

**ORDINANCE NO. 2018-O-19**

**AN ORDINANCE REGULATING VEHICLE TOWING AND IMMOBILIZATION ON PRIVATE PROPERTY**

**WHEREAS**, the Village of Wilmette is a home rule municipality as provided in Article VII, Section 6 of the Constitution of the State of Illinois, 1970, and may pursuant to said authority undertake any action and adopt any ordinance relating to its governance and affairs; and

**WHEREAS**, the Village President and Board of Trustees of the Village find that it is in the best interests of the public health, safety, and welfare, to license and regulate vehicle towing and vehicle immobilization by private entities upon private property; and

**WHEREAS**, the Village President and Board of Trustees of the Village recognize a property owner's desire to ensure parking is used for its intended purposes; and

**WHEREAS**, the Village President and Board of Trustees of the Village also recognize that certain users of parking lots may be unaware of the potential of their vehicle being relocated or immobilized for unauthorized of a private parking lot.

**NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Wilmette, Cook County, Illinois:

**SECTION 1:** Each of the foregoing recitals and findings are hereby made a part of this Ordinance and are incorporated by reference as if set forth verbatim herein.

**SECTION 2:** The Wilmette Village Code, 1993, as amended, is further amended in Chapter 5, "Regulation of Certain Commercial and Quasi-Commercial Activities," by creating a new subsection Section 5-11 "Vehicle Towing License," in the manner and form shown below so that said Section 5-11 shall hereafter read as follows:

**5-11 TOWING AND RELOCATING OF VEHICLES**

5-11.1 Scope of Regulations

The provisions of this Section shall only apply to Private Property. The removal, relocating or towing of unauthorized or trespassing vehicles from residential property shall be governed by Sections 5/4-203 and 5/18a-302 of the Illinois Vehicle Code. The removal, relocating or towing of unauthorized or trespassing vehicles from Village owned property, Village right-of-way, or vehicles that are a nuisance shall be governed by 13-8.17 and 13-8.18 of the Village Code.

#### 5-11.2 Definitions

For the purposes of this Section, the words and phrases used herein shall have the following meanings, unless context clearly indicates or requires a different meaning:

- (a) "Commission" means the Illinois Commerce Commission.
- (b) "Licensee" means a Relocator or Operator that has received and is operating under a valid Village Towing License.
- (c) "Operator" means any person who, as an employee of a Relocator, removes unauthorized vehicles from Private Property by means of towing or otherwise. This term includes the driver of any vehicle used in removing an unauthorized vehicle from Private Property, as well as any person other than the driver who assists in the removal of an unauthorized vehicle from Private Property.
- (d) "Private Property" means a parking lot or other parking area located on privately owned and operated property that is sited in the following Village Zoning Districts:
  - 1. Commercial Districts
  - 2. Planned Commercial Development Districts

"Private Property" shall not mean any property, whether privately or publicly owned, located within a Residential District, or any Village of Wilmette property located anywhere within the Village limits. "Private Property" shall also not mean any public right-of-way controlled by the Village.

- (e) "Private Property Owner" shall mean the owner of the Private Property or the management company of the Private Property acting as the owner's duly authorized agent.

"Private Property Owner" shall not mean a tenant entitled to use the Private Property.

- (f) "Relocated", "Relocating", and "Relocation" refer to the towing of an unauthorized vehicle from Private Property. A tow from public property is not a relocation tow. A tow from private property pursuant to explicit authorization from the vehicle owner or owner's agent is not a relocation tow.
- (g) "Relocator" means any person or entity engaged in the business of removing unauthorized vehicles from Private Property by means of towing or otherwise, and thereafter relocating and storing such vehicles;

- (h) "Unauthorized vehicle" means any vehicle parked or abandoned on private property, without the consent of the owner of the Private Property or the owner's authorized agent.

"Unauthorized vehicle" shall not mean a vehicle that is to be relocated or towed at the request and consent of the vehicle owner or other person entitled to possession of the vehicle.

- (i) "Village" shall mean the Village of Wilmette.

#### 5-11.3 Towing License Required

- (a) It shall be unlawful for any person or entity to engage in the business of vehicle towing or relocating from Private Property without first obtaining a Village Towing License.
- (b) It shall be unlawful for the Private Property Owner, to allow or authorize the towing or relocation of a vehicle from their Private Property, without first complying with the provisions of this Section.
- (c) The Towing of vehicles from non-Private Property within the Village shall be performed in accordance with the state statute and Wilmette Village Code, 1993 regulating such activity.

#### 5-11.4 Application, Qualifications, Fee, Late Penalty

- (a) Prior to the issuance of any Village Towing License, each applicant must comply with the following provisions.
- (b) The Chief of Police may issue a Village Towing License to any qualified applicant pursuant to an application filed. The Chief of Police may promulgate rules and regulations to further implement and enforce the provisions of this section.
- (c) Each application for a Village Towing License shall be made in writing to the Chief of Police, shall be verified under oath; shall be in such form and contain such information as required by the Chief of Police, including but not limited to:
  1. Sufficient information to identify the applicant, including but not limited to, full legal name, date of formation of legal entity, any trade name under which the applicant operates, telephone number, and all business and residence addresses, as reported to the Secretary of State and/or the Illinois Commerce Commission.
  2. Certificate of Good Standing demonstrating that all corporate or limited liability company applicants are qualified to do business under the laws of Illinois.
  3. A copy of the most current Illinois Commerce Commission Relocator's License application or renewal, and a copy of the issued Illinois Commerce Commission Relocator's License.

4. A list of all persons with any ownership interest in the applicant who have previously been denied a license by the Village, another municipality or the State of Illinois.
  5. A listing, by make, model and license plates of all vehicles which will be used in the relocation of unauthorized vehicles and a photograph or other rendering of the proposed, existing, and previous applicant's service vehicles' colors and markings.
  6. A description of the applicant's management plan, which shall include but not be limited to the following: location and description of all places of business, a description of all existing towing equipment, a system for handling complaints and damage caused to towed vehicles during the process of towing, and a description of any communication and payment system.
  7. Then name and age, along with a photograph of each employee that will be performing towing operations within the Village limits.
  8. Days and hours of operation of the relocation service.
  9. Proof of insurance as required by this Section.
  10. The signature of each individual applicant, the signature of the president or vice-president of a corporate applicant, the signature of the managing member of a limited liability company, or the signature of all general partners of a partnership applicant.
  11. An affidavit by an authorized agent of the applicant affirming that the information provided in the application is true and accurate, along with an agreement to abide by the provisions of this Section, the ordinances of the Village, and the laws of the State of Illinois.
  12. Such additional information about the applicant as the Chief of Police or his designee may deem appropriate.
  13. A listing of the Private Property Owner and the address(es) of any and all Private Property that the applicant has a contract with the Private Property Owner to relocate vehicles.
  14. A listing of the address(es) of any and all impound lots owned by or in the lawful possession or control of the applicant at which unauthorized vehicles will be relocated or stored;
- (d) The annual fee for a Village Towing License shall be \$75.
- (e) The annual fee, along with a completed application, shall be paid to the Village no later than January 31<sup>st</sup> of any given year. Any person or entity that fails to pay the annual fee on or before January 31<sup>st</sup> shall be required to pay the applicable annual fee, plus a late penalty in

the amount of \$150 for each month the annual fee and late penalty due and owing has not been paid in full thereafter.

#### 5-11.5 Private Property Owner Responsibilities

- (a) Signage located on Private Property: Prior to any vehicle being relocated from Private Property, the Private Property Owner must:
1. Prominently display signage at each driveway access or curb cut allowing vehicular access to the Private Property within five feet from the public right-of-way line. If there are no curbs or access barriers, the notice must be posted not less than one sign each one hundred feet of lot frontage.
  2. Clearly indicated on the signage, in not less than two-inch high light-reflective letters on a contrasting background:
    - a. A general statement indicating who is allowed to park on the Private Property;
    - b. That unauthorized vehicles will be relocated at the vehicle owner's expense;
    - c. The name, address and telephone number of the Licensee removing the vehicle and the location where the relocated vehicle will be located if different than the address displayed;
    - d. The fee charged by the Licensee to recover the relocated vehicle.
    - e. If the name and number of the Licensee is unavailable because there is no agreement between the owner of the Private Parking and the Licensee to remove all unauthorized vehicles and such removal is performed on a case by case basis, then the name and current telephone number of the Private Property Owner or the owner's authorized agent must be provided.
  3. Install said notice on an affixed sign that is erected with the bottom of the sign not less than four feet above ground level and not more than seven feet above ground level, for a period of not less than twenty-four hours prior to the relocation of any vehicle.
  4. A Private Property Owner shall not perform any towing or relocating services for the Private Property owned by the Private Property Owner.

#### 5-11.6 Licensee's Duties

- (a) Reporting Requirements for Relocating Vehicles.
1. Within thirty (30) minutes prior to relocating any unauthorized vehicle, the Licensee shall notify the Wilmette Police Department by using the nonemergency police telephone number or in any other manner as determined by the Chief of Police to report the year, make, model and state license plate number of the vehicle and the location to where the vehicle is located.

2. Within thirty (30) minutes after relocating any unauthorized vehicle, the Licensee shall notify the Wilmette Police Department by using the nonemergency police telephone number or in any other manner as determined by the Chief of Police to report that the vehicle which was the subject of the report provided in Subsection 1 above, was in fact relocated and the location of where that vehicle will be relocated and remain for the next twenty-four hours.
  3. In addition to the notifications required above, within twenty-four (24) hours after relocating an unauthorized vehicle, the Licensee shall submit a written report to the Chief of Police, or his designee, containing the following information:
    - a. Name, address and telephone number of the Licensee and of the Operator who relocated the unauthorized vehicle;
    - b. State license plate number of the vehicle relocated;
    - c. Vehicle identification number of the vehicle relocated;
    - d. Color, make and model of the relocated vehicle;
    - e. Date and time of the relocation;
    - f. Address of place from which vehicle was relocated;
    - g. Names and addresses of any witnesses to the relocation;
    - h. Name of person with whom the relocation agreement was made;
    - i. Address of place where the vehicle is stored;
    - j. State license plate number of the tow truck which made the relocation; and
    - k. Name of the individual or company that made the request for the vehicle's relocation.
  4. Prior to relocating any unauthorized vehicle, the Licensee shall take at least one photograph of the unauthorized vehicle which clearly shows: (i) the date and time the photograph was taken; (ii) the entire vehicle and its location on the date and time the photograph was taken; and (iii) the vehicle's license plate. The Licensee shall maintain the photographs, in electronic format, for a period of two years from the date on which it was taken. The Licensee shall provide the photographs, without charge, to the relocated vehicle's owner and the Chief of Police, upon request.
  5. Governmental vehicles shall not be relocated. If at any point a governmental vehicle is in the process of being relocated, the Licensee must relinquish the vehicle immediately and without any payment to the governmental official on site and claiming the vehicle. If a governmental vehicle is relocated, the vehicle must be released to the governmental official claiming the vehicle, immediately and without payment.
- (b) Prerequisites to Relocations.
1. Before a Licensee relocates an unauthorized vehicle, the Licensee shall first obtain written consent from the owner of the Private Property or the owner's authorized agent

to relocate the specific vehicle in question. If the Licensee has an agreement to relocate all unauthorized vehicles from that Private Property, then the Licensee shall verify that the Private Property Owner is making such a request to have the unauthorized vehicle relocated.

2. Vehicles shall not be relocated without such request being made by the Private Property Owner. The Licensee shall note the individual or company name that has made a request for vehicle relocation.
3. No vehicle shall be relocated if: (i) the owner of the vehicle or the owner's agent is present or arrives on the scene before the vehicle is completely removed from the Private Property, and (ii) such owner or agent can produce the ignition key or other ignition device for the vehicle, and (iii) such owner or agent is able to remove and immediately does remove the vehicle from the Private Property.
4. No Licensee shall relocate a vehicle if said vehicle contains one or more passengers; including pets.
5. No Licensee shall demand, collect or receive anything of value or compensation from the vehicle owner, agent or lessee of a relocated vehicle other than the amount indicated on the signs posted on the Private Property from which the vehicle was relocated, or the rate established by the Commission, whichever is less; provided that this subsection shall not apply to storage fees prescribed by the Commission which are posted in compliance with the Commission's rules and regulations at the locations where the relocated vehicle may be reclaimed.
6. Licensee must accept any of the following methods of payment for lawful rates, fees and charges both at the Private Property or any impound lots where the relocated vehicle may be stored: United States currency, commonly recognized traveler's checks, money orders, cashier's checks, certified checks, and commonly accepted credit cards and debit cards. Licensee must be able to accept these forms of payments onsite and at any other location where a vehicle may be relocated.
7. Provide the owner of a relocated vehicle with a legible receipt, which shall indicate:
  - i. the date and time the vehicle was relocated;
  - ii. the date and time the vehicle owner or agent arrived at the storage facility and the location of such storage facility;
  - iii. the date and time the vehicle was returned; and
  - iv. the name of the person who relocated the vehicle;
8. Keep on file, for a period of at least three (3) years from the date of its issuance, a copy of the receipts which shall be provided upon request by any authorized Village official and shall make a copy of such receipt(s) available for inspection by such authorized Village official.

(c) Insurance for Licensees. No Licensee shall relocate any vehicle from Private Property nor shall any person accept in storage an unauthorized vehicle relocated unless at the time of the relocation the Licensee had liability insurance in effect in the name of such Licensee as follows:

1. Every Licensee shall maintain a commercial general liability insurance policy insuring the Licensee with a limit of not less than \$1,000,000 per occurrence, for bodily injury, personal injury and property damage, arising in any way from the issuance of a license or activities conducted pursuant to the license.
2. Such insurance policy shall be issued by a firm properly qualified to do business in the State of Illinois; shall name the Village of Wilmette as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the Licensee's operations; and shall not be cancelled, revoked, reduced in limits or subject to lapsing without first providing 30 days' advance notice to the Chief of Police. A certificate of the policy shall be carried in the cab of such tow truck and displayed on demand to a police officer or other authorized government official.

(d) Storage and Relocation.

1. Unauthorized vehicles shall be relocated directly from the initial point of tow to the Licensee's facility that is indicated on the sign posted at the Private Property.
2. No unauthorized vehicle shall be relocated to a storage lot or facility that is not identified on signs posted at the location from which the unauthorized vehicle is relocated in compliance with Illinois law.
3. Following the initial relocation, no vehicle shall be subsequently transported to any other lot or facility except to a secondary storage lot in compliance with Illinois law, which must be indicated on the required signage.

#### 5-11.7 Towing Bill of Rights

- (a) Wilmette Towing Bill of Rights – Posting – Required. Each Licensee shall post a copy of the Wilmette Towing Bill of Rights, as set forth in subsection (b) of this section, conspicuously in the area of their lot or facility where persons retrieve relocated vehicles. Such posting, which shall be labeled the Wilmette Towing Bill of Rights, shall be on a page or poster not less than 11 inches in width and 17 inches in height. In addition, the Licensee shall provide a paper copy of the Wilmette Towing Bill of Rights to all persons retrieving a vehicle from the Licensee's lot or facility.
- (b) Wilmette Towing Bill of Rights – Required Contents. The Wilmette Towing Bill of Rights shall provide the following:

#### **Wilmette Towing Bill of Rights**

Pursuant to the Illinois Compiled Statutes, Illinois Administrative Code, and Wilmette Village Code, 1993, the following requirements apply when any vehicle is towed from Private Property:

1. No vehicle shall be relocated from any Private Property without the consent of the Private Property Owner or his authorized agent to conduct such removals.
2. No vehicle shall be relocated from a lot which does not, at the time of the tow and for at least 24 hours prior thereto, have signs posted in compliance with applicable laws and regulations.
3. Licensees shall print and make available to the public all authorized rates and charges for towing or for otherwise moving and storing vehicles in connection with the removal of unauthorized vehicles from Private Property.
4. No vehicle shall be relocated if: (i) the owner of the vehicle or the owner's agent is present or arrives on the scene before the vehicle is completely removed from the Private Property, and (ii) such owner or agent can produce the ignition key or other ignition device for the vehicle, and (iii) such owner or agent is able to remove and immediately does remove the vehicle from the Private Property.
5. Licensees must notify the Wilmette Police Department within thirty 30 minutes after relocating any unauthorized vehicle.
6. Licensees must accept any of the following methods of payment for lawful fees and charges: United States currency, commonly recognized traveler's checks, money orders, cashier's checks, certified checks, and commonly accepted credit cards and debit cards.
7. In the event the owner of any relocated vehicle is not able to immediately pay to retrieve the vehicle, the Licensee must provide the owner with access to the vehicle to retrieve any of the owner's personal belongings. The Licensee is permitted to accompany the owner to the vehicle while the owner removes his or her belongings.
8. Upon request, the Licensee must provide the owner of any relocated vehicle with a photograph of the vehicle taken before it was towed that clearly shows the date and time the photograph was taken, the vehicle's location, and the vehicle's license plate number. Upon request, the Licensee must also provide the vehicle owner with relevant electronic video records of the relocation.
9. When the owner retrieves his or her vehicle, or upon request, the Licensee must provide the owner of the relocated vehicle with a copy of this "Bill of Rights" along with other relevant statutes, regulations, and ordinances governing relocation operations.
10. Formal complaints about the Licensee can be made by contacting the Illinois Commerce Commission at (847) 294-4326 or can be filed online at [www.icc.illinois.gov](http://www.icc.illinois.gov).

#### 5-11.8 Booting Not Authorized

A Village Towing License shall not authorize the booting or immobilization of any motor vehicle located within the corporate limits of the Village at any time.

#### 5-11.9 Violation; Penalty

- (a) In addition to the provisions of this Chapter, every Licensee shall operate in a manner prescribed by this Chapter and by the Illinois Vehicle Code (625 ILCS 5/1 et seq.) and the Illinois Administrative Code (92 Ill. Adm. Code 1710.10 et seq.).
- (b) Every act or omission constituting a violation of any provision of this Section by any operator, officer, director, manager, agent or employee of any Licensee shall be deemed and held to be the act of such employer or Licensee and the employer or Licensee shall be punishable in the same manner as if such act or omission had been committed or omitted by Licensee.
- (c) Every act or omission constituting a violation of any provision of this Section by any owner, officer, director, manager, agent or employee of any owner of the Private Property where an unauthorized vehicle may be relocated from, shall be deemed and held to be the act of such owner of the Private Property and the owner of the Private Property shall be punishable in the same manner as if such act or omission had been committed or omitted by him or her personally.
- (d) Any Licensee or Private Property Owner violating any of the provisions of this Section shall be deemed guilty of a business offense and upon conviction thereof shall be fined in an amount not less than \$200 and not exceeding \$2,000. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- (e) In addition to any other penalty provided for in this Section, if a Licensee engages in more than one violation of this Ordinance within the term of any Village Towing License, or for other good cause shown, the Corporation Counsel, per the procedure provided in this Chapter or via the Village's Administrative Adjudication, may suspend the Village Towing License of the Licensee for thirty (30) days. If violations of the provisions of this Section thereafter continue during the license period, the Corporation Counsel may, following the procedures provided for in this Chapter or via the Village's Administrative Adjudication, may revoke the Village Towing License of a Licensee for a period not to exceed one (1) year. The Licensee may apply for a new license pursuant to the procedures set forth in this section, after the one-year revocation period. The Chief of Police may suspend the Village Towing License of the Licensee, without a hearing, for a period not to exceed ten (10) days, in the event that the Chief of Police determines that such temporary suspension is required.
- (f) Licensees shall not have any property rights or expectation of continuation of their licenses. The Village reserves the right to revoke, suspend or terminate any Village Towing License issued hereunder at any time.
- (g) The Village may modify, suspend or revoke any of the provisions found in this Section.

**SECTION 3:** The Wilmette Village Code, 1993, as amended, is further amended in Chapter 5, “Regulation of Certain Commercial and Quasi-Commercial Activities,” by creating a new subsection Section 5-12 “Vehicle Immobilization License,” in the manner and form shown below so that said Section 5-12 shall hereafter read as follows:

**5-12 BOOTING AND IMMOBILIZATION OF VEHICLES.**

5-12.1 Scope of Regulations

The provisions of this Section shall apply to all booting or immobilization of vehicles within the Village limits.

5-12.2 Definitions

For the purposes of this Section, the words and phrases used herein shall have the following meanings, unless context clearly indicates or requires a different meaning:

- (a) “Boot”, “Booting”, or “Immobilization” means the act of placing on a parked motor vehicle, a lockable vehicle wheel clamp or similar device that is designed to be placed on a parked vehicle to prevent the operation of the vehicle until the device is unlocked and removed. The term “boot” shall also include the devices used for this purpose.
- (b) “Immobilize” means to place a boot on a parked vehicle to prevent the operation of the vehicle until the boot is unlocked and removed. The term shall also include any installation, adjustment, or removal of a boot.
- (c) “Licensee” means a person or entity that has received and is operating under a valid Village Boot License.
- (d) “Private Property” means a parking lot or other parking area located on privately owned and operated property that is sited in the following Village Zoning Districts:
  - 1. Commercial Districts
  - 2. Planned Commercial Development Districts

“Private Property” shall not mean any property, whether privately or publicly owned, located within a Residential District, or any Village of Wilmette property located anywhere within the Village limits. “Private Property” shall also not mean any public right-of-way controlled by the Village.

- (e) “Private Property Owner” shall mean the owner of the Private Property or the management company of the Private Property acting as the owner’s duly authorized agent.

“Private Property Owner” shall not mean a tenant entitled to use the Private Property.

- (f) "Unauthorized vehicle" means any vehicle parked or abandoned on private property, without the consent of the owner of the Private Property or the owner's authorized agent.
- (g) “Village” shall mean the Village of Wilmette.

#### 5-12.3 Boot License Required

- (a) It shall be unlawful for any person or entity to engage in the business of vehicle immobilization or booting without first receiving a Village Booting License.
- (b) It shall be unlawful for the Private Property Owner to allow or authorize the immobilization of a vehicle upon their Private Property, without first complying with the provisions of this Section.
- (c) It shall be unlawful, for any person or entity to immobilize or boot a vehicle located on any non-Private Property within the Village.

#### 5-12.4 Application, Qualifications, Fee, Late Penalty

- (a) Prior to the issuance of any Village Boot License, each applicant must comply with the following provisions.
- (b) The Chief of Police may issue a Village Boot License to any qualified applicant pursuant to an application filed. The Chief of Police may promulgate rules and regulations to further implement and enforce the provisions of this section.
- (c) Each application for a license to immobilize or boot a vehicle shall be made in writing to the Chief of Police, shall be verified under oath; shall be in such form and contain such information as required by the Chief of Police, including but not limited to:
  1. Sufficient information to identify the applicant, including but not limited to, full legal name, date of formation of legal entity, any trade name under which the applicant operates, telephone number, and all business and residence addresses, as reported to the Secretary of State.
  2. Certificate of Good Standing demonstrating that all corporate or limited liability company applicants are qualified to do business under the laws of Illinois.
  3. A list of all persons with any ownership interest in the applicant who have previously been denied a license by the Village, another municipality or the State of Illinois.
  4. A photograph or other rendering of the proposed, existing, and previous applicant's service vehicles' colors and markings.

5. A description of the applicant's management plan, which shall include but not be limited to the following: location and description of all places of business, a description of all existing immobilization equipment, a system for handling complaints and damage caused to immobilized vehicles during the process of immobilization, and a description of any communication and payment system.
  6. Then name and age, along with a photograph of each employee that will be performing booting operations within the Village limits.
  7. Days and hours of operation of the immobilization service and/or operator.
  8. The 24 hour/365 day phone service number.
  9. Proof of insurance as required in by this Section.
  10. The signature of each individual applicant, the signature of the president or vice-president of a corporate applicant, the signature of the managing member of a limited liability company, or the signature of all general partners of a partnership applicant.
  11. An affidavit by an authorized agent of the applicant affirming that the information provided in the application is true and accurate, along with an agreement to abide by the provisions of this Section, the ordinances of the Village, and the laws of the State of Illinois.
  12. Such additional information about the applicant as the chief of police or his designee may deem appropriate.
- (d) The annual fee for a Village Boot License shall be \$75.
- (e) The annual fee, along with a completed application, shall be paid to the Village no later than January 31<sup>st</sup> of any given year. Any person or entity that fails to pay the annual fee on or before January 31<sup>st</sup> shall be required to pay the applicable annual fee, plus a late penalty in the amount of \$150 for each month the annual fee and late penalty due and owing has not be paid in full thereafter.

#### 5-12.5 Owner of Private Property Responsibilities

- (a) Signage located on Private Property: Prior to any vehicle being immobilized upon Private Property, the Private Property Owner must:
1. Prominently display no fewer than 14 days prior to the commencement of a booting operation at each and every location where a booting operation is to be conducted, and to maintain at each driveway access or curb cut allowing vehicular access to the Private Property within five feet from the public right-of-way line, a minimum of one sign no smaller than 24 inches in height and 36 inches in width, which must be illuminated upon sunset, setting forth:

- i. the date upon which a booting operation shall commence;
- ii. the terms of use of the subject property;
- iii. the fee for removal of a boot;
- iv. the name, address and a 24-hour telephone number for the licensee;
- v. the name and telephone number of the property owner or manager; and
- vi. a statement notifying consumers of their rights under this section will be provided at time of removal of the boot or upon request.

(b) The Private Property Owner must remove the signs required under this subsection, upon discontinuation of immobilization operations at the Private Property.

#### 5-12.6 Licensee's Duties

- (a) Each licensee engaged in the business of immobilizing unauthorized vehicles shall have a duty to:
1. Conduct booting operations exclusively on Private Property, and only pursuant to a written agreement with the owner or manager of the Private Property;
  2. Refrain from conducting booting operations if the required signage is not installed, visibly lighted or otherwise obstructed at the Private Property. Such signs shall remain in place as long as a booting operation is being conducted;
  3. Station, at every location where a licensee conducts booting operations, at least one (1) employee or agent to install and remove boots and to receive payments. Each such employee or agent shall
    - i. wear, in a conspicuous manner, an identification placard clearly displaying the name of such employee or agent and the name, address and telephone number of the licensee; and
    - ii. carry on his or her person a copy of the license issued under this section.

Prior to leaving the Private Property where booting operations are conducted, the employee or agent stationed at the Private Property shall remove all boots from vehicles at that location;

4. Place on the windshield of every vehicle that is booted a copy of the "Consumer Bill of Rights", the text of which shall be provided by the department, and to make copies of this document available to persons upon request;
5. Keep copies of the "Consumer Bill of Rights" at the licensed premises and, upon request by any person, to make copies of this document available to such person;
6. Maintain sufficient copies of this Section for distribution to any person requesting a copy of this ordinance;

7. Immediately remove a boot from any motor vehicle, at no charge if: i) the owner of the vehicle or the owner's agent is present or arrives on the scene before the vehicle is completely immobilized from the Private Property, and (ii) such owner or agent can produce the ignition key or other ignition device for the vehicle, and (iii) such owner or agent is able to remove and immediately does remove the vehicle from the Private Property;
8. Not demand, collect, or receive anything of value or compensation from the vehicle owner, agent or lessee of a booted vehicle other than the amount indicated on the signs posted on the Private Property from which the vehicle was booted; which shall not exceed \$100.00.
9. Accept any of the following methods of payment for compensation: United States currency, commonly recognized traveler's checks, money orders, cashier's checks, certified checks, and commonly accepted credit cards and debit cards. The licensee must be able to accept these forms of payment onsite.
10. Maintain a twenty-four (24) hours a day, three hundred sixty-five (365) days per year phone number that is staffed by a live operator to communicate immediately with a driver of a vehicle that has been immobilized by the vehicle immobilization service.
11. Provide the owner of a booted vehicle with a legible receipt, which shall indicate:
  - i. the date and time the boot was placed on the vehicle;
  - ii. the date and time the owner returned to the vehicle;
  - iii. the date and time the boot was removed from the vehicle;
  - iv. the name of the person who installed the boot; and
  - v. that the vehicle owner has the option to pay any fees assessed in connection with the booting operation by credit card.
12. Keep on file, for a period of at least three (3) years from the date of its issuance, a copy of the receipts which shall be provided upon request by any authorized Village official and shall make a copy of such receipt(s) available for inspection by such authorized Village official.
13. Refrain from immobilizing governmental vehicles. If at any point a governmental vehicle is in the process of being immobilized, the Licensee must relinquish the vehicle immediately and without any payment to the governmental official on site and claiming the vehicle.

#### 5-12.7 Prerequisites to Immobilization.

- (a) Before a Licensee can immobilize a vehicle, the Licensee shall first have a valid agreement with the Private Property Owner authorizing the Licensee to engage in booting activity upon

the Private Property. Prior to immobilizing a vehicle, the Licensee shall verify that Private Property Owner is making such a request to have the unauthorized vehicle immobilized.

- (b) Vehicles shall not be immobilized without such request being made by the Private Property Owner. The Licensee shall note the individual or company name that has made a request for vehicle immobilization.

#### 5-12.8 Insurance for Licensee.

- (a) No Licensee shall immobilize any vehicle on Private Property unless at the time of the immobilization the Licensee had liability insurance in effect in the name of such Licensee as follows:
  1. Every Licensee shall maintain a commercial general liability insurance policy insuring the Licensee with a limit of not less than \$1,000,000 per occurrence, for bodily injury, personal injury, and property damage, arising in any way from the issuance of a license or activities conducted pursuant to the license.
  2. Such insurance policy shall be issued by a firm properly qualified to do business in the State of Illinois; shall name the Village of Wilmette as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the Licensee's operations; and shall not be cancelled, revoked, reduced in limits or subject to lapsing without first providing 30 days' advance notice to the Chief of Police. A certificate of the policy shall be carried in the onsite vehicle, or with the Licensee's agent located at the Private Property and displayed on demand to a police officer or other authorized government official.

#### 5-12.9 Booting Bill of Rights

- (a) Wilmette Booting Bill of Rights – Posting – Required. Each Licensee shall post a copy of the Wilmette Booting Bill of Rights, as set forth in subsection (b) of this section, conspicuously on the Private Property. Such posting, which shall be labeled the Wilmette Booting Bill of Rights, shall be on a page or poster not less than 11 inches in width and 17 inches in height. In addition, the Licensee shall provide a paper copy of the Wilmette Booting Bill of Rights to all persons seeking their vehicle released from immobilization from the Private Property.
- (b) Wilmette Booting Bill of Rights – Required Contents. The Wilmette Booting Bill of Rights shall provide the following:

#### **Wilmette Booting Bill of Rights**

Pursuant to the Wilmette Village Code, 1993, the following requirements apply when any vehicle is booted on Private Property:

1. No vehicle shall be booted on any Private Property without the written consent of the Private Property Owner to conduct such removals.
2. No vehicle shall be booted on a lot which does not, at the time of the immobilization and no fewer than 14 days prior thereto, have signs posted in compliance with applicable laws and regulations.
3. No vehicle shall be booted if: (i) the owner of the vehicle or the owner's agent is present or arrives on the scene before the vehicle is completely removed from the Private Property, and (ii) such owner or agent can produce the ignition key or other ignition device for the vehicle, and (iii) such owner or agent is able to remove and immediately does remove the vehicle from the Private Property.
4. Licensees must accept any of the following methods of payment for lawful fees and charges: United States currency, commonly recognized traveler's checks, money orders, cashier's checks, certified checks, and commonly accepted credit cards and debit cards.
5. In the event the owner of any booted vehicle is not able to immediately pay to retrieve the vehicle, the Licensee must provide the owner with access to the vehicle to retrieve any of the owner's personal belongings. The Licensee is permitted to accompany the owner to the vehicle while the owner removes his or her belongings.
6. When the owner retrieves his or her vehicle, or upon request, the Licensee must provide the owner of the booted vehicle with a copy of this "Bill of Rights" along with other relevant statutes, regulations, and ordinances governing booting operations.

#### 5-12.10 Towing or Relocating of Vehicles Prohibited

A Village Booting License shall not authorize the towing or relocation of any motor vehicle located within the corporate limits of the Village at any time.

#### 5-12.11 Violation; Penalty

- (a) Every Licensee shall operate in a manner prescribed by this Section and any applicable section of Wilmette Village Code, 1993.
- (b) Every act or omission constituting a violation of any provision of this Section by any Licensee, officer, director, manager, agent or employee of any Licensee shall be deemed and held to be the act of such employer or Licensee and the employer or Licensee shall be punishable in the same manner as if such act or omission had been committed or omitted by him or her personally.
- (c) Every act or omission constituting a violation of any provision of this Section by any owner, officer, director, manager, agent or employee of any Private Property Owner where an unauthorized vehicle may be booted, shall be deemed and held to be the act of such Private

Property Owner and Private Property Owner shall be punishable in the same manner as if such act or omission had been committed or omitted by him or her personally.

- (d) Any Licensee or Private Property Owner violating any of the provisions of this Section shall be deemed guilty of a business offense and upon conviction thereof shall be fined in an amount not less than \$200 and not exceeding \$2,000. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.
- (e) In addition to any other penalty provided for in this Section, if a Licensee engages in more than one violation of this Ordinance within the term of any Wilmette Booting License, or for other good cause shown, the Corporation Counsel, per the procedure provided in this Chapter or via a hearing at the Village’s Administrative Adjudication, may suspend the Wilmette Booting License for thirty (30) days. If violations of the provisions of this Section thereafter continue during the license period, the Corporation Counsel may, following the procedures provided for in this Chapter or via a hearing at the Village’s Administrative Adjudication, may revoke the Wilmette Booting License for a period not to exceed one (1) year. The Licensee may apply for a new license pursuant to the procedures set forth in this section, after the one-year revocation period. The Chief of Police may suspend the Wilmette Booting License, without a hearing, for a period not to exceed ten days, in the event that the Chief of Police determines that such temporary suspension is required.
- (f) Licensees shall not have any property rights or expectation of continuation of their licenses. The Village reserves the right to revoke, suspend or terminate any Wilmette Booting License issued hereunder at any time, with or without cause.
- (g) The Village may modify, suspend, or revoke any of the provisions found in this Section.

**SECTION 4:** The Wilmette Village Code, 1993, as amended, is further amended in Chapter 2, Section 2-24 “Village Administrative Adjudication,” in the manner and form shown below in said Subsection 2-24.4(e)3 by inserting new text shown in underlined bold type below, so that the following text is inserted into the table in numerical order so that said Table 1 of Subsection 2-24.4(e)3 shall contain the additional language as follows:

<b>TABLE 1 -- Section 2-24.4</b>					
Code Section	Offense	Settlement Amount Paid Prior to Hearing Date	Minimum Fine on Hearing Date	Maximum Fine on Hearing Date	Appearance Required
***	***	***	***	***	***
5-7	Fire Alarm Systems	\$100		\$750	

5-8	Regulation of Film Production	\$150		\$1000	
5-10	Valet Parking Services	\$100		\$750	
<b><u>5-11</u></b>	<b><u>Towing and Relocating of Vehicles</u></b>		<b><u>\$200</u></b>	<b><u>\$2000</u></b>	<b><u>Yes</u></b>
<b><u>5-12</u></b>	<b><u>Booting and Immobilization of Vehicles</u></b>		<b><u>\$200</u></b>	<b><u>\$2000</u></b>	<b><u>Yes</u></b>

**SECTION 5:** Codifier’s Authority. The Village’s codifier is authorized to adjust section and paragraph numbering as may be necessary to render this ordinance consistent with the numbering of the Village Code.

**SECTION 6:** This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as required by law.

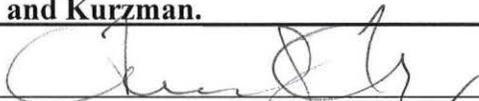
**PASSED** by the President and Board of Trustees of the Village of Wilmette, Illinois, on the **24<sup>th</sup> day of April, 2018**, according to the following roll call vote:

**AYES:** Trustees Wolf, Plunkett, Dodd and President Bielinski.

**NAYS:** None.

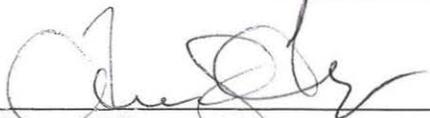
**ABSTAIN:** None.

**ABSENT:** Trustees Sullivan and Kurzman.

  
 \_\_\_\_\_  
 Clerk of the Village of Wilmette, IL

**APPROVED** by the President of the Village of Wilmette, Illinois, this **24<sup>th</sup> day of April, 2018**.

  
 \_\_\_\_\_  
 President of the Village of Wilmette, IL

**ATTEST:**  
  
 \_\_\_\_\_  
 Clerk of the Village of Wilmette, IL

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