

## Ordinance 14-08

### An Ordinance Establishing an Impound Lot for the South Point Police Dept. Setting Procedures and Fees

**Whereas;** the South Point Village Council deems it necessary to establish an impound lot for the South Point Police Department, and

**Now Therefore, Be It Ordained that;** the following procedures and fees for said impound lot are as follows:

#### **Reasons for impounding.**

Any law enforcement officer is authorized to remove or cause removal from the streets, highways, sidewalks, or other property open to the public for the purpose of vehicular traffic or parking:

- (a) Any vehicle parked, left standing or abandoned thereon in violation of any of the specific terms of this Traffic Code, subject to the provisions of Section 2150.02
- (b) Any vehicle that has been reported stolen.
- (c) Any vehicle from which the driver has been arrested, or any vehicle operated by a person who refused to obey the instruction of any police officer after such person has been placed under arrest.
- (d) Any vehicle from which the driver or operator has been removed due to illness or injury.
- (e) Any vehicle which, in the impounding authorities opinion, creates a condition which presents a risk of physical harm to persons or property including vehicles which, without authorization, release, discharge, or leak substances into or upon the environment.
- (f) Any vehicle operated by a person while engaged in, or connected with, the commission of a crime.
- (g) Any vehicle operated by a person without an operator's license, or during period of suspension, cancellation, or revocation of such license.
- (h) Any vehicle that has been involved in an accident and the driver/operator has failed to stop after such accident.
- (i) Any vehicle that fails to comply with the provisions of this Traffic Code relative to equipment.
- (j) Any vehicle abandoned after an accident on public or private property away from the owner's residence.

#### **Prosecution for violations.**

The removal and storage of a vehicle impounded, and the payment of the expense of removal and storage of a vehicle so impounded shall not release the owner, chauffeur, driver or other person in charge of such vehicle from penalties imposed for violation of this Traffic Code or any other village ordinances.

#### **Damage during removal or storage.**

The removal by a police officer of a vehicle for any of the reasons mentioned in above shall be at the risk of the owner or person in charge thereof and there shall be no liability on the part of the Village for any damage caused by such removal.

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The storage of any vehicle when impounded by the village shall be at the risk of the chauffeur, driver or owner thereof, and the village shall not be liable for damage of any nature or the theft or destruction by fire of any vehicle so impounded.

### **Expense of removal, clean-up and storage.**

The actual expense of removal or unloading of any vehicle including commercially registered vehicles, attached vehicle, or its load will be assessed the owner or agent of said vehicle or property. The village shall be reimbursed for all actual expense incurred for use of service for special equipment, labor, security, traffic direction and clean-up necessary for recovery of the vehicle or its load .

Any law enforcement officer investigating an accident, a disabled vehicle or an unauthorized spill, release or discharge of material into or upon the environment may order the removal of the vehicle from the scene of the accident if such vehicle constitutes a hazard to traffic flow or to safety. The officer may order any appropriate equipment needed to move such vehicle or to remove its cargo or debris. The actual expense for the removal or unloading of any vehicle and/or load will be assessed to the owner or to the agent of the owner of said vehicle or property. The Village shall be reimbursed for all actual expense incurred for special equipment, labor, security, traffic direction and clean-up necessary for recovery of the vehicle or its load. Any person responsible for causing or allowing an unauthorized spill, release or discharge of material into or upon the environment shall reimburse the village for investigating, mitigating, minimizing, removing, or abating any unauthorized spill, release, or discharge of material into or upon the environment that requires emergency action to protect the public health or safety of the environment. The village shall keep a detailed record of its costs for investigating, mitigating, minimizing, removing, or abating the unauthorized spill, release or discharge.

### **Notice to owner-Redemption.**

If at the expiration of twenty four (24) hours after any vehicle has been impounded, the owner, chauffeur, driver or other person in charge thereof, has not presented himself at the vehicle impound to claim the vehicle, it shall be the duty of the officer in charge of such impound to notify in writing, the owner, chauffeur, driver or other person in charge of the same, at his last known place of residence, informing him of the nature and circumstances of the violation on account of which such vehicle has been impounded, and also the amount of charges for release. Notice will be sent to the address on the registration and address on the driver's license, if applicable, unless a different address was provided.

When the owner, chauffeur, driver or other person in charge of the vehicle impounded presents himself at the vehicle impound to claim his vehicle, he shall furnish satisfactory proof of his right and title therefor to the officer in charge of such pound.

*Necessary documentation includes: Copy of Driver's License, valid insurance on impounded vehicle, proof of ownership, current valid vehicle registration.*

### **Impounding fee and storage charge-Exceptions.**

(a)

No vehicle impounded under the provisions of this chapter, except as provided in subsections (b) and (c) hereof, shall be removed from such vehicle impound except upon the payment by the owner, chauffeur, driver or other person in charge of such vehicle, of a service charge of one hundred twenty-five (\$125.00) dollars to the Police Department for any motor vehicle weighing not more than seven thousand (7,000) pounds. There is no additional fee charged if a dolly or rollback is required to tow said motor vehicle to the vehicle impound. A service charge of one hundred fifty-five (\$155.00) dollars shall be paid to the Police Department for any motor vehicle weighing more than seven thousand (7,000) pounds but not more than ten thousand fifty (10,050) pounds. A service charge of two hundred (\$200.00) dollars shall be paid to the Police Department for any motor vehicle weighing more than ten thousand fifty (10,050) pounds but not more than fourteen thousand nine hundred ninety-nine (14,999) pounds. A service charge of two hundred eighty (\$280.00) dollars shall be paid to the Police Department for any motor vehicle weighing more than fourteen thousand nine hundred ninety-nine (14,999) pounds.

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In addition to the rate set forth above for all motor vehicles, an additional hourly fee may be charged for extra services that are required in connection with towing said motor vehicles such as to upright an overturned vehicle, clean excessive debris from the roadway, recover a vehicle not on the traveled portion or berm of a highway, or to separate vehicle or pull a vehicle from an obstruction, an additional hourly rate will be charged. This additional charge will be at the following rates:

1. One hundred twenty-five (\$125.00) dollars per hour for vehicles weighing seven thousand (7,000) pounds or less.
2. One hundred fifty-five (\$155.00) dollars per hour for vehicles weighing more than seven thousand (7,000) pounds, but not more than ten thousand fifty (10,050) pounds.
3. Two hundred seventy (\$270.00) dollars per hour for vehicles weighing ten thousand fifty (10,050) pounds but not more than fourteen thousand nine hundred ninety-nine (14,999) pounds.
4. Fees for vehicles weighing over fourteen thousand nine hundred ninety-nine (14,999) pounds are as follows:

Hourly charge after thirty (30) minutes is sixty-three (\$63.00) dollars per quarter hour.

Extra manpower fee is forty-five (\$45.00) dollars per hour per worker.

Four-wheel drive wrecker fee is one hundred twenty-five (\$125.00) dollars per hour.

Crane fee is two hundred fifty (\$250.00) dollars per hour.

Heavy duty service truck fee is one hundred twenty-five (\$125.00) dollars per hour.

5. A fee of one hundred twenty-five (\$125.00) dollars may be added if a trailer dolly is required due to the trailer not being attached to a tractor.

A storage fee of twenty (\$20.00) dollars per day for each twenty-four (24) hours, or fraction thereof, shall be charged for vehicles with a gross vehicle rating less than ten thousand fifty (10,050) pounds. A storage fee of twenty-three (\$25.00) dollars per day for each twenty-four (24) hours, or fraction thereof shall be charged per vehicle and per trailer with a gross vehicle rating of ten thousand fifty (10,050) pounds or more.

(b)

Any stolen vehicles that have been recovered and impounded by the police pending notification of the legal owner or agent shall be subject to a reduced impounding fee of eighty (\$80.00) dollars and/or the applicable storage charge. However, the storage shall be charged beginning the fourth day after impoundment, provided the legal owner or agent has been notified, or notification has been sent to the last known address of the owner or agent. The reduced impounding fee of eighty (\$80.00) dollars for a stolen vehicle is a one-time reduction per owner. Subsequent impounding fees related to stolen vehicles shall be at the normal impounding rate.

(c)

Any vehicle weighing less than seven thousand (7,000) pounds of which has been impounded for the sole purpose of "safekeeping" and from which the driver or operator has been removed due to illness or injury shall be subject to the impounding fee and storage charge. However, the storage fee shall be charged beginning the fourth day after the date of impoundment. Any vehicle weighing seven thousand (7,000) pounds or more and/or a commercially registered vehicle which has been impounded for the sole purpose of "safekeeping" which the driver or operator has been removed due to illness or injury shall be subject to the impounding fee and storage charges. Additional service fees incurred for all vehicles other than towing and storage will be assessed the owner or agent thereof and shall be paid before the vehicle is released.

### **Chief of Police to establish impound.**

The Chief of Police is authorized to establish a vehicle impound.

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### **Forfeiture of an impounded vehicle.**

Should the owner or other person in charge of an impounded vehicle wish to forfeit their vehicle to the village, such owner or person in charge of said vehicle may do so providing that the impounding fees and all fines are paid in full. In return for the vehicle forfeiture said owner or person in charge will not be subject to the usual storage fees. The collection of personal property from the vehicle shall be permitted only after completion of the vehicle forfeiture to the village.

### **Disposal of Vehicles**

Disposal of impounded vehicles shall be performed by following O.R.C. 4513.62 and any other applicable law of Ohio.

### **Motor vehicle theft offender to pay towing or storage costs.**

If a person is convicted of a theft offense that involves a motor vehicle, as defined in Section 4501.01 of the Ohio Revised Code, or any major part of a motor vehicle, and if a local authority, as defined in Section 4511.01 of the Revised Code, the owner of the vehicle or major part, or person, acting on behalf of the owner, was required to pay any towing or storage fees prior to recovering possession of the motor vehicle or major part, the court that sentences the offender, as part of the sentence, shall require the offender to repay the fees to the local authority, the owner, or person who paid the fees on behalf of the owner.

### **I. Definitions**

#### A. Contracted Wrecker

Any person operating a towing vehicle, and employed and authorized by a private company contracted with the Village of South Point to perform towing services for the Police Department.

#### B. Safekeeping

Any time a vehicle is impounded solely because the driver or operator of the vehicle was removed due to an illness or injury. Towing fees and applicable storage fees still apply.

### **II. Policy Statements**

#### A. Officers may legally impound motor vehicles:

1. For any of the reasons stated in "Reasons for Impounding;"
2. Containing evidence of a crime that needs to be collected; or
3. In accordance with Ohio Revised Code Section 4513.60, "Vehicle left on private residential or private agricultural property without the permission of a person having the right to possession of property."

#### B. Releasing Vehicles Without Payment of Fees

A vehicle may be released without payment of fees if it was impounded for evidence or if it was impounded for investigation of stolen and was then determined not to be a stolen vehicle.

#### C. Enforcement Options

1. When a motor vehicle may be legally impounded and is not reported stolen, The officer may either:
  - a. Impound the vehicle, or
  - b. Release the vehicle to the owner, operator, or to another person with the consent of the owner or operator, given there are no legal requirements or need to impound the vehicle, and there are no overdue unpaid fines held against the vehicle.
2. Officers shall take any reasonable actions necessary to ensure the safety of any occupant of a vehicle left stranded in an unsafe location due to an impoundment. This may include providing a ride to a safe location, or standing by until a taxi cab or a friend of the occupant arrives.
3. The consent to release the vehicle, to whom the vehicle was released, and the status of that person's driving privileges shall be documented in the appropriate form or report (such as an Incident Report, or OH-1 Traffic Crash Report).
4. Officers may use discretion whether to release or impound a vehicle when a contracted wrecker is at the scene at the same time as the owner or operator.

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5. Unless arrangements have been made by the owner or operator to move the vehicle in a timely manner, any disabled or abandoned vehicle creating a traffic hazard or any vehicle on the highway disabled from a traffic crash or that has been abandoned for a period of 48 hours, shall be impounded as soon as practical. Officers shall remain with the vehicle until it is removed.

### D. Use of Contracted Wreckers

1. Only contracted wreckers may be used to tow vehicles for impoundment, or to move vehicles to an unrestricted parking space.
2. All vehicles impounded by police department personnel shall be transported to the Police Impound Lot, unless otherwise directed by investigative personnel and only for the purpose of evidence processing.
3. In order to maintain the chain of custody for vehicles being impounded as evidence of a felony crime, or to be processed for evidence or fingerprints, sworn personnel shall maintain visual contact with the vehicle until it is released by the wrecker at the appropriate storage facility. This does not apply to vehicles impounded only as a recovered stolen vehicle.

## Procedures

### Impounding or Moving Motor Vehicles

#### 1. Impounding Personnel

- a. Run the vehicle's license plate number and VIN through LEADS.
- b. Contact a wrecker.
- c. When able, remove any license plate not registered to the vehicle, and either:
  - (1) Place the plate(s) into an OBMV mailing envelope, form BMV3613, and mail to the OBMV, or;
  - (2) Submit the plate(s) to the Chief.
- d. Conduct an inventory of the contents of all reasonably accessible areas and containers in the vehicle, and complete an Impounded Vehicle Inventory.
  - (1) If the passenger compartment of the vehicle is inaccessible, conduct the inventory by looking through the windows.
  - (2) If a VIN was not located, write "NO VIN" in the VIN box on the form.
  - (3) List the inventoried property on the Tow Sheet, and mark its disposition.
  - (4) Note the disposition of any license plate removed from the vehicle On the Tow Sheet.
  - (5) List existing damage to the vehicle on the Tow Sheet and photograph damage..
  - (6) When the vehicle is impounded solely because the operator was removed due to illness or injury, write "Safekeeping" on the tow sheet.
- e. Retrieve any of the following property from the vehicle and place it in the Secure Evidence Room:
  - (1) Contraband
  - (2) Weapons
  - (3) More than \$20 in currency
  - (4) Any property of high value or subject to theft should be secured in the vehicle (locking glove compartment or trunk) or placed in the Evidence Room
- f. Allow the owner or operator to retrieve paperwork or property from the vehicle, when appropriate.
- g. Leave the ignition key with the vehicle when impounding.
- h. As able, secure the vehicle against weather conditions.

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- i. Leave the violator's copy of any parking ticket with the vehicle.
- j. Provide the Impounded Vehicle Inventory form to the contracted wrecker for review and for a signature. Make appropriate corrections as needed.
  - (1) Give the bottom yellow copy to the contracted wrecker.
  - (2) Make copies of the form as needed for investigative personnel or packets, and forward the copies as appropriate.
  - (3) Forward the top white copy of the form to the Impounding Unit. k. Inform the contracted wrecker where to tow the vehicle.

### **Impounding Vehicles for Driving Under Suspension (DUS) or Operating a Vehicle Under the Influence (OVI)**

1. Follow the impounding procedures outlined above.
2. Seize the vehicle when the vehicle is registered in the arrested person's name and the arrest involved any of the following charges:
  - a. Driving Under an OVI Suspension
  - b. Driving Under an FRA Suspension or Cancellation, with at least one prior conviction within five years of the current offense.
  - c. Wrongful Entrustment
  - d. OVI with at least one prior conviction within six years of the current offense, or with any prior felony OVI conviction.
3. When seizing a vehicle, mark the checkbox in the Vehicle Seized section on the Tow sheet and mark the appropriate box to indicate the reason for the seizure.

### **Impounding Vehicles Used in Felonies/Misdemeanors**

#### **Impounding Personnel**

Contact the appropriate investigative unit when the vehicle used in a felony crime.

Follow the directions of investigative personnel regarding impounding the vehicle for evidence. Determine if evidence processing is necessary for serious misdemeanor crimes.

Follow the applicable procedures above and:

Mark the appropriate box(es) on the tow sheet form to indicate Hold for Evidence processing, as necessary.

When a vehicle is impounded as evidence, or to be processed for evidence:

Maintain visual contact with the vehicle until it is released by the contracted wrecker at the appropriate storage location.

Mark the Chain of Custody Maintained box on the Impounded Vehicle Inventory form, and list your name, badge number.

#### **Investigative Personnel**

- a. Direct sworn personnel in regard to impounding the vehicle for evidence. Ensure that a hold for Evidence Processing is marked on the tow form if the vehicle will be processed for evidence.
- b. When the vehicle is to be processed for evidence, have the vehicle placed in the appropriate enclosed garage at the Village Hall.
- c. Follow your respective SOP for releasing impounded vehicles no longer needed for investigative purposes.

### **Impounding Vehicles Suspected Only of Being Stolen**

1. Follow the impounding procedures outlined above.
2. Mark the Vehicle Shows Evidence of Being Stolen on the tow sheet.
3. Complete a Stolen Vehicle Incident Report. In the narrative of the report, document all reasons the vehicle was suspected of being stolen and any investigative actions taken.

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### Impounding Stolen Vehicles

1. Document the recovery
  - a. For unreported stolen vehicles:
    - (1) Have an electronic report completed for vehicles stolen in Columbus' jurisdiction, or
    - (2) Request the appropriate foreign agency complete a report for vehicles stolen outside of Columbus' jurisdiction.
  - b. For stolen vehicle reports entered by the Division, add an electronic report to the investigative folder. For stolen vehicle reports entered by a foreign agency, indicate the agency information, investigating officer contact information in the Incident Report

### Impounding Vehicles Towing Trailers or Other Vehicles

1. Follow the impounding procedures outlined above.
2. Complete a separate tow sheet for the towing vehicle, the trailer, and each vehicle on the towing vehicle or trailer. Separate forms are required because the vehicles and trailers may be released at different times.

### Impounding or Removing Vehicles Involved in Traffic Crashes

1. Request a wrecker when the owner, operator, or an authorized person is available to make arrangements for the towing.
2. Request a wrecker and impound the vehicle when the owner or operator is unable to make arrangements for the towing.
  - a. When the operator is charged with an offense, write the charge in the Violation box on the tow sheet.
  - b. When the operator is not charged with an offense, write "Safekeeping" in the Violation box on the tow sheet.
  - c. When possible, advise the owner or operator that the vehicle was towed, and that they are responsible for the towing fees and any storage fees, even when impounded for safekeeping.
3. Only allow a private towing company that is not a contracted wrecker to tow a motor vehicle from a traffic crash scene when:
  - a. The towing company has been authorized to do so by the owner or operator.
  - b. There is no legal requirement or need to impound the vehicle.
4. Ensure the contracted wrecker sweeps and cleans the roadway of any debris before they leave the traffic crash scene.

### Abandoned vehicles

1. Impound any abandoned vehicle found to be in violation of a parking code.
2. When an abandoned vehicle is on the highway in a non-hazardous location:
  - a. Affix the notice sticker to the rear window of the vehicle, or place the notice under a front windshield wiper when weather conditions dictate.
  - b. Impound abandoned vehicles left in the same location for 48 hours after the initial inspection.

### Releasing Impounded Vehicles and Watercraft

Advise the owner of an impounded vehicle or watercraft to contact the Police Department to arrange for release. Advise the owner of the documentation needed and the fees applied.

### Junk Vehicles (Village Ordinance 12-05)

- a. A vehicle must meet the following criteria in order to take action:
  - (1) Three years or older RC 4513.63
  - (2) Extensively damaged RC 4513.63
  - (3) Apparently inoperable RC 4513.63
  - (4) Has a fair market value of \$1500 or less RC 4513.63
  - (5) Left on private property for forty-eight hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer RC 4513.63
  - (6) Fails to display current vehicle registration plates (ord. 12-05)

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(7) Has not moved for ten consecutive days. (ord 12-05)

b. If the above criteria are met, take following actions:

- (1) Issue a Notice to Remove (violation of Ord. 12-05) in person or by certified mail.
- (2) The Owner shall either house the vehicle in a garage or other suitable structure or shall remove the vehicle from the property within ten days receiving the notice.
  - A. the Owner may apply for a ONE TIME 45 day permit to restore the vehicle to operable condition. \$20 fee for the permit.
- (3) If after the 10 days and no permit has not applied for and the vehicle has not been removed or made operable then the vehicle shall be removed and placed into impound.
- (4) Vehicles will be released to the owner following normal release procedures, and after all storage, tow fees and fines have been paid in full.
- (5) if the vehicle is not claimed by the owner after 30 days from notification, the vehicle will be disposed of.
- (6) A notice of intended disposal shall be sent to the titled owner or to the address where the vehicle was towed. At least ten days before disposition.

O.R.C. 4513.62 Any moneys accruing from the disposition of the removal and storage of impounded vehicles shall be credited to the General Fund of the municipal corporation.

**Adopted This 1<sup>st</sup> Day of July, 2014**

signatures on file

\_\_\_\_\_  
Ron West, Mayor

Attest: \_\_\_\_\_  
Scott Thomas, Clerk