

Effective: August 3, 2001

**FIREARMS—MUNICIPAL ORDINANCE SUBMISSION—
TRANSFER OF FIREARMS**

PUBLIC ACT 92-238

H.B. 542

AN ACT to amend the Firearm Owners Identification Card Act by adding Section 13.3.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Firearm Owners Identification Card Act is amended by adding Section 13.3 as follows:

[S.H.A. 430 ILCS 65/13.3] (430 ILCS 65/13.3 new)

§ 13.3. Municipal ordinance submission. Within 6 months after the effective date of this amendatory Act of the 92nd General Assembly, every municipality must submit to the Department of State Police a copy of every ordinance adopted by the municipality that regulates the acquisition, possession, sale, or transfer of firearms within the municipality and must submit, 30 days after adoption, every such ordinance adopted after its initial submission of ordinances under this Section. The Department of State Police shall compile these ordinances and publish them in a form available to the public free of charge and shall periodically update this compilation of ordinances in a manner prescribed by the Director of State Police.

Section 99. Effective date. This Act takes effect upon becoming law.

Approved: August 3, 2001.

Effective: August 3, 2001

HOUSING—HOME INSPECTOR LICENSING ACT—GUIDELINES

PUBLIC ACT 92-239

H.B. 1805

AN ACT in relation to home inspectors.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

ARTICLE 1. GENERAL PROVISIONS

[S.H.A. 225 ILCS 441/1-1]

§ 1-1. Short title. This Act may be cited as the Home Inspector License Act.

[S.H.A. 225 ILCS 441/1-5]

§ 1-5. Legislative intent. The intent of the General Assembly in enacting this Act is to evaluate the competency of persons, including any entity, engaged in the home inspection business and to regulate and license those persons engaged in this business for the protection of the public.

[S.H.A. 225 ILCS 441/1-10]

§ 1-10. Definitions. As used in this Act, unless the context otherwise requires:

“Applicant” means a person who applies to OBRE for a license under this Act.

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Additions are indicated by underline; deletions by ~~strikeout~~

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CLERK'S CERTIFICATE

I, Sandra Sokol, Village Clerk of the Village of Oak Park, in the County of Cook and the State of Illinois, do hereby certify that the annexed and foregoing are true and correct excerpts from The Code of the Village of Oak Park, Illinois. Said excerpts are as follows: Chapter 27 relating to Weapons; Chapter 8 Article 4B relating to Business Licensing - Pawnbrokers; Chapter 15 Article 10 relating to Traffic – Towing, Immobilization and Impoundment of Unlawfully Parked Motor Vehicles or Motor Vehicles Containing Unlawful Firearms; Chapter 19 Article 2 relating to Police Department – Special Police; and Chapter 19 Article 3 relating to Miscellaneous Provisions.

I do further certify that the complete document entitled The Code of the Village of Oak Park, Illinois is maintained in the Office of the Village Clerk and is available for public inspection.

IN WITNESS WHEREOF I have set my hand and affirmed the seal of said Village of Oak Park this 11th day of October, 2001.


SANDRA SOKOL
Village Clerk

(seal)

ARTICLE 1

FIREARM SALE OR RENTAL

SECTION:

- 27-1-1: Definitions
 27-1-2: Sale or Rental of Firearms
 27-1-3: License to Deal in Firearms; Required
 27-1-4: License to Deal in Firearms; Application
 27-1-5: License to Deal in Firearms; Fee and Issuance
 27-1-6: Register of Sales and Rentals

27-1-1: **DEFINITIONS:** For the purposes set forth in Chapter 27 of the Village Code, the following words and phrases shall have the meanings, and are hereby defined, as follows:

AMMUNITION: Any self-contained cartridge, shot, bullet or projectile by whatever name known, which is designed to be used, or adaptable to use, in a weapon and shot or discharged therefrom.

ANTIQUE FIREARM: Any firearm manufactured on or before 1898 or any replica thereof, if such replica is not designed or redesigned for using and discharging ammunition, and any other firearm which, although designed as a weapon, the Department of Law Enforcement of the State of Illinois finds, by reason of the date of its manufacture, value, design and other characteristics is primarily a collector's item that is not likely to be used as a weapon.

ASSAULT AMMUNITION FEEDING DEVICE: A. Any magazine, belt, drum, feed strip or similar device that has a capacity of, or can be readily restored or converted to accept, more than ten (10) rounds of ammunition; or

B. Any combination of parts from which a device described in the above clause can be assembled.

ASSAULT WEAPON:

A. Any of the weapons (or types, replicas, or duplicates in any caliber of the weapons, regardless of manufacturer) known as:

A.A. Arms AP-9
 Algimec Agmi
 Armalite AR-180
 Australian Automatic Arms SAP Pistol
 Australian Automatic Arms SAR
 Auto-Ordinance Thompson type
 Avtomat Kalashnikov AK-47 type (including all models of the Norinco, Mitchell and Poly Tech)
 Barrett Light-Fifty model 82A1
 Beretta AR-70 (SC-70)
 Beretta BM-59
 Bushmaster Auto Rifle and Auto Pistol
 Calico models M-900, M-950 and 100-P
 Chartered Industries of Singapore SR-88
 Claridge High Tech
 Colt AR-15 and Sporter
 Daewoo K-1, K-2, Max-1 and Max-2
 Encom MK-IV, MP-9 and MP-45
 Fabrique Nationale FN/FAL, FN/LAR or FN/FNC
 FAMAS MAS 223
 Feather AT-9 and Mini-AT
 Federal XC-900 and XC-450
 Franchi SPAS-12 and LAW-12
 Galil AR and ARM
 Heckler & Koch HK-91, HK-93, HK-94, PSG-1, SP-89
 Holmes Mp-83
 Intratec TEC-9, TEC-DC-9, TEC-22 and Scorpion
 Iver Johnson Enforce Model 3000
 Iver Johnson PM30 Paratrooper
 M14S type
 MAC 10, M-10, MAC-11 and MAC-11 Carbine type

Ruger Mini-14/5F (folding stock only) and Mini-14/5RF
Scarab Skorpion
SIG 57 AMT, SIG 550SP, SIG 551SP, SIG PE-57 types and 500 series
Spectre Auto Carbine and Auto Pistol
Springfield Armory BM59, SAR-48 and G-3
Sterling MK-6 and MK-7 and SAR types
Stevr AUG
Street Sweeper and Striker 12 revolving cylinder shotguns
SWD M-10, M-11, M-11/9, M-12
Valmet M63, M71S, M76 or M78
USAS-12
UZI Carbine, Mini-Carbine and Pistol
Weaver Arms Nighthawk
Wilkinson "Linda" Pistol

B. Any semi-automatic rifle that has a fixed magazine that can hold more than eight (8) rounds or an ability to accept a detachable magazine and has at least two (2) of the following:

1. A folding or telescoping stock;
2. A pistol grip that protrudes beneath the action of the weapon and which is separate and apart from the stock;
3. A bayonet mount;
4. A flash suppressor;
5. A barrel with a threaded muzzle;
6. A grenade launcher.

C. Any semi-automatic pistol that has an ability to accept a detachable magazine and has at least two (2) of the following:

1. An ammunition magazine that attaches to the pistol outside of the pistol grip;

- 2. A barrel having a threaded muzzle;
- 3. A shroud that is attached to, or partially or completely encircles the barrel and which permits the shooter to hold the firearm with the no-trigger hand without being burned;
- 4. A manufactured weight of fifty (50) ounces or more when the pistol is unloaded;
- * 5. A semi-automatic version of an automatic firearm.

D. Any semi-automatic shotgun that has either a fixed magazine with a capacity in excess of five (5) rounds or an ability to accept a detachable magazine and, in addition, has at least one of the following:

- 1. A folding or telescoping stock;
- 2. A pistol grip that protrudes beneath the action of the firearm and which is separate and apart from the stock.

FIREARMS:

For the purpose of this Article firearms are: pistols, revolvers, guns and small arms of a size and character that may be concealed on or about the person, commonly known as hand-guns.

LICENSED FIREARM COLLECTOR:

Any person licensed as a collector by the Secretary of the Treasury of the United States under and by virtue of title 18, United States Code, section 923; provided however, that a copy of said license is filed with the Chief of Police.

LICENSED GUN DEALER:

Any person engaged in the business of selling or renting firearms who is licensed as such pursuant to Section 27-1-5 of this Article.

PEACE OFFICER:

Any person appointed by a governmental agency on a full time basis as a law enforcement

official who is vested by law within the said governmental jurisdiction with all the powers possessed by police officers, including the power to make arrests on view of or under warrants for violations of State statutes and Village and County ordinances.

WEAPONS:

For the purpose of this Article weapons are: firearms, assault weapons, rifles, shotguns or other arms designed to discharge ammunition. (Ord. 1994-0-66, 10-17-94; amd. Ord. 1995-0-21, 4-3-95)

27-1-2: SALE OR RENTAL OF FIREARMS: It shall be unlawful to sell, loan, rent or give away any firearms, assault weapons or assault ammunition feeding devices in the Village, except to the following:

- A. Peace officers;
- B. Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of a criminal offense;
- C. Sheriffs and deputy sheriffs;
- D. Members of the organized militia. (Ord. 1994-0-66, 10-17-94)

27-1-3: LICENSE TO DEAL IN FIREARMS; REQUIRED: It shall be unlawful for any person to engage in the business of selling or renting, or for any dealer to sell, exchange, rent, loan or give away, or for any individual to sell, exchange, rent or loan to any person, any "firearm" as defined in Section 27-1-1 of this Code, without securing a license for said dealings. (Ord. 1984-0-10, 4-16-84)

27-1-4: LICENSE TO DEAL IN FIREARMS; APPLICATION: Any dealer, desiring a license to sell or rent firearms, shall make annual application to the Village Clerk providing the following information:

- A. The full name and address of the applicant; or if a corporation, the name thereof and its principal officers and their addresses;

appointed under Section 19-2-2 of this Code; provided, however, that this exemption shall apply to the carrying of a weapon only while one is actually engaged in the performance of the duties of his/her employment or while commuting between his/her home and place of employment; and provided further that said security guards are in full compliance with appropriate provisions of subsection (a)(4) of section 24-2 of the Illinois Criminal Code and other applicable laws and that said "special police" are in full compliance with Sections 19-2-1 through 19-2-4 of this Code and other applicable laws;

- E. Agents and investigators of the Illinois Crime Investigating Commission authorized by the Commission to carry weapons; provided, however, that this exemption shall apply to the carrying of a weapon only while one is on duty in the course of any investigation for the Commissioner;
- F. Manufacture, transportation or sale of weapons to persons authorized under law to possess such; (Ord. 1994-0-66, 10-17-94)
- G. Duly authorized military or civil organizations while parading, with the special permission of the Governor;
- H. Licensed hunters or fishermen while commuting to or from established game areas; provided, however, that this exemption shall not apply to the possession or carrying of "firearms" as defined in Section 27-1-1 of this Code;
- I. Transportation of weapons broken down in a nonfunctioning state and not immediately accessible; provided, however, that the transportation of firearms and/or assault weapons must not originate or terminate within the Village to qualify as an exception to this Section;
- J. Antique firearms;
- K. Licensed firearm collectors;
- L. Members of established theater organizations located in Oak Park and performing a regular performance schedule to the public, utilizing only blank ammunition in the discharge of weapons only during rehearsals, classes or performances; provided further that said organization maintains possession and control over these weapons in a safe place with a designated member of the organization when the weapons are not in use;

M. No person who, prior to the effective date of this Section, was legally in possession of an assault weapon or assault ammunition feeding device prohibited by this Section, for ninety (90) days from the effective date of this Section. Such person shall have ninety (90) days from the effective date hereof; to do any of the following without being subject to prosecution hereunder:

1. Remove the assault weapon or assault ammunition from within the limits of the Village;

2. Modify the assault weapon either to render it permanently inoperable or to permanently make it a device no longer defined as an "assault weapon";

3. Surrender the assault weapon or assault ammunition feeding device to the Chief of Police or his designee for appropriate disposal.

Any weapon carried pursuant to the exemptions F through I shall be carried unloaded, and anyone possessing a firearm pursuant to exemptions J and L shall not possess or carry any ammunition therefor. (Ord. 1994-0-66, 10-17-94; amd. Ord. 1995-0-21, 4-3-95)

ARTICLE 3

FIRING OF WEAPONS

SECTION:

27-3-1: Firing Of Weapons Prohibited; Exceptions

27-3-1: **FIRING OF WEAPONS PROHIBITED; EXCEPTIONS:** No person, other than a peace officer, shall be permitted to fire or discharge any firearm, rifle, shotgun, air pistol, spring gun, spring pistol, bow or other device which is calculated or intended to propel or project a bullet, pellet, pointed arrow or similar projectile in the Village, except: 1) arrows may be propelled on a range supervised by the Board of Education or Park District of the Village; and 2) weapons utilizing only blank ammunition may be discharged by members of established theatre organizations located in Oak Park and performing a regular performance schedule to the public and using such weapons only during rehearsals, classes or performances. (Ord. 1995-0-21, 4-3-95)

ARTICLE 4

PENALTIES

SECTION:

- 27-4-1: Fine and/or Imprisonment Upon Conviction; Confiscation of Weapon
- 27-4-2: Voluntary Delivery to Police Department
- 27-4-3: Disposition of Weapons
- 27-4-4: Impoundment of Motor Vehicle Containing Unlawful Weapons

27-4-1: FINE AND/OR IMPRISONMENT UPON CONVICTION;
CONFISCATION OF WEAPON:

- A. Except as set forth in Section 27-4-4 below, any person who violates any of the sections of this Chapter shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars (\$1,000.00) for the first offense and not more than two thousand dollars (\$2,000.00) for any subsequent offense.
- B. In any prosecution brought to enforce the provisions of Article 2 or 3 of this Chapter, the prosecution need not negate any exemptions contained therein, and the defendant shall have the burden of proving that any exemption applies.
- C. Upon conviction of any violation of Article 2 or 3 of this Chapter, any weapon involved shall be confiscated by the trial court and, when no longer needed for evidentiary purposes, the court may transfer such weapon to the Oak Park Police Department which shall destroy them in accordance with Section 27-4-3 of this Code. (Ord. 1994-0-77, 11-21-94)

27-4-2: VOLUNTARY DELIVERY TO POLICE DEPARTMENT: If a person voluntarily and peaceably delivers and abandons to the Oak Park Police Department any weapon, such delivery shall preclude the arrest and prosecution of such person on a charge of violating any

provision of this Chapter with respect to the weapon voluntarily delivered. Delivery under this Section may be made at the headquarters of the Police Department or by summoning a police officer to the person's residence or place of business. Every weapon to be delivered and abandoned to the Police Department under this paragraph shall be unloaded and securely wrapped in a package and in the case of delivery to the police headquarters, the package shall be carried in open view. No person who delivers and abandons a weapon under this Section shall be required to furnish identification, photographs or fingerprints. No amount of money shall be paid for any weapon delivered or abandoned under this paragraph. Whenever any weapon is surrendered under this Section, the Police Department shall inquire of all law enforcement agencies whether such weapon is needed as evidence and if the same is not needed as evidence, it shall be destroyed in accordance with Section 27-4-3 of this Code. (Ord. 1984-0-10, 4-16-84)

27-4-3: DISPOSITION OF WEAPONS: All weapons ordered confiscated by the court under the provisions of Section 27-4-1 and all weapons received by the Oak Park Police Department under and by virtue of Section 27-4-2, shall be held and identified as to owner, where possible, by the Oak Park Police Department for a period of two (2) years prior to their being destroyed. (Ord. 1984-0-10, 4-16-84)

27-4-4: IMPOUNDMENT OF MOTOR VEHICLE CONTAINING UNLAWFUL WEAPONS: Any motor vehicle which a police officer has probable cause to believe contains any weapon in violation of Section 27-2-1 shall be subject to seizure and impoundment, and the owner of record, as established by the title records of the Illinois Secretary of State, of said motor vehicle may avoid prosecution and obtain possession of such motor vehicle by paying the minimum penalty amount of five hundred dollars (\$500.00) within fifteen (15) days of the violation, plus all related towing and storage fees. If the vehicle owner, however, requests a court date on the violation within fifteen (15) days of the violation or the fifteen (15) day time period from the date of the violation has elapsed without a request for a hearing from the owner and the Village, at its option, seeks to prosecute the violation in court rather than enforce the minimum penalty administratively, then any fine for said violation shall be determined by the court in accordance with Section 27-4-1 above. A motor vehicle shall not be subject to seizure and impoundment if the motor vehicle was stolen at that time and the theft was reported to the appropriate police authorities within twenty four (24) hours after the theft was discovered or reasonably should have been discovered, or the motor vehicle is operating as a

common carrier and the weapon is brought upon the vehicle without the knowledge of the person in control of the motor vehicle.

- A. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment, pursuant to this Section, the police officer shall provide for the towing of the vehicle. Before or at the time the vehicle is towed, the police officer shall notify the owner of record in accordance with notification provisions set forth in Chapter 15, Article 10 of the Village Code, and shall notify any person identifying him or herself, if any, 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 seizure and impoundment of the vehicle and of the vehicle owner's right to request a hearing pursuant to Section 15-10-10 of the Village Code.
- B. Owners of motor vehicles towed and impounded pursuant to this Section shall be provided with notice and an opportunity for a hearing in accordance with the procedures set forth in Chapter 15, Article 10 of the Village Code relating to the immobilization or towing and impoundment of motor vehicles, except that the following provisions shall be in addition to and shall take precedence over conflicting provisions in Chapter 15, Article 10 of the Village Code in all instances in which a motor vehicle is towed and/or impounded pursuant to this Section, based upon a police officer having probable cause to believe that a motor vehicle contains an unlawful weapon in violation of Section 27-2-1 of this Chapter:
1. At any time within the fifteen (15) day time period following the violation, the owner may request a court date in the Circuit Court of Cook County to obtain a judicial determination on the sole issue of whether or not the owner transported or permitted to be transported unlawful weapons in his or her vehicle in violation of Section 27-2-1 of this Chapter.
 2. If fifteen (15) days has elapsed from the date of the violation and the owner has failed to request a hearing, the Village may, at its option, administratively enforce the minimum penalty of five hundred dollars (\$500.00) against the owner in the manner set forth hereinbelow or it may choose to prosecute the violation in the Circuit Court and seek to enforce any judgment in the manner specified herein.
 3. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle contained an unregistered firearm or a firearm not broken down in a

nonfunctioning state and/or easily accessible and that none of the exceptions described in subsections 27-2-1A through M of this Chapter applies, the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the Village for an administrative penalty in the amount of five hundred dollars (\$500.00). 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 penalty in the amount of five hundred dollars (\$500.00). If the hearing officer finds at the conclusion of the hearing that no such violation occurred or that there is a court order which has determined that no violation occurred, then the hearing officer shall order the immediate return of the owner's vehicle or cash deposit. For purposes of this Section, it shall constitute permission of the owner to transport illegal weapons in the owner's vehicle if the vehicle in which the weapon was being transported was in the possession and control of the person permitted to be in possession and control of the vehicle by the owner at the time of the violation.

4. If an administrative penalty is imposed pursuant to this Section, such penalty shall constitute a debt due and owing to the Village. If a cash deposit has been posted pursuant to this Section, the deposit shall be applied to the penalty. If a vehicle has been impounded when such a penalty 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 otherwise provided in this Section, a vehicle which has been properly impounded in accordance with this Section shall remain impounded until: 1) the penalty, 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 penalty and applicable fees are not paid within thirty (30) days after a penalty is imposed hereunder against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the penalty and applicable fees are not paid within thirty (30) days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within thirty (30) days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles.

5. Except as otherwise provided by law, no owner, lienholder or other person shall be legally entitled to take possession of a vehicle impounded under this Section until the civil penalty and fees applicable under this Section 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, up to five hundred dollars (\$500.00), plus the applicable fees.

6. Any final decisions rendered by the hearing officer under this Section shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, 735 Illinois Compiled Statutes, 5/3-101 et seq., as amended, and rules adopted pursuant thereto. (Ord. 1994-0-77, 11-21-94)

ARTICLE 5

MISCELLANEOUS PROVISIONS

SECTION:

- 27-5-1: Construction
27-5-2: Rules and Regulations
27-5-3: Severability

27-5-1: **CONSTRUCTION:** Nothing in this Chapter shall be construed or applied to necessarily require or excuse noncompliance with any provisions of the laws of the State of Illinois or the laws of the United States. This Chapter and the penalties prescribed for violation hereof, shall not supersede, but shall supplement all Statutes of the State of Illinois or of the United States in which similar conduct may be prohibited or regulated. (Ord. 1984-0-10, 4-16-84)

27-5-2: **RULES AND REGULATIONS:** The Chief of Police shall have the authority to promulgate rules and regulations necessary or appropriate to carry out the provisions of this Chapter and to protect the public health, safety and welfare. (Ord. 1984-0-10, 4-16-84)

27-5-3: **SEVERABILITY:** If any provisions of this Chapter or the application thereof to any person or circumstance is held invalid, the remainder of this Chapter and the applicability of such provision to any other persons not similarly situated or to other circumstances shall not be affected thereby. (Ord. 1984-0-10, 4-16-84)

ARTICLE 4B

PAWNBROKERS

SECTION:

- 8-4B- 1: Definitions
- 8-4B- 2: License Administrator
- 8-4B- 3: License Required
- 8-4B- 4: Application For Licenses
- 8-4B- 5: Restrictions On Licenses
- 8-4B- 6: License Conditions
- 8-4B- 7: Maintenance Of Records
- 8-4B- 8: Report To Police
- 8-4B- 9: Inspection Of Records
- 8-4B-10: Removal Of Identifying Marks Prohibited
- 8-4B-11: Video Camera Surveillance Required
- 8-4B-12: Hours Of Business
- 8-4B-13: Sales And Redemptions Regulated
- 8-4B-14: Prohibited Pledges Or Purchases
- 8-4B-15: Violation Penalty

8-4B-1: **DEFINITIONS:** The following words and phrases shall have the meanings and are hereby defined as follows:

PAWNBROKERS: A "pawnbroker" is any person who lends money on deposit or pledge of physically delivered personal property, or who deals in the purchase of personal property on condition of selling the same back at a stipulated price, or who publicly displays at his or her place of business the sign generally used by pawnbrokers to denote the pawnbroker business, or who publicly displays a sign which indicates, in substance, a business on the premises which "loans money for personal property, or deposit or pledge". The business of a pawnbroker shall not include the lending of money on deposit or pledge of title to property.

**SECONDHAND
PROPERTY:**

Any previously owned audio-video equipment, compact disc, audio or video tapes or recordings, camera, computer hardware, jewelry made of precious metal or stone, article made of precious metal, precious stone or gem, watch, equipment, machine, tool or device. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98; amd. Ord. 1998-0-39, 7-6-98, eff. 7-1-98)

8-4B-2: LICENSE ADMINISTRATOR:

- A. **Chief Of Police To Serve:** The Chief of Police shall be the pawnbroker license administrator and shall be charged with the administration within the Village of the appropriate provisions of this Article.
- B. **Powers And Duties:** The Chief of Police shall have the following powers, functions and duties with respect to pawnbrokers' licenses:
1. To investigate and review all applications, renewals and complaints; investigate operations of all licensed establishments; conduct hearings; receive evidence and sworn testimony; and to authorize the issuance of all pawnbroker licenses.
 2. To reject license applications, suspend or revoke for cause all local licenses issued to persons for premises within his jurisdiction. The violation of any of the provisions of this Article by such licensee or applicant shall be deemed to be sufficient cause for suspension hereunder. A licensee knowingly, recklessly, or repeatedly violating any of the provisions of this Article or any rules promulgated hereunder or knowingly submitting materially false or misleading documents hereunder shall be deemed to be sufficient cause for revocation hereunder.
 3. To enter or to authorize any law enforcement officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Article or the statutes of the State have been or are being violated, and at such time to examine said premises, every article or other thing of value pawned or pledged, and books and records of said licensee in connection therewith.

4. To receive complaints that any of the provisions of this Article, any rules or regulations adopted pursuant hereto, or statutes of the State, have been or are being violated and to act upon such complaints in the manner herein provided.

5. To receive local license fees and pay same forthwith to the Village Finance Director.

6. To keep or cause to be kept a complete record of all such licenses issued by the Village Board. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-3: LICENSE REQUIRED: No person shall own or operate within the Village any pawnbroker's establishment, without first obtaining a license therefor as hereinafter provided.

Each such license shall terminate one year from the date of issuance. Any licensee may renew his or her license at the expiration thereof, provided the applicant is then qualified to receive a license and the premises for which such renewal license is sought is suitable for such purpose; provided further, that the renewal privilege herein provided for shall not be construed as a vested right which shall, in any case, prevent the Board from decreasing the number of licenses to be issued within its jurisdiction.

No more than four (4) such pawnbroker licenses shall be in force at any one time.

No pawnbroker shall conduct the business of a secondhand dealer, buying and selling secondhand property, without having obtained the license required for such dealer in addition to his or her pawnbroker's license. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-4: APPLICATION FOR LICENSES: Applications for such license shall be made to the Chief of Police, in writing, signed by the applicant if an individual, or by a duly sworn agent thereof if a corporation, verified by oath or affidavit, and shall contain the following statements and information:

- A. The name, age, date of birth, and address of the applicant, in the case of an individual; in the case of a partnership, the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, a summary of its activities during the past year, and the

- names and addresses of the officers, directors, all persons owning directly or beneficially more than five percent (5%) of the stock of such corporation, and the person(s) managing the premises.
- B. A detailed description of the business of the applicant, and, in the case of a corporation, the objects for which it was formed.
 - C. The length of time said applicant has been in this type of business, or in the case of a corporation, the date when its charter was issued and a copy of the charter.
 - D. The location and description of the premises or place of business which is to be operated under such license, including security devices and systems which will be installed on the premises.
 - E. A statement whether the applicant has made application for a similar or other license on premises other than described in the application, and the disposition of such application.
 - F. A statement that the applicant is not disqualified to receive a license by reason of any matter or thing contained in this Article, laws of the State, or the ordinances of the Village, and a statement as to whether the applicant has ever been convicted of any felony, theft, burglary or possession of stolen property or any other criminal offense relating to dishonesty or breach of trust in connection with the operations of a pawnshop.
 - G. Whether a previous license issued by any state, or subdivision thereof, has been revoked, and the reasons therefor.
 - H. A statement that the applicant will not violate any of the laws of the State or any ordinances of the Village in the conduct of his place of business.
 - I. The application for a license shall be accompanied by the license fee, the amount of which is set forth in Article 2 of this Chapter and which sum shall be paid in full by the applicant to the Chief of Police or the Chief's designee who shall then forward said fee to the Finance Director for licensing such business for the term or period of one year upon granting of such license by the Village Board.
 - J. Each applicant for a license under the provisions of this Article shall execute to the Village a bond in the penalty amount of ten thousand dollars (\$10,000.00), conditioned on the due observance of all

ordinances of the Village respecting pawnbrokers during the effective period of such license. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-5: RESTRICTIONS ON LICENSES: No such license shall be issued to:

- A. A person who is not of good character and reputation in the community in which he or she resides.
- B. A person who has been found guilty of a felony under any Federal or state law or of the offense of theft, burglary, possession of stolen property or of any violation of the pawnbroker's provisions of this Code.
- C. A person whose license under this Article has been revoked for cause.
- D. A person who, at the time of application for renewal of any license issued hereunder, would not be eligible for such license under a first application.
- E. A copartnership, unless all of the members of such copartnership shall be qualified to obtain a license.
- F. A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning directly or beneficially in the aggregate more than five percent (5%) of the stock of such corporation, would not be eligible to receive a license hereunder for any reason.
- G. A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee.
- H. A person who does not own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is issued.
- I. Any elected public official, or an employee of the Village or an appointee to any board or commission of the Village, which employee or appointee is charged with the responsibility of administering or enforcing this Article.

- J. A person who is not a beneficial owner of the business to be operated by the licensee. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-6: LICENSE CONDITIONS:

- A. **Transfer Of License:** A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as in this Article provided, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license will cease upon the death of the licensee and shall not descend by laws of testate or intestate devolution.
- B. **Change In Personnel:**
1. Any changes in partnerships, officers, directors, persons holding directly or beneficially more than five percent (5%) of the stock or ownership interest, or managers of establishments licensed under this Article, shall be reported, in writing, to the Chief of Police within ten (10) days of the change. All new personnel shall meet all of the standards of this Article and must otherwise qualify to hold a pawnbroker's license. All such changes in personnel shall be subject to review by the Chief of Police.
 2. When a license has been issued to a partnership and a change of ownership occurs resulting in a partnership interest by one who is not eligible to hold a pawnbroker's license, said license shall terminate.
 3. When a license has been issued to a corporation and a change takes place in officers, directors, shareholders of more than five percent (5%) of the stock, or managers, resulting in the holding of office or such shares of stock by one who is not eligible for a license, said license shall terminate.
 4. When a license has been issued to an individual who is no longer eligible for a license, said license shall terminate.
 5. When a licensee ceases to operate and closes its business premises, said license shall terminate.
- C. **Maximum Number Of Authorized Licenses:** When a license terminates, as set forth in subsection 8-4B-6A or 8-4B-6B of this

Section, the maximum number of licenses authorized to be in force, pursuant to Section 8-4B-3 of this Article, shall be reduced by one for each license so terminated.

- D. **Change Of Location:** A pawnbroker's license shall permit operation of a pawnbroker's establishment only on the premises described in the application and license. No change of location shall be permitted unless the proposed new location is a proper one for operation of a pawnbroker's establishment under the laws of this State and the ordinances of the Village. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-7: MAINTENANCE OF RECORDS:

- A. Each such licensee shall keep a book in which there shall be typed or printed in ink at the time of each loan a legible and accurate description in the English language of the goods, articles or things pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the person pawning or pledging the said goods, articles or things. No entry made in such book shall be erased, obliterated or defaced. For purposes of this Section, the phrase "typed or printed in ink" may include a computer form approved by the Chief of Police.
- B. The description of each musical instrument, camera, appliance or machine of any type shall include: the brand name; the model number, if available; any serial number or other identification number installed by the manufacturer; and a description of every other identifying marking, such as an inscription, a social security number, a name, nickname or address appearing on the item. The description of each watch shall include: the brand name; model number, if available; a description of the metal or metals of its composition; a description of the band, if any; a description of the face by number, color, cut, shape and type of stone or stones, if any; and a description of any inscriptions appearing on the watch. The description of each item of jewelry shall include the type; a description of the metal or metals of its composition; the type, shape and cut of each stone; and a description of all inscriptions. Each ring shall also be identified by ring size. In addition, each watch and item of jewelry shall be photographed in color in such a manner that the photograph clearly and accurately depicts the watch or item of jewelry photographed and that such photograph shall be developed and made a part of the pawnbroker's permanent record before the pawnbroker shall be permitted to sell such item.

- C. The description of each person who pawns or pledges shall consist of the person's name, residence, address, birth date, social security number, weight, height and gender. If the person has no social security number, the licensee shall record this fact.
- D. Every pawnbroker shall require two (2) forms of identification to be shown to him or her by each person pledging or pawning any goods, articles or other things to the pawnbroker. At least one of the two (2) forms of identification must list the person's name and residence address. Except as provided in subsection 8-4B-7E of this Section, at least one of the two (2) forms of identification must be a photographic identification, issued by a Federal, state or local governmental entity. Forms of identification may include, but are not limited to: a state driver's license, a state identification card, a passport, a military identification card or a credit card or utility bill.
- E. If the customer does not have a photographic identification card issued by a Federal, state or local governmental entity, the licensee shall photograph the customer. The photograph shall be in color. On the reverse side of the photograph, the licensee shall record the date the photograph was taken, the person taking the photograph, the customer's name, residence address, date of birth, social security number, gender, height and weight. If the customer has no social security number, the licensee shall record this fact. Two (2) forms of identification shall also be required. At least one of the two (2) forms of identification shall list the person's name and residence address.
- F. Whenever any such licensee shall buy any article of secondhand property or sell any item of personal property, the information with regard to the secondhand property purchased by the licensee and the ultimate purchaser of such property from the licensee shall be recorded in the same manner as a pledge, and said record shall show all information required for a pawn or pledge. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-8: REPORT TO POLICE:

- A. It shall be the duty of every such licensee to make out and deliver to a location or locations designated by the Chief of Police every day, before the hour of twelve o'clock (12:00) noon, a legible and correct copy from the books required in Section 8-4B-7 of this Article of all personal property and other valuable things received on deposit, and all articles of secondhand property purchased during the preceding

day, setting forth the hour when received and the description of the person by whom left in pledge or sold.

- B. The photographs required under Section 8-4B-7 of this Article shall not be included in the records delivered to the Chief of Police, but shall remain available for inspection and duplication by the Police Department. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-9: INSPECTION OF RECORDS: The said book, the photographs required under Section 8-4B-7 of this Article, and every article or other thing of value pawned or pledged, or any article of secondhand property obtained through purchase or exchange, shall at all times during the licensee's business hours be open to the inspection of the Chief of Police, or any member of the police force or any investigator authorized by the Police Chief. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-10: REMOVAL OF IDENTIFYING MARKS PROHIBITED: No licensee shall remove, alter or obliterate any manufacturer's make, model or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased or received in pledge until such time that the licensee becomes the legal owner of the property. In addition, an item shall not be accepted for pledge or purchase where the manufacturer's make, model or serial number, personal identification number or identifying marks engraved or etched upon an item of personal property has been removed, altered or obliterated. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-11: VIDEO CAMERA SURVEILLANCE REQUIRED: As of October 31, 1998, each pawnbroker shall be required to install, operate and maintain a video camera surveillance system capable of recording clear and unobstructed photographic representations of his or her customers and shall retain the video tape recordings produced therefrom for at least thirty (30) days. Said video tape recordings shall be subject to inspection and copying by the police during normal business hours. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-12: HOURS OF BUSINESS: No such licensee shall receive on deposit or pledge any personal property or other valuable thing, or shall buy any article of secondhand property before the hour of six

o'clock (6:00) A.M. or after the hour of nine o'clock (9:00) P.M. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-13: SALES AND REDEMPTIONS REGULATED:

- A. It shall be unlawful for any pawnbroker to charge or collect a greater benefit or percentage upon money advanced, and for the use and forbearance thereof, than the rate of three percent (3%) per month. Nothing in this Section shall be construed so as to conflict with the law pertaining to usury, and the person receiving money so advanced may hold such monies to pay any fees in addition to interest as herein provided.

Each pawnbroker, when making a loan under this Section, must disclose, in printed form on the pawn contract, the following information to the persons receiving the loan:

1. The amount of money advanced, which must be designated as the amount financed;
2. The maturity date of the pawn, which must be at least thirty (30) days after the date of the pawn;
3. The total pawn interest and the total service charge payable on the maturity date, and the total of both which must be designated as the finance charge;
4. The total of payments that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments; and
5. The annual percentage rate, computed according to the regulations adopted by the Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act.

Each pawnbroker may contract for and receive a monthly finance charge, including interest and fees, not to exceed one-fifth ($\frac{1}{5}$) of the loan amount, as set forth herein, for appraising, investigating title, storing and insuring the collateral, closing the loan, making daily reports to local law enforcement officers, including enhanced computerized reporting, complying with regulatory requirements and for other expenses and losses of every nature whatsoever and for all other services. Such fees, when made and collected, shall not be deemed interest for any purpose of law.

- B. No personal property received on deposit or pledge by any such licensed pawnbroker shall be sold or permitted to be redeemed or removed from the place of business of such licensed pawnbroker for the period of two (2) business days, excluding Saturdays, Sundays and holidays, after the copy and statement to be delivered to the Chief of Police shall have been delivered as required by this Article.
- C. If the pawner or pledger fails to repay the loan during the period specified on the pawn ticket, the pawnbroker shall automatically extend a grace period of thirty (30) days from the default date on the loan during which the pawnbroker shall not dispose of or sell the personal property pledged. The parties may agree to extend or renew a loan upon terms agreed upon by the parties, provided the terms comply with the requirements of this Article.
- D. No article of secondhand property purchased by any such licensed pawnbroker shall be sold or removed from the place of business of such licensed pawnbroker for the period of thirty (30) calendar days after the copy and statement to be delivered to the Chief of Police shall have been delivered as required by this Article.
- E. Every pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things, a memorandum or note, signed by him or her, containing an identifying pledge number and the substance of the entry required to be made in his or her book by Section 8-4B-7 of this Article, and no charge shall be made or received by any pawnbroker, loan broker or keeper of a loan office for any such entry, memorandum or note.
- F. Every pawnbroker, during business hours, upon the request of any pledger presenting the memorandum herein provided for, or upon the request of any assignee or transferee thereof presenting such memorandum, shall exhibit to such person the article pledged and described in such memorandum. Each article pledged shall have attached thereto a tag with the pledge number, the time when said pledge was obtained and the amount of said pledge. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-14: PROHIBITED PLEDGES OR PURCHASES:

- A. No such licensee shall take or receive in pawn or pledge for money loaned or shall buy any property from a minor, or shall so take, receive or buy any such property, the ownership of which is in, or

which is claimed by any minor, or which may be in the possession or under the control of any minor.

- B. No such licensee shall take any article in pawn or buy from any person appearing to be intoxicated or under the influence of any drug, nor from any person known to be a thief or to have been convicted of theft, burglary, robbery or possession of stolen property and when any person is found to be the owner of stolen property which has been pawned or bought, and the owner has filed a police report which evidences that ownership, such property shall be returned to the owner thereof without the payment of the amount advanced by the pawnbroker thereon or any costs or charges of any kind which the pawnbroker may have placed upon the same.
- C. No pawnbroker shall receive as a pledge, purchase, or sell, or keep on the business premises for any reason any pistol, revolver, sawed-off shotgun, derringer, bowie knife, blackjack, dirk or other weapon of like character which can be concealed on the person. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

8-4B-15: **VIOLATION PENALTY:** Any person violating any of the provisions of this Article shall be fined not less than one thousand dollars (\$1,000.00) for each offense. Each violation in regard to a separate transaction shall constitute a separate and distinct offense. (Ord. 1998-0-32, 6-15-98, eff. 7-1-98)

ARTICLE 10

**TOWING, IMMOBILIZATION AND IMPOUNDMENT
OF UNLAWFULLY PARKED MOTOR VEHICLES OR
MOTOR VEHICLES CONTAINING UNLAWFUL FIREARMS**

SECTION:

- 15-10- 1: Authorization
- 15-10- 2: Towing Without Notice
- 15-10- 3: Immobilization With Prior Notice of Inclusion on the
Immobilization List
- 15-10- 4: Towing of Unlawfully Parked Vehicles; Prior Notice Situations
- 15-10- 5: General Notice Provisions
- 15-10- 6: Hearing Procedures Prior to Towing or Placement on the
Immobilization List of Motor Vehicles
- 15-10- 7: Pre-Tow or Pre-Immobilization List Hearing
- 15-10- 8: Recovery of Towed or Immobilized Motor Vehicles
- 15-10- 9: Posting of Notification of Right to Post-Tow, and
Post-Immobilization Hearing
- 15-10-10: Request for Post-Tow or Post-Immobilization Hearing
- 15-10-11: Procedures for Post-Tow or Post-Immobilization Hearing
- 15-10-12: Scheduling of Post-Tow or Post-Immobilization Hearings
- 15-10-13: Hearings
- 15-10-14: Disposition of Unclaimed Vehicles
- 15-10-15: Police Reports After Vehicle Reclaimed
- 15-10-16: Maintenance of Records
- 15-10-17: Authority to Remove or Relocate Vehicles in Emergencies
and in Temporary Situations
- 15-10-18: Responsibility for Costs Not Recovered
- 15-10-19: Towing Service Operator Subject to Ordinance Provisions

15-10-1: **AUTHORIZATION:** The towing or immobilization of motor vehicles by the Village of Oak Park or its contractor shall be authorized only by the Village of Oak Park Police Department and only under the circumstances provided in this Article, in the Illinois Vehicle Code, 625 Illinois Compiled Statutes or in Section 27-4-4 of the Village

Code relating to the impoundment of a motor vehicle containing an unlawful weapon; except that the Village Manager and the Chief of the Fire Department or their designees are hereby authorized to enforce the provisions of this Article in emergency situations which, for purposes of this Article, shall be defined as any situation which adversely affects or threatens the health, safety, welfare or property of the residents of the Village. (Ord. 1994-0-77, 11-21-94)

15-10-2: TOWING WITHOUT NOTICE: Motor vehicles may be towed without notice under the following circumstances:

- A. Where a motor vehicle creates a traffic, health or safety hazard on a public street.
- B. Where a motor vehicle is parked in violation of the emergency snow parking regulations of Section 15-1-22 of this Code.
- C. Where a motor vehicle is parked in a public parking lot or in a private parking lot which is posted with proper signage in accordance with 625 Illinois Compiled Statutes 5/4-203(e)(5) without the consent of the lot owner, proprietor or agent of the property, which person has requested that the vehicle be towed.

Within twenty four (24) hours after towing a motor vehicle pursuant to these provisions, a notice shall be sent to the owner of the vehicle as provided in Section 15-10-5. (Ord. 1987-0-71, 9-8-87)

- D. Where a motor vehicle is found to contain an unlawful weapon, pursuant to Section 27-4-1, or a police officer has probable cause to believe a vehicle contains an unlawful weapon, pursuant to Section 27-2-1. (Ord. 1994-0-77, 11-21-94)

15-10-3: IMMOBILIZATION WITHOUT PRIOR NOTICE OF INCLUSION ON THE IMMOBILIZATION LIST: Motor vehicles to which seven (7) or more outstanding parking and/or traffic citations have been issued may be placed on a list of vehicles eligible for immobilization.

Only unlawfully parked motor vehicles which remain on the Police Department list of vehicles eligible for immobilization after the Village has provided proper notice and an opportunity for hearing in accordance with this Article, may be immobilized without further notice by placement of a locking device on the wheel(s) under the following circumstances:

- A. Where no hearing has been requested within seven (7) days of proper notice or a hearing has been held and the placement of the vehicle on the immobilization list is found to have been legally authorized; and
- B. Where there are seven (7) or more outstanding citations for parking and/or traffic violations for which no bond or payment has been received by the Village.

Within twenty four (24) hours after immobilizing a motor vehicle pursuant to this Article, a notice shall be sent to the owner of the motor vehicle as provided in Section 15-10-5 of this Article. (Ord. 1987-0-71, 9-8-87)

15-10-4: TOWING OF UNLAWFULLY PARKED VEHICLES; PRIOR NOTICE SITUATIONS: Motor vehicles may be towed after notice and the affording of an opportunity for a hearing under the following circumstances:

- A. Where the motor vehicle has been abandoned. A motor vehicle shall be deemed to have been abandoned as follows:
 - 1. When the motor vehicle is located on a street or alley within the Village, for ten (10) hours or more, does not display a current State vehicle registration or Municipal vehicle license, and is in a state of disrepair, rendering the vehicle incapable of being driven in its condition;
 - 2. When the motor vehicle is located on a street or alley within the Village, for twenty four (24) hours or more, and although displaying a current State vehicle registration or Municipal vehicle license, is in a state of disrepair, rendering the vehicle incapable of being driven in its condition;
 - 3. When the motor vehicle does not display a current State vehicle registration or Municipal vehicle license, is located on private or public property within the Village, has not been moved or used for at least twenty four (24) hours, and is apparently deserted, except when such vehicle is on the property of the owner or bailee of such vehicle;
 - 4. When the motor vehicle, although displaying a current State vehicle registration or Municipal vehicle license, is located on private or public property within the Village, including on a street or alley, and has not been moved for at least seven (7) consecutive days,

and is apparently deserted, except when such vehicle is on the property of the owner or bailee of such vehicle; and

5. When the motor vehicle has been immobilized by the Village, and proper notice of immobilization has been provided by the Village, and the owner of the vehicle takes no action to appeal the immobilization or satisfy the charges, fees and penalties related to the immobilization within twenty four (24) hours of the immobilization.
- B. A motor vehicle that has been continuously unlawfully parked in excess of twenty four (24) hours.
- C. An inoperable, unregistered, or discarded motor vehicle, regardless of title, having lost its character as a substantial property and left unattended without justification on the owner's land. (Ord. 1987-0-71, 9-8-87)
- D. For violation of other prescribed regulations and ordinances of the Village of Oak Park or of the State of Illinois, including Section 27-2-1 of the Village Code. (Ord. 1994-0-77, 11-21-94)

15-10-5: GENERAL NOTICE PROVISIONS: Notice as required pursuant to this Article shall be forwarded 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 Illinois Motor Vehicles. In the event that an out-of-state motor vehicle has been or will be towed; or placed on the immobilization list, written inquiry shall be made of the Secretary of State of the particular jurisdiction for the furnishing of the most current registered name and address of the owner of the motor vehicle and notice shall be mailed as provided herein to the address furnished. In no case, however, will the Village be required to delay towing or immobilization more than seven (7) days after the inquiry mailing date or be required to delay proceedings for the disposal of an unclaimed motor vehicle, pursuant to Section 15-10-14 of this Article, more than thirty (30) days after the inquiry mailing date. The notice in all cases shall specify that the vehicle has either been or will be towed or placed on the immobilization list, as the case may be, the reason or reasons for same, that the owner is entitled to recovery of the vehicle and/or a hearing as the case may be and the procedure for obtaining the vehicle and/or a hearing. The notice shall, if appropriate, further set forth the payment from the owner necessary to satisfy outstanding parking citations. Where notice of an intention to tow a motor vehicle is required prior to towing a notice of intent to tow sticker shall be affixed to the vehicle windshield, specifying the date and time such

notice of intent to tow is affixed, which affixture shall commence the running of any time period required under Section 15-10-4 of this Article prior to towing. The sticker shall also specify the reason for the tow, when the vehicle will be towed, and shall notify the owner of the vehicle that he or she is entitled to a hearing prior to the tow, and the procedure for obtaining such a hearing. The general notice provisions set forth herein above shall not apply in the following situations:

- A. In the case of vehicles which neither display a current State vehicle registration or Municipal vehicle license and are: 1) inoperable and apparently abandoned on a public street or alley within the Village for ten (10) hours or more, 2) located on public or private property other than the property of the owner or bailee and have not been moved for at least twenty four (24) hours and are apparently deserted, or 3) continuously unlawfully parked in excess of twenty four (24) hours, the notice of intent to tow sticker, affixed to the vehicle's front windshield, shall serve as the only notice required prior to towing.
- B. Where a vehicle is apparently inoperable and abandoned on a public street or alley within the Village, or is continuously unlawfully parked for twenty four (24) hours or more, and either displays a current State registration or Municipal vehicle license, the only notice required shall be the affixture of the notice of intent to tow sticker to the vehicle for a minimum of twenty four (24) hours and an attempt to contact the owner by telephone prior to the tow, if the owner's listed phone number is available, or by a visit to the last known resident address of the owner, if such address is within the Village. The Police Department shall perform a search of the State vehicle registration or Municipal vehicle license files to obtain the name and current address of the vehicle owner. The Police Department shall record the date and time of the record search and phone call or other attempted contact and the results thereof and shall maintain that information as a part of the Department's permanent records. (Ord. 1988-0-103, 12-19-88)

15-10-6: HEARING PROCEDURES PRIOR TO TOWING OR PLACEMENT ON THE IMMOBILIZATION LIST OF MOTOR VEHICLES: Where a motor vehicle is to be placed on the immobilization list pursuant to Section 15-10-3 or to be towed pursuant to Section 15-10-4 of this Article, notice prior to the motor vehicle's placement on the immobilization list or prior to towing shall be furnished in accordance with the provisions of Section 15-10-5 hereof. The owner or person entitled to possession of the motor vehicle shall have seven (7) days after the date of

mailing of the notice to request a pre-tow or pre-immobilization list hearing pursuant to this Article, except that a hearing must be requested during the shorter time periods established below for the following situations:

- A. Ten (10) hours from the time of affixing the "notice of intent to tow" sticker for inoperable vehicles which have been abandoned on a public street or alley within the Village for ten (10) hours or more and do not display a current vehicle registration or Municipal license;
- B. Twenty four (24) hours from the time of affixing the "notice of intent to tow" sticker to vehicles which display a current State vehicle registration or current Municipal vehicle license, and: 1) which have been inoperable and abandoned on a public street or alley within the Village for twenty four (24) hours or more, or 2) have been continuously unlawfully parked in excess of twenty four (24) hours; or
- C. Twenty four (24) hours from the time of affixing the "notice of intent to tow" sticker to vehicles not displaying a current registration or license which are: 1) located on public or private property within the Village, other than the property of the owner or bailee, which have not been moved for twenty four (24) hours or more and are apparently deserted, or 2) have been continuously unlawfully parked in excess of twenty four (24) hours;

Subsequent to the expiration of the above stated time period, if no hearing has been requested, the motor vehicle may be towed or immobilized and the provisions of Section 15-10-8 shall become operative and controlling. Requests for a pre-tow or pre-immobilization list hearing are to be made to the Village Manager with hearings to be scheduled in the Village Hall within twenty four (24) hours following the request or at some time prior to the scheduled towing or immobilization, whichever is greater. No vehicle, however, shall be towed or immobilized while a hearing is pending under this Article. (Ord. 1987-0-71, 9-8-87)

15-10-7: PRE-TOW OR PRE-IMMOBILIZATION LIST HEARING: After receiving all relevant evidence, the hearing officer shall make a finding based upon a preponderance of the evidence, as to whether towing of the motor vehicle or placement of the vehicle on the immobilization list is authorized by the laws of the State of Illinois or the ordinances and regulations of the Village of Oak Park. In the event that the preponderance of the evidence supports towing or placement of the vehicle on the immobilization list and compliance with the provisions of this Article,

the hearing officer shall direct that the motor vehicle be towed or be permitted to remain on the immobilization list with any penalties, towing, immobilization and storage costs to then be imposed upon the owner thereof. The owner of said motor vehicle having had such a hearing may subsequently request a further post-tow or post-immobilization hearing only insofar as the propriety of costs imposed thereby. In the event that a pre-tow or pre-immobilization list hearing is not requested by the owner of the motor vehicle, post-tow or post-immobilization hearing procedures pursuant to Section 15-10-11 of this Article are available. Where the preponderance of the evidence fails to support placement of the vehicle on the immobilization list pursuant to Section 15-10-3 or the towing of the motor vehicle pursuant to Section 15-10-4, the hearing officer shall direct that the motor vehicle shall be removed from the immobilization list or that the motor vehicle shall not be towed. (Ord. 1987-0-71, 9-8-87)

15-10-8: RECOVERY OF TOWED OR IMMOBILIZED MOTOR VEHICLES: Before the owner or persons entitled to possession of any legally towed or immobilized vehicle shall be permitted to remove same from the impoundment lot, or have the locking device removed, said person shall furnish to the operator, or to the Chief of Police in the case of immobilization, evidence of his identity and ownership of the vehicle and/or right of possession thereto, shall sign a receipt for the vehicle and shall pay a fee to cover the costs of immobilization or towing to a vehicle pound or authorized garage, and of storage, and shall satisfy all parking and traffic citations and/or penalties incurred for violations of Section 27-2-1 of the Village Code relating to unlawful weapons for which said motor vehicle was impounded or immobilized and present proof of such satisfaction, or said owner or person entitled to possession may: 1) without an immediate release of his vehicle, request a hearing be held within twenty four (24) hours or, at the vehicle owner's option, within fifteen (15) days, or 2) obtain an immediate release of his vehicle by requesting said hearing to be held within seven (7) days or, at the vehicle owner's option, within fifteen (15) days and by making a deposit to cover said charges. The hearing referred to shall be conducted in conformity with Section 15-10-13 and shall determine the validity of the impounding or immobilization of said vehicle, except as otherwise previously determined in a pre-tow or pre-immobilization list hearing, and any towing, storage, immobilization charges and any parking and traffic violation penalties associated therewith. (Ord. 1994-0-77, 11-21-94)

15-10-9: POSTING OF NOTIFICATION OF RIGHT TO POST-TOW, AND POST-IMMOBILIZATION HEARING: The following notice shall be posted in all places to which members of the public come to

recover removed vehicles, in the police station and in all garages to which vehicles are brought for impoundment and shall be affixed in the form of a sticker to the windshield of all vehicles which have been immobilized.

ATTENTION: Owners or other persons lawfully entitled to possession of towed or immobilized vehicles have the following options: (1) you may pay the towing fee and storage charges or all immobilization charges including those citation and/or penalty charges for which towing, immobilization and/or impoundment was imposed, and thereby redeem your vehicle; (2) you may demand a hearing on the citation, or citations or penalties giving rise to removal, or immobilization and/or impoundment of your vehicle to be held within twenty four (24) hours, or, at your option, within fifteen (15) days of such towing, immobilization and/or impoundment; (3) you may demand a hearing in the Circuit Court of Cook County within fifteen (15) days of towing, immobilization and/or impoundment on the underlying violations which caused the motor vehicle to be towed, immobilized and/or impounded. A timely filed demand for a hearing in the Circuit Court on the underlying violation(s) will toll all other time limitations set forth herein until the court hearing has been completed; or (4) you may obtain an immediate release of your vehicle by requesting that said hearing be held within seven (7) days or, at your option, within fifteen (15) days and by making a cash deposit to cover the fees, charges and penalties involved. In the event that the citations and/or penalties for which the vehicle was towed or immobilized are dismissed, you may recover your vehicle without payment of fees, charges or penalties. You should appear to request a hearing in the office of the Village Manager at the Oak Park Village Hall or call 383-6400, or mail a request for a hearing within fifteen (15) days of the mailing date of notification of the towing or immobilization or release of the vehicle, whichever occurs first. The request should be mailed to the office of the Village Manager, One Village Hall Plaza, Oak Park, Illinois 60302.

(Ord. 1994-0-77, 11-21-94)

15-10-10: REQUEST FOR POST-TOW OR POST-IMMOBILIZATION HEARING: Requests for a hearing may be made by telephone (383-6400), in person or by mail within fifteen (15) days of the mailing date of notification of the tow, or immobilization or release of vehicle, whichever occurs first. Requests are to be made to the Village Manager or his designee. (Ord. 1987-0-71, 9-8-87)

15-10-11: PROCEDURES FOR POST-TOW OR POST-IMMOBILIZATION HEARING: Designated personnel shall, upon receipt of a hearing request, fully and accurately complete the request for a vehicle tow or immobilization hearing form and forward copies of those records specified in this Section to the Village Manager of the Village of Oak Park or such other official as the Village Manager may designate to conduct a hearing. The records include but are not limited to police reports, a motor vehicle inventory report, any cash receipts for towing and storage fees, towing and other cash reports, copies of outstanding parking and traffic citations and warrants, as well as registration information. In the case of impoundment for a violation of Section 27-2-1 of the Village Code, any and all records in the possession of the Village relating to such alleged violation shall be delivered to the hearing officer in a timely manner. (Ord. 1994-0-77, 11-21-94)

15-10-12: SCHEDULING OF POST-TOW OR POST-IMMOBILIZATION HEARINGS: Hearings are held on weekdays from nine o'clock (9:00) A.M. to twelve o'clock (12:00) A.M. and from one o'clock (1:00) P.M. to four o'clock (4:00) P.M. in Village Hall in rooms to be designated by the Village Manager. Hearings shall take place as follows:

- A. In those instances where the vehicle has been released upon deposit of funds to cover the fees, charges and penalties associated with the immobilization or tow and impoundment, the hearing shall take place within seven (7) days of such payment unless a later date is requested by the owner, not to exceed fifteen (15) days after release of the vehicle.
- B. In those instances where the vehicle is still impounded, the hearing shall take place either within twenty four (24) hours after a request for hearing, excluding Saturdays, Sundays and holidays, or within fifteen (15) days of said request at the option of the owner and on a date convenient for all parties.
- C. Where a hearing request is made after five o'clock (5:00) P.M. on a particular day, the time period within which the hearing must be held shall not begin to run until the first working day following the request. (Ord. 1987-0-71, 9-8-87)

15-10-13: HEARINGS:

- A. The hearing officer shall conduct post-tow and post-immobilization hearings.

- B. The hearing officer, upon receipt of a completed request for hearing, shall cause such hearing to be placed on a calendar for hearings within the time frame established herein. The hearing officer shall review all evidence presented by the vehicle owner and by the Village of Oak Park, and make a finding based upon the preponderance of the evidence presented as to the lawful authority for the towing and storage or immobilization of the vehicle. The decision shall be in favor of the owner if the preponderance of the evidence does not show such tow or immobilization to be lawful. For each request for hearing, the hearing officer shall complete a report of the hearing and attach such report to the requested package.
- C. After receiving all relevant evidence, the hearing officer shall make one or more of the following findings:
1. That the towing and storage or immobilization of the vehicle was authorized by the laws of the State of Illinois or of the ordinances of the Village of Oak Park and, in the case of an immobilized vehicle for which the outstanding charges remain unsatisfied, the hearing officer may further authorize the towing and storage of the vehicle;
 2. That there was no authorization under Illinois law or the ordinances of the Village of Oak Park for the towing and storage or immobilization of the vehicle or that the member causing the vehicle to be towed or immobilized did not comply with the requirements of the statute or ordinance authorizing the tow or immobilization;
 3. That the towing of the vehicle was authorized by law but the owner was caused to incur additional storage charges because of late notification of towing or failure to promptly release a vehicle upon which a hold had been placed;
 4. That the request for hearing was not made within the specified number of days following receipt of a notice of the tow or immobilization or of the date that the vehicle was released, whichever date is earlier in time;
 5. That the owner failed to appear, despite requesting a hearing, and no continuance was requested; or
 6. That a continuance was requested by the owner requesting the hearing, in which event the hearing officer shall cause a date to be selected to reflect the continuance date requested.

- D. The hearing officer shall advise the vehicle owner of his findings at the conclusion of the hearing. If the towing and storage or immobilization was authorized by law and is not otherwise reimbursable, the vehicle owner shall be so informed and further advised as to the amount due. Should the towing or storage be found to be unauthorized or reimbursable, in whole or in part, the hearing officer shall: 1) if the vehicle has been released to the owner prior to the hearing, determine the amount of the deposit paid and direct that a refund in an appropriate amount shall be transmitted by the Village of Oak Park to the owner within seven (7) days; 2) if the vehicle is still in the pound at the time of the hearing or in a relocated garage, the hearing officer shall complete an order for release of the vehicle and provide the vehicle owner with an original and copy of same. Upon receipt of a copy of said release form from the owner, the towing company shall immediately return the vehicle to the owner without any imposition of towing or storage fees. If the immobilization of the motor vehicle is found to be unauthorized, the hearing officer shall direct that the locking device be removed immediately if still in place, and any monies received similarly returned to the vehicle owner by the Village of Oak Park within seven (7) days. (Ord. 1987-0-71, 9-8-87)

15-10-14: DISPOSITION OF UNCLAIMED VEHICLES:

- A. Except as set forth in subsection 15-10-14C below, in the event that a towed and stored vehicle is not claimed by an owner or other person evidencing ownership, the Village may direct that the unclaimed vehicle be disposed of in accordance with the provisions of 625 Illinois Compiled Statutes of the Illinois Vehicle Code either thirty (30) days after the date of a signature of the indicated owner on the returned certified mail receipt or thirty (30) days after the date of return of undelivered certified mail.
- B. Except as set forth in subsection 15-10-14C below, in the event of towed and stored out-of-state vehicles or vehicles without license plates or registration papers, record searches and inquiries must be conducted in accordance with 625 Illinois Compiled Statutes 5/4-205 and 5/4-206 of the Illinois Vehicle Code. When the identity of the registered owner, lienholder and/or other person legally entitled to the possession of a vehicle cannot be determined by any means provided for in this Article within thirty (30) days after the inquiry mailing date pursuant to Section 15-10-5 of this Article, the vehicle may be disposed of as provided herein without notice.

- C. In the event of towed and stored abandoned vehicles of more than seven (7) years of age, the Village shall keep such vehicles in custody for a minimum of ten (10) days for the purpose of determining the identity of the registered owner and lienholder and contacting the registered owner and lienholder by the United States mail, public service or in person for a determination of disposition; and, an examination of the State Police stolen-vehicle files for theft and wanted information. At the expiration of the ten-day period, without the benefit of disposition information being received from the registered owner or the lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. A vehicle classified as an antique vehicle may however be sold to a person desiring to restore it.

No vehicle shall be disposed of in any manner without prior written authorization of the Chief of Police or his designee; provided, that the Chief of Police shall not designate this responsibility to any officer below the rank of lieutenant. The release of a vehicle to its owner or other legally authorized person shall not require the written authorization of the Chief of Police or his designee, but shall require the signed authorization of a sworn police officer of the Village. The proceeds of any sale authorized by this subsection, after deducting the costs of removal and storage and the expense of advertising and conducting the sale shall be deposited with the Village Treasurer. (Ord. 1988-0-103, 12-19-88)

15-10-15: POLICE REPORTS AFTER VEHICLE RECLAIMED: 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 Article, a report of the transaction shall be prepared by the Police Department and made a part of the towing records maintained by the Police Department. (Ord. 1987-0-71, 9-8-87)

15-10-16: MAINTENANCE OF RECORDS: All vehicle tow hearing decisions, towing reports, final disposition reports and any associated police reports or documents shall be retained for a period of at least two (2) years after each hearing, or after each tow if no hearing was requested or held. (Ord. 1987-0-71, 9-8-87)

15-10-17: AUTHORITY TO REMOVE OR RELOCATE VEHICLES IN EMERGENCIES AND IN TEMPORARY SITUATIONS:

Members of the Police Department and, with regard to emergencies only, other persons designated in Section 15-10-1 of this Article are hereby authorized to remove or relocate, when reasonably necessary, any vehicle located on the public way from one location to any other location under the following circumstances:

- A. In response to any "emergency situation" as defined in Section 15-10-1 above; or
- B. To enforce temporary regulations established by the Chief of Police in accordance with Section 15-1-2 of the Village Code when such temporary regulations provide for the removal or relocation of vehicles and the area being regulated is clearly posted with temporary signage notifying the public that any vehicle parked in violation of the temporary regulation may be removed or relocated by the Police Department. (Ord. 1987-0-72, 9-21-87)

15-10-18: RESPONSIBILITY FOR COSTS NOT RECOVERED: Any costs incurred by the Village for relocation, towing, impoundment, destruction or auction of vehicles under this Article not otherwise recovered shall be paid by the registered owner or person legally entitled to possession. (Ord. 1987-0-71, 9-8-87)

15-10-19: TOWING SERVICE OPERATOR SUBJECT TO ORDINANCE PROVISIONS: Notwithstanding any other ordinance or statutory provisions to the contrary, any towing service operator authorized to perform tows in behalf of the law enforcement agency must perform its services subject to the provisions of this Article. (Ord. 1987-0-71, 9-8-87)

ARTICLE 2

SPECIAL POLICE

SECTION:

- 19-2-1: Special Police Defined
- 19-2-2: Appointment
- 19-2-3: Qualifications
- 19-2-4: Powers

19-2-1: **SPECIAL POLICE DEFINED:** The term "special police" is defined as any person who, for hire, guards or protects any property or person within the Village, provided this term shall not apply to regularly appointed police officers of the Village or to any sheriff or deputy sheriff of the County.

19-2-2: **APPOINTMENT:** Applications showing the necessity of the appointment of a person to serve as a special police person shall be made to the Chief of Police. The Chief of Police or the Village Clerk shall have the power to appoint and administer the oath to any number of special police persons for special police duty at any fixed place in the Village or at any necessary places for the protection of persons and property. The expenses and charges of the special police shall be paid by the applicant. The appointment shall extend only for such specific purpose and territory and during such time as limited in said appointment and in no event exceeding one year from its date. Every such appointment shall be revocable at any time by the Board of Trustees.

Additionally, under the provisions of Section 28-2-6 the Village Inspector of Weights and Measures and any authorized deputies are to be considered as special police.

19-2-3: **QUALIFICATIONS:**

- A. Each special police person must meet the following requirements:
 - 1. Be at least twenty one (21) years of age;
 - 2. Be a citizen of the United States;
 - 3. Not have been convicted of a felony or not have been dishonorably discharged from the Armed Services of the United States;

- A) 4. Not have been discharged for cause from any branch of the State or Municipal government.
- B. Additionally, the following qualifications are required for appointment:
1. A special police person must comply, if applicable, with "An Act to Provide for the Licensing and Regulating Detectives and Detective Agencies." Three (3) copies of said Act being on file in the office of the Village Clerk.
 2. If a special police person is to carry a firearm, he must have successfully completed a course of study approved by and supervised by the Department of Registration and Education consisting of not less than thirty (30) hours of training, which shall include theory of law enforcement, liability for acts, and the handling of weapons, as set forth in section 24-2 of the Criminal Code. Three (3) copies of said Act having been placed on file in the office of the Village Clerk. Special police shall not carry exposed weapons away from their place of employment.
 3. Each special police person shall furnish the Police Department with a complete set of fingerprints.
 4. Each special police person shall take an oath of office.

19-2-4: **POWERS:** Special police shall possess the powers of arrest of regular police at the places for which they are respectively appointed or in the line of duty for which they are engaged. (1981 Code; amd. Ord. 1982-0-57, 9-20-82)

ARTICLE 3

MISCELLANEOUS PROVISIONS

SECTION:

- 19-3-1: Impersonating a Police Officer
- 19-3-2: Custodian of Lost and Stolen Property; Designation
- 19-3-3: Custodian; Duties Generally
- 19-3-4: Disposition of Seized Property Generally
- 19-3-5: Disposition; Perishables, Bulky or Dangerous Commodities
- 19-3-6: Disposition of Proceeds From Sale of Seized Property
- 19-3-7: Fire and Police Automatic Dialing and Prerecorded Message Alarm Systems

19-3-1: **IMPERSONATING A POLICE OFFICER:** It shall be unlawful for any person to falsely represent himself or assume or pretend to be a police officer of the Village or a member of the police force or Police Department of the Village, or with the intent to deceive, use or wear in public or imitate any of the signs, signals or devices adopted and used by the Police Department of the Village, or to wear in public the uniform or badge adopted or used as the police uniform or badge of the Village or any other which shall be similar in appearance. (1981 Code)

19-3-2: **CUSTODIAN OF LOST AND STOLEN PROPERTY; DESIGNATION:** One of the employees of the Police Department shall be designated by the Chief of Police to be the custodian of lost and stolen property and such employee shall at all times be under the supervision and direction of the Chief of Police. As custodian, he or she shall take possession of all property seized or taken by the police. (Ord. 1988-0-24, 4-18-88)

19-3-3: **CUSTODIAN; DUTIES GENERALLY:** It shall be the duty of the custodian of lost and stolen property to keep a record of all property which may be seized or otherwise taken possession of by the Police Department of the Village.

19-3-4: **DISPOSITION OF SEIZED PROPERTY GENERALLY:** If property seized or taken possession of by the Police Department as provided in the

Village Code shall not be claimed by the rightful owner within sixty (60) days from the date of the final disposition of the court proceedings in connection with which such property was seized or otherwise taken possession of, or in case there are no such court proceedings, then if such property so seized or taken possession of shall not be claimed by the rightful owner thereof and possession surrendered to such owner within sixty (60) days from the date of such seizure or taking by the police, the custodian shall cause to be published, in any newspaper published within the Village, a description of such property, together with the date of seizure or the taking possession thereof and shall give notice that if such property be not claimed by the rightful owner or owners thereof within ten (10) days from the date of such publication, such property will be sold at public auction at such places as the Chief of Police may direct and in such a manner as to expose to the inspection of bidders all property so offered for sale; provided, that if such unclaimed property is deemed by the Chief of Police to be of use to the Police Department, the same may be retained for the use of the Department; provided further, that no member of such Department directly or indirectly shall purchase or participate in the bidding for, or purchase of, such unclaimed property. The term "rightful owner" shall include any person entitled by law to the possession of the property.

Weapons such as pistols, revolvers, Bowie knives, dirks, slingshots, metallic knuckles or other deadly weapons of like character not able to be lawfully returned to their rightful owner shall, within six (6) months after the receipt thereof, be taken by either the custodian of lost and stolen property or his duly appointed deputy and destroyed.

19-3-5: DISPOSITION; PERISHABLES, BULKY OR DANGEROUS COMMODITIES: If any property is seized or taken possession of by the Police Department, as provided in this Municipal Code shall be of a perishable nature or so bulky or of such a nature as to make it dangerous or inadvisable to retain possession thereof for the length of time specified in the preceding Section the custodian of lost and stolen property, upon certifying such facts to the Chief of Police setting forth his reason why such property should not be retained for the period hereinabove fixed before selling the same, shall, with the approval of the Chief of Police, cause such property to be advertised forthwith in any newspaper published within the Village and sell such property at public auction at any time after three (3) days shall have elapsed from the seizure or taking possession thereof; provided, that nothing in this Section shall be held to require such custodian to take possession of, or to make disposition of, any lost or stolen property, the disposition or possession of which is otherwise provided for in and by any other ordinance of this Village, such as animals required to be impounded.

19-3-6: DISPOSITION OF PROCEEDS FROM SALE OF SEIZED PROPERTY:
The proceeds of any sale made under the provisions of Section 19-3-4 of this Code after deducting the cost of storage, advertising, selling and other expenses incident to the handling or selling of lost, stolen or seized property, shall be paid by such custodian to the Police Pension Fund of the Village.

19-3-7: FIRE AND POLICE AUTOMATIC DIALING AND PRERECORDED MESSAGE ALARM SYSTEMS: See Section 10-1-7 of this Code for regulations pertaining to automatic dialing and prerecorded message alarm systems.