written request for such hearing within six (6) days of the date of this notice to the Village of Winnebago Chief of Police, 108 West Main Street, Winnebago, Illinois 61088, within six (6) days of the date of this notice. You will be accorded a prompt hearing after receipt of your request for hearing.

If the Village Chief of Police or his designee determines that said automobile was not properly towed pursuant to this ordinance, the relocation service will be instructed to release said automobile without towing or impoundment charges.

In the event the Chief of Police or his designee does determine that the automobile was properly towed under this ordinance, then the relocation service shall maintain its lien on said automobile.

You are advised that if you do not promptly claim this vehicle, it will be disposed of in accordance with Article IX of this ordinance as amended. The above described vehicle may be reclaimed and will be released upon payment of all towing and storage charges.

C) When the owner, lessee, or occupant of any real property is found to have left or suffered to remain an inoperable vehicle on said person's property in violation of this ordinance, such vehicle may be towed according to the procedures provided below:

1) inoperable vehicles, or any parts thereof, not displaying any current license or registration plates or decals from which the last known owner may be determined in a reasonably expeditious manner, not removed within fifteen (15) days of the mailing of notice as provided in Article V, Section 4, to the owner, lessee, or occupant of property upon which said vehicle is located, or any extension thereof granted by the Chief of Police, may be removed by a towing service upon the order of the Chief of Police of the Village, or the designee thereof.

2) If the inoperable vehicle displays current license or registration plates or decals from which the last known owner may be determined in a reasonably expeditious manner, notice as set forth in Article VIII, Section 1, shall be sent by U.S. mail, first class postage prepaid, to the last registered owner of such vehicle, provided that such registered owner differs from the recipient of notice sent pursuant to Article V, Section 4, of this ordinance, prior to authorization by the Chief of Police, or the designee thereof, for the towing of such vehicle. No additional notice need be sent to the registered owner of an inoperable vehicle if such registered owner is the person in control of the property on which the inoperable vehicle is located and has been sent notice to remove such vehicle pursuant to Article V, Section 4, of this ordinance.

ARTICLE IX

PROCEDURES FOLLOWING TOWING OF VEHICLES PURSUANT TO POLICE ORDER

Section 1. Procedures following towing or hauling away, in general.

A) Whenever a vehicle is towed pursuant to any section of Article VIII, the towing service will safely keep the towed vehicle and its contents and maintain a record of the tow until the vehicle and contents are claimed by the owner or any other person legally entitled to possession thereof, or until the vehicle and contents are disposed of as provided in this article. When a motor vehicle or other vehicle is authorized to be towed away, the department which authorized the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow.

B) The department authorizing the towing of a vehicle pursuant to any section of Article VIII shall attempt to determine the identity of the registered owner or other legally entitled person from the vehicle registration records of the State of Illinois, which are maintained by the Secretary of State, or from the registration files of a foreign state, if applicable. If such search fails to provide information sufficient to identify the registered owner or other legally entitled person, the department causing the tow shall attempt to obtain the information from the stolen motor vehicle files of the state police. If the record search as set forth above provides information regarding the identity of the owner or person legally entitled to possession of the vehicle, then the department authorizing the tow shall send a notification by certified mail to such owner or legally entitled person advising where the vehicle is held and setting forth public sale information. If the identity of the owner or other person legally entitled to the vehicle cannot be determined, such vehicle shall be disposed of in accordance with, Article IX, Section 4, of this ordinance. Exceptions to a notification by certified mail to the registered owner or the legally entitled person are set forth in Article IX, Section 4.

Section 2. Disposition of impounded vehicles, in general.

A) When a motor vehicle in the custody of the police department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this ordinance, a report of the transaction will be maintained by the police department for a period of one (1) year from the date of the sale or disposal.

B) When a vehicle located within the corporate limits of the Village is authorized to be towed away by the applicable department and disposed of as set forth in this ordinance, the proceeds of the public sale or disposition after the deduction of towing, storage, and processing charges shall be deposited in the municipal treasury General Fund.

C) No law enforcement officer, Village officers, attorneys, agents, or employees of the Village, towing service owner, operator, or employee shall be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this ordinance.

Section 3. Disposition of impounded vehicles, reclamation by owner or other.

A) Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the department that authorized the towing proof of ownership or proof of the right to possession of the vehicle. Personal property found in the vehicle may be released at any time to the owner of such personal property or other person having a legal right of possession of such personal property upon presentation of proof of ownership or right of possession of such personal property.

B) When a vehicle's removal from either public or private property is authorized under this ordinance, the owner of the vehicle shall be responsible for all towing and storage charges. No vehicle shall be released until all such storage and towing charges are paid.

Section 4. Disposition of impounded vehicles by public sale.

A) Vehicles seven (7) years of age or newer shall be disposed of as follows:

1) Whenever an inoperable, abandoned, or other vehicle seven (7) years of age or newer remains unclaimed by the registered owner or other person legally entitled to its possession for a period of thirty (30) days after notice has been given as provided in Article IX, Section 1(B) above, the department having authority over the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least ten (10) days prior to the sale on the premises where the vehicle has been impounded.

2) At least ten (10) days prior to the sale, the police department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the police department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.

3) In those instances where the certified notification specified herein has been returned by the postal authorities to the police department due to the addressee having moved or being unknown at the address obtained from the registration records of this state, the sending of a second certified notice shall not be required.

4) When the identity of the owner or other person legally entitled to the possession of an inoperable, lost, or unclaimed vehicle of seven (7) years of age or newer cannot be determined by any means provided for in this ordinance, the vehicle may be sold as provided in subsection (A) above or disposed of in the manner authorized by subsection (B) below without actual notice to the registered owner or other person legally entitled to the possession of the vehicle.

B) Vehicles seven (7) years of age or older, other than antique vehicles, shall be disposed of as follows:

1) When an inoperable, abandoned, or other vehicle of more than seven (7) years of age, other than an antique vehicle, is impounded as specified by this ordinance, it will be kept in custody for a minimum of ten (10) days for the purpose of determining ownership and contacting of the registered owner by U.S. mail, or in person for a determination of disposition. At the expiration of the ten (10) day period, without the benefit of disposition information being received from the owner, the department which authorized the towing may authorize the disposition of said vehicle as junk only, or at public sale to the highest bidder.

C) Antique vehicles shall be disposed of as follows:

1) A motor vehicle or other vehicle classified as an antique vehicle shall be disposed of only as provided for in subsection (A) above.

ARTICLE X **COMMERCIAL RELOCATION OF TRESPASSING VEHICLES**

Section 1. Relocator requirements.

A) Registration.

1) Every relocater shall register annually as a relocater with the Village Clerk on or before May 1, upon "relocation registration forms," as described in subsection (b) below, provided by the Village Clerk, before removing any unauthorized vehicle from private property pursuant to this section. An annual fee as established by the Village Board of Trustees shall be paid by the relocater. Such registration shall not be required where the relocater limits its service to the removal of vehicles at the request of the owner or operator of the vehicle.

2) A "relocation registration form" shall contain substantially the information set forth below:

VILLAGE OF WINNEBAGO

REGISTRATION FOR RELOCATORS

Date:

Business Name:

Business Address:

Location of Storage Lot:

Telephone Number of Business:

Certificate of Insurance:

(Approval date) (Expiration date)

Fee Schedule Submitted:

(Date)

(Print name of person supplying information)

(Signature)

B) Insurance. Every relocater shall file with the Village Clerk, and have in effect, an indemnity bond, insurance policy, or certificates of bonds or insurance in lieu thereof which shall indemnify or insure the relocater for its liability as follows:

1) For bodily injury to person per occurrence in an amount not less than One million and 00/100 dollars (\$1,000,000.00) or such other amount as may, from time to time, be established in the Illinois Vehicle Code as security requirements for commercial vehicle relocators, or at such amounts as determined by the Village's insurer to be required, whatever amounts are higher.

2) In the case of damage to property other than a vehicle being removed, in an amount not less than Five hundred thousand and 00/100 dollars (\$500,000.00) for any one (1) accident, or such other amount as may, from time to time, be established in the Illinois Vehicle Code as security requirements for commercial vehicle relocators, or at such amounts as determined by the Village's insurer to be required, whatever amounts are higher.

3) In the case of damage to any vehicle relocated or stored by the relocator, in an amount not less than Fifty thousand and 00/100 dollars (\$50,000.00) per vehicle, or such other amount as may, from time to time, be established in the Illinois Vehicle Code as security requirements for commercial vehicle relocators, or at such amounts as determined by the Village's insurer to be required, whatever amounts are higher.

C) Vehicle Identification. Every relocator shall provide on all vehicles used on the streets and roadways of the Village in connection with the commercial relocation of trespassing vehicles identifying information, which is printed or firmly affixed to such vehicle on both sides thereof in a color or colors vividly contrasting to the color of the vehicle, such information which shall include the name, address, and telephone number of the operator thereof.

D) Location of service. No relocator shall remove any vehicle pursuant to this section more than ten (10) miles from the location from which such vehicle was towed.

E) Storage charge. No relocator shall impose charges for storage for the first twenty-four (24) hours after towing or removal.

F) Fees. Each relocator shall, at its place of business, prominently post in full view of the public a schedule of its usual and customary charges for the towing and storage of vehicles. Such schedule shall be prima facie evidence of what constitutes the reasonable value of services and costs for purpose of Article X, Section 5 herein, provided any fees charged are not in excess of the fees listed by the relocator on the schedule supplied to the Village with the relocator's initial application or renewal application.

G) Availability. Each relocator shall be available for the purpose of returning any vehicle removed pursuant to this section to the owner or other person legally entitled to possession thereof. As used herein, available shall mean being physically present at such relocator's place of business or an actual response at such place of business within thirty (30) minutes after receiving notification from such owner or other personal legally entitled to possession, with such physical presence or actual response to be provided on the basis of twenty-four (24) hours per day of each and every day of the year.

Section 2. Premises from which and circumstance under which unauthorized vehicles may or may not be towed.

A) Public parking. No motor vehicle may be towed by a relocator under this section from any public highway, public alley, or municipal parking lot owned or controlled by the Village, except pursuant to explicit authorization from a police officer, the owner of said vehicle, or a duly authorized driver of said vehicle as provided in Article VIII.

B) Consent by owner. For the purposes of this section, a person consents to removal by towing of said person's vehicle when said person parks such vehicle, without authorization, upon private property or in a private space while having notice, if required, that unauthorized vehicles will be towed from such property by the owner of such property, or agent thereof, at the expense of the vehicle owner.

C) Owner at scene. No relocater shall remove a vehicle when the owner or operator of such vehicle is present or arrives at the vehicle location at any time prior to the completion of removal, and is willing and able to remove the vehicle immediately and makes prompt payment of the following "call fee" to the relocater prior to release of the vehicle to the owner or operator. The relocater shall be permitted to charge the owner or operator with a "call fee" to cover the relocater's expenses in responding to the request to remove the unauthorized vehicle. Such "call fee" shall not exceed one-half (1/2) of the reasonable towing charge for removing said vehicle. The relocater may not require payment of the "call fee" unless the call fee is payable by major credit card at the scene in addition to being payable in cash.

D) Parking in authorized space. No vehicle may be towed by a relocater for unauthorized parking if such vehicle is parked in a space in which it is authorized to park.

E) Removal from private property. No relocater shall remove an unauthorized vehicle from private property unless written notice as contained in Section 3 hereinbelow, is provided to the effect that such vehicles will be removed, provided that no express notice shall be required under this section upon any residential private space or residential property which, having due regard to the circumstances and the surrounding area, is clearly reserved or intended exclusively for the use of occupation of residents or their vehicles.

F) Authorization for relocation of vehicles. Prior to removal of an unauthorized vehicle from private property, the relocater shall obtain the completion and signing of a "relocation authorization form," subsection (3) below, by the person interested in the private property or space who is requesting removal of the vehicle. Sufficient interest in the private property or private space shall be determined as follows:

- 1) Removal from a private space may be requested only by that person or persons having exclusive use of that space.
- 2) Removal from private property or the common areas of a lot divided into private spaces may be requested by the property owner. When the property owner is unavailable, a person having exclusive use of a private space may request removal when the unauthorized vehicle is obstructing or restricting ingress, egress, or movement of the interested party's vehicle.
- 3) A "relocation authorization form" shall contain substantially the information set forth below:

VILLAGE OF WINNEBAGO

RELOCATION

Date:

Time:

Relocation Service:

Vehicle To Be Towed:

(Make)

(Model)

(Color)

(Registration Numbers)

Location Towed From:

Location Towed To:

Person Authorizing Tow:

Relationship to Property

(Signature)

Section 3. Notice requirements.

Written notice providing that unauthorized vehicles parked on the private property or private space shall be subject to towing shall include the name, address, and telephone number of the relocater or relocation services used by the property owner. The notice shall consist of a sign or signs placed in conspicuous places in the area from which unauthorized vehicles are to be towed and shall be at least twenty-four (24) inches by thirty-six (36) inches, shall be illuminated or be made with reflective paint, and shall be no less than three (3) feet and no more than four (4) four feet from the ground. Additionally, if the owner of the towed vehicle is to be responsible for any towing or storage charges, the sign shall state expenses to which the person parking may be subject.

Section 4. Post-towing procedures.

A) Police notification. Each relocater shall, within one (1) hour of removal of an unauthorized vehicle from private property or a private space, inform the police department of such

removal. Notification shall include a complete description of the vehicle, registration numbers if possible, the locations from and to which the vehicle was removed, and the time of removal.

B) Owner notification. If the registered owner or other person entitled to possession of the vehicle which has been towed pursuant to this ordinance does not present himself, herself, or themselves at the place of business of the relocation service that has impounded the vehicle, within twenty-four (24) hours of the time the vehicle was towed, then the relocation service shall within twenty-four (24) hours of the ascertaining of the last known address of the registered owner of the car, as determined by records of the Secretary of State's office, cause to be mailed by U.S. mail, first- class, postage fully prepaid, to the last known address of the registered owner of the vehicle, a notice that the relocation service has towed the vehicle, together with information of when and how the vehicle can be reclaimed.

C) Filing of authorization. Each relocater shall file the signed "relocation authorization form," referenced in Article X, Section 2(F) herein, with the Village Clerk within seven (7) days of the removal of the unauthorized vehicle.

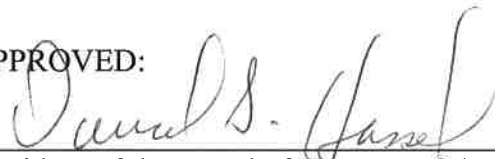
Section 5. Relocator's lien on towed vehicles.

Every person expending labor, services, or skill upon, or furnishing storage for any vehicle with the consent of its owner, authorized agent of the owner, or the lawful possessor thereof, in the amount of Two hundred dollars (\$200.00) or more, shall have a lien upon such vehicle for the reasonable value of such services beginning upon the date of commencement of such expenditure of labor, services, skills, or upon a furnishing of storage, costs for all such expenditure of labor, services, skills, or furnishing storage until the possession of such vehicle is voluntarily relinquished to such owner or authorized agent, or to one entitled to the possession thereof.

Section 6. Violations.

Any relocater in violation of any provision of this article shall be fined not less than One hundred and 00/100 dollars (\$100.00) nor more than Five hundred and 00/100 dollars (\$500.00), with each vehicle as to which a violation has occurred constituting a separate offense, and each day a violation continues to occur constitutes a separate offense.

APPROVED:



President of the Board of Trustees of the Village of Winnebago, Illinois

ATTEST:


Village Clerk

PASSED: 6-7-04

APPROVED: 6-7-04

PUBLISHED: _____