SPESIA & TAYLOR

MEMO

To: City of Crest Hill
From: Spesia & Taylor
Date: November 9, 2026
Re: Tarped Vehicles on Private Property.

Issue: Can the City regulate tarped vehicles on private property as a nuisance and impose a fine for violating the ordinance?

Answer: In certain instances, yes. The Illinois Municipal Code specifically authorizes any municipality to specifically define nuisances. There is additional Municipal Code authority which enables municipalities to regulate, through fines and abatement, *inoperable* vehicles on public and private property. With respect to inoperable vehicles, a municipal ordinance can declare those vehicles a nuisance and can also mandate that tarping an inoperable vehicle does not abate the nuisance. Within this framework, the municipality can declare tarped, inoperable vehicles in private driveways to be nuisances and subject the vehicle or property owner to fines.

A. APPLICABLE LAW

The Illinois Municipal Code states: "The corporate authorities of each municipality may define, prevent, and abate nuisances." 65 ILCS 5/11-60-2. Additionally, the Municipal Code provides municipal power over inoperable motor vehicles in section 5/11-40-3:

> Subject to the provisions of Section 11-40-3.1 of this Code, the corporate authorities of each municipality may by ordinance declare all inoperable motor vehicles, **whether on public or private property and in view of the general public**, to be a nuisance and authorize fines to be levied for the failure of any person to obey a notice received from the municipality which states that such person is to dispose of any inoperable motor vehicles under his control, and may authorize a law enforcement agency, with applicable jurisdiction, to remove, after 7 days from the issuance of the municipal notice, any inoperable motor vehicle or parts thereof. However, nothing in this Section shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles. (emphasis added).
>
> As used in this Section, “inoperable motor vehicle” means any motor vehicle from which, for a period of at least 7 days or any greater period fixed by ordinance, the engine, wheels or other parts have been removed, or on which the engine, wheels

> or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. “Inoperable motor vehicle” shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

In *Radcliff v. Berwyn*, 129 Ill. App. 3d 70 (1st Dist. 1984), Berwyn's ordinances regulated the off-street parking of motor vehicles, making it unlawful to park inoperable vehicles on private land. *Id.* at 70-71. Plaintiff was arrested for violation of the ordinance where he had seven inoperable motor vehicles parked on his private driveway. *Id.* at 70-71. The court upheld the constitutionality of the ordinance. *Id.* at 71. The ordinance defined "open private land." *Id.* Additionally, the court found Berwyn had the power to pass ordinances to abate nuisances under now referenced 65 ILCS 5/11-60-2. *Id* at 72. "The unsightly nature of most inoperable equipment and the attractiveness of such unkempt areas to rats and vermin are well known." *Id.* "The ordinance before us was unquestionably enacted for the purpose of promoting health and protecting the safety of the members of the community." *Id.*

Radcliff may be distinguishable insofar as it is unclear as to whether the vehicles were tarped. Additionally, in 1984, Berwyn was a Home Rule municipality.

B. MUNICIPAL CODES

1. Crest Hill

Crest Hill's Code Ch. 7.14 (Tarped Vehicles) provides only that tarped vehicles on public property are a nuisance for which there is a monetary penalty. Importantly, Section 7.14.030 states: "No tarped vehicles shall be permitted upon any street, highway or right-of-way within the city." There is no explicit prohibition of tarped vehicles parked on private property or driveways.

Crest Hill's Code Ch. 7.16 (Nuisances) provides generally for the abatement of "public nuisances." Our review of the defined term "public nuisance" does not incorporate or tarped vehicles.

However, Sections 10.01.10-704 and 10.01.10-706 each make having an unlicensed and unregistered vehicle, an abandoned vehicle, or an inoperable vehicle on private property unlawful as a public nuisance.

2. Village of Streator

A non-Home Rule unit, the Village of Streator, Illinois code Ch. 8.16 (Abandoned, Inoperable and Unregistered Vehicles) provides an example of an ordinance that applies to the issue here, attached as Exhibit A. Streator's ordinance provides in relevant part:

- Defining "abandoned vehicle," "antique vehicle," "inoperable vehicle," "unregistered vehicle," and "private property." § 8.16.010.
- Declaring abandoned vehicles, inoperable vehicles, and unregistered vehicles, whether located on private or public property, to be a nuisance. § 8.16.0202.
- Creating exemptions for vehicles that are in an enclosed building, an operable antique vehicle currently registered, a vehicle rendered temporarily inoperable for service repairs

no greater than 7 days, and those vehicles in places of business for wrecking or junking. § 8.16.030.

- Considering the covering, tarping, or storing an abandoned, inoperable, or unregistered vehicle to not be considered as resolving an abandoned, inoperable, or unregistered vehicle as a public nuisance. § 8.16.020.
- Providing a hearing for the vehicle owners for vehicles located on private property. § 8.16.080.
- Stating the Village may seek a judicial warrant to search and seize abandoned, inoperable, or unregistered vehicles and to cause the towing or removal thereof on private property. § 8.16.090.

Our research did not reveal a court challenge to Streator's Ch. 8.16. However, Streator's code stands for the proposition that tarping inoperable, abandoned, and unregistered vehicles that are located on private property can be declared a public nuisance and subject to the code's enforcement provisions.

3. City of Havana

Another non-Home Rule unit, the City of Havana, Illinois' code Ch. 8.15 (Maintenance of Private Property) provides an example ordinance which deals with tarping a vehicle on private property. The ordinance states in relevant part:

- "Open" includes an inoperable motor vehicle covered only by a tarpaulin or other similar cover. § 8.15.010(D).
- Prohibits inoperable motor vehicles from being parked, stored, or left in the open on private property unless it is necessary for the operation of a lawful business. § 8.15.120.

Distinctly, Havana does not categorize an "inoperable motor vehicle" as a nuisance. Section 8.15.140 of the Havana code does impose a monetary fine for any violation of Ch. 8.15, which includes the parking of an "open" inoperable vehicle (i.e., a tarped vehicle on private property).

4. Village of Northbrook

A Home Rule unit, the Village of Northbrook Ch. 16 (Nuisances) specifically declares any vehicle tarped or covered for more than 120 days to be a nuisance. § 16-2(b). Our review of the ordinance does not limit § 16-2(b) to public or private property, thus it arguably applies to both. Additionally, Northbrook's nuisance ordinance provides for the abatement of any nuisance, which would include tarped vehicles.

C. SUMMARY/RECOMMENDATIONS

Currently, Crest Hill's ordinance regarding tarped vehicles allows for fines to be imposed for those tarped vehicles on public roadways, not private driveways. However, under the Municipal Code Sections 5/11-60-2 and 5/11-40-3, the City can amend its ordinance to provide for the imposition of fines and/or possible removal of inoperable vehicles on private property. The Village of Streator's ordinance provides a useful framework to declare certain tarped vehicles as a nuisance and subject to penalties.

So, while the Illinois Municipal Code does not specifically authorize municipalities to regulate tarped vehicles on private property, municipalities possess broad police powers (including declaring nuisances) to adopt reasonable regulations that protect the public health, safety, welfare, neighborhood appearance, and property values. These same authorities serve as the basis for many of the City's existing zoning, property maintenance, nuisance, and traffic regulations.

Because Illinois law does expressly authorize municipalities to declare inoperable motor vehicles located on private property and visible to the public to be nuisances and require their removal (65 ILCS 5/11-40), we believe the City has a stronger legal basis for adopting narrowly tailored regulations that distinguish between operable and inoperable vehicles, rather than imposing a blanket prohibition on all covered vehicles.

Accordingly, we are recommending that any proposed ordinance change be focused on ensuring that covered vehicles remain properly registered, licensed, and operable while establishing objective standards for vehicle coverings and reasonable exceptions for temporary or emergency situations. This approach addresses neighborhood appearance concerns while reducing the likelihood of legal challenges by avoiding an outright prohibition on all vehicle covers.

A total ban on tarps would sweep into its ambit operable, registered vehicles that may be designated as an antique vehicle or simply covered as additional protection from the elements.

Since the focus or any proposed amendment is to target inoperable or unregistered vehicles, then the City could amend its current ordinances to ban the tarping of an inoperable, abandoned, unregistered and unlicensed vehicle as an abatement or an attempt to avoid violation of the inoperable vehicle ordinance already on the books. One item to note is that for removal of a nuisance vehicle from private property, there must be adequate due process, since the Courts treat titled vehicles with great deference, so if the Council is interested putting in removal options as part of the penalty, we would recommend reworking the current abandoned vehicle ordinance to include the required notice and due process before an inoperable vehicle can be removed from private property. Attached hereto is an Exhibit B entitled “Steps to Impound” which outlines the process to be undertaken before a nuisance vehicle on private property can be removed. The Crest Hill Code should be amended to follow those steps. Dan Ritter/Staff concur with these recommendations.

An additional alternative, which can be made in conjunction with the above, is to enact an ordinance establishing a permit process for the outdoor storage of covered vehicles on residential properties. Under the proposed regulations, no more than <u>one</u> registered vehicle covered by a vehicle cover would be permitted per residential lot. The permit process would ensure that covered vehicles are maintained in a manner that protects neighborhood appearance while allowing reasonable accommodation for exterior vehicle storage. We would have to integrate the new permitting with the existing regulations in Chapter 7.14 and 10.01.

The following standards and exceptions are recommended:

1. **Vehicle Cover Requirements:** Any covered vehicle must be protected with a commercially manufactured, durable, and properly fitted vehicle cover designed for

automotive use. The use of plastic tarps, loose-fitting covers, ropes, bungee cords, or similar materials would be prohibited.

2. **Vehicle Registration Verification:** The owner shall provide current vehicle registration information as part of the permit application. Registration information will allow the City to verify that the vehicle is currently licensed and in operable condition and may be periodically reviewed to ensure continued compliance.
3. **Commercial, Industrial, and Multi-Family Properties:** Covered vehicles are prohibited from being stored on commercial, industrial, and multi-family parking lots, unless otherwise covered by an allowable exception.
4. **Temporary Covering Exception:** A permit would not be required for a vehicle temporarily covered outdoors for a period not exceeding fourteen consecutive days, provided the vehicle is otherwise lawfully parked and maintained.
5. **Emergency Exception:** Temporary vehicle covers used to protect a vehicle following storm damage, accidents, or while an insurance claim or repair is pending would be exempt from the permit requirement for a reasonable period with proper documentation and as determined by the Code Official.

The permit would be issued as a one-time permit rather than an annual license. This approach minimizes administrative burden on both residents and City staff while reducing potential legal concerns associated with recurring licensing requirements. Staff also recommend including a reasonable compliance period following adoption of the ordinance to allow owners of existing covered vehicles sufficient time to obtain a permit or otherwise bring their properties into compliance. Once implemented, staff can review the effects of the regulations and ensure they are both reasonable and properly tailored to address nuisance situations.

EXHIBIT A: VILLAGE OF STREATOR

Chapter 8.16 ABANDONED, INOPERABLE AND UNREGISTERED VEHICLES

8.16.010 Definitions.

For the purpose of this chapter, the following words shall have the meanings ascribed to them as follows:

"Abandoned vehicle" means any vehicle that has not been moved for seven consecutive days or more and is apparently deserted.

"Antique vehicle" means any vehicle twenty-five (25) years of age or older.

"Highway" means any street, alley or public way within the city.

"Inoperable vehicle" means any vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power, or, if not equipped with an engine when manufactured, incapable of being moved.

"Person" means any natural person, firm, partnership, association, corporation or other legal entity.

"Private property" means any real property within the city which is privately owned and which is not public property as defined in this section.

"Public property" means any street or highway which shall include the entire width between the boundary lines publicly maintained for the purposes of vehicular travel, and any other property or facility owned by a public entity.

"Trailer" means every vehicle without motive power in operation designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle. However, a trailer commonly referred to as a "fifth wheel" trailer is considered a trailer by this definition.

"Travel trailer" means a trailer, not used commercially, designed to provide living quarters for recreational, camping, or travel use, and of a size or weight not requiring an over dimension permit when towed on a highway or city street.

"Unregistered vehicle" means any vehicle which is not properly and currently registered with the office of the Illinois secretary of state.

"Vehicle" means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway or city street or requiring a certificate of title under the statutes of the state of Illinois (625 ILCS 5/3-101) except devices moved by human power, devices used exclusively upon stationary rails or trance and snowmobiles as defined in the Snowmobile Registration and Safety Act (625 ILCS 40/1-1 et seq.).

"Vehicle owner" means a person who holds legal title to a vehicle or, in the event a vehicle is the subject of an agreement for conditional sale or lease thereof with the right of purchase upon the performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of such vehicle is entitled to possession, then such conditional vendee, lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

(Ord. 2005/06-45 § 1; Ord. 2004/05-10 (part))

8.16.020 Declaration of nuisance.

The city council finds and declares that abandoned vehicles, inoperable vehicles and unregistered vehicles, whether located upon private property or upon public property, constitute a safety hazard and a public nuisance detrimental to the health, safety and welfare of the general public, by harboring disease, providing breeding places

for vermin, inviting plundering, creating fire hazards and presenting physical dangers to children and others, and by creating scenic blights which degrade the environment and adversely affect land values and the proper maintenance and continuing development of the city.

(Ord. 2004/05-10 (part))

8.16.030 Exemptions.

This chapter shall not apply to the following:

A. A vehicle which is kept within an enclosed building when not in use;

B. An operable antique vehicle properly and currently registered with the office of the Illinois secretary of state.

C. A vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles, or on the premises of a place of business engaged in the sale of new or used automobiles, provided, however, that the latter business does not store or display inoperable vehicles;

D. A vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations for a period of not more than seven days from the date the vehicle became inoperable.

E. A vehicle, or parts of vehicles, used as commercial displays or public art, provided that such displays shall not be erected or constructed in non-residential zones; provided that they are approved and exempted in advance by the city manager in writing; provided that such commercial displays and public art are regularly cleaned, painted and maintained; and provided that the city (through its code enforcement officer) reserves the right to revoke previously issued exemptions and approvals of any such commercial displays and public art in the event they are not regularly cleaned, painted and maintained causing them to fall into disrepair, in which case the city will notify the commercial display or art owner that their exemption has been revoked, and the display or public art shall henceforth be treated as any other inoperative vehicle nuisance.

(Ord. No. 2015/16-46, § 1, 4-20-2016; Ord. 2004/05-10 (part))

8.16.040 Storage of unregistered vehicles.

No person shall accumulate, store or allow any unregistered vehicle to be located upon any public property or private property within the city for a period exceeding seven days.

(Ord. 2004/05-10 (part))

8.16.050 Covering or storing vehicles.

Covering, tarping, or storing an abandoned, inoperable or unregistered vehicle in an unenclosed building or structure will not be considered to resolve an abandoned, inoperable or unregistered vehicle as a public nuisance. Any abandoned, inoperable or unregistered vehicle belonging to an individual who is in the process of selling the vehicle, will have thirty (30) days from the date of receiving a notice from the city as described in this chapter to complete the sale thereof before the city may proceed with the remedies set forth in Section 8.16.080, 8.16.090 or 8.16.120 of this chapter.

(Ord. 2004/05-10 (part))

8.16.060 Duty to dispose of abandoned, inoperable or unregistered vehicles.

Any person, not exempted under Section 8.16.030, shall dispose of any abandoned, inoperable or unregistered vehicle owned by him or her, and, if the vehicle is located upon private property, the owner or person occupying the private property shall dispose of the abandoned, inoperable or unregistered vehicle as set forth in this chapter, upon written notice received from the city commanding the disposition thereof.

(Ord. 2004/05-10 (part))

8.16.070 Notice.

A. If the abandoned, inoperable or unregistered vehicle displays registration plates or decals from which the last known vehicle owner may be determined in a reasonably expeditious manner, notice as set forth in this chapter shall be sent to the last registered vehicle owner, and, if the vehicle is located upon private property, to the owner or occupant of the private property upon which the vehicle is located.

B. All notices provided by this section shall be sent by registered or certified mail, return receipt requested, postage prepaid. Notice to one vehicle owner will be considered notice to all vehicle owners and notice to one owner or occupant of private property will be considered notice to all owners and/or occupants of private property upon which the vehicle is located. Refusal to accept delivery of the notice shall be deemed acceptance for purposes of this section. The date of notice for purposes of this section shall be the day after the date such notice was deposited with the United States postal service. Notice may be personally served by a city police officer or other law enforcement agent authorized by the city manager upon the vehicle owner, or, if the vehicle is located upon private property, upon an owner or an occupant of the private property above the age of fourteen (14) years, in which case the date of notice shall be the date of personal service.

C. If the vehicle is located upon public property the notice will be substantially in the form set forth in this subsection:

NOTICE TO REMOVE VEHICLE FROM PUBLIC PROPERTY

TO: Name _____ Date _____
Address _____
_____
A Vehicle described as
Make: _____
Year: _____
Color: _____

with registration plates number _____ (the Vehicle) is registered in the name(s) of _____ with the State of _____. The Vehicle is located at _____ outside of an enclosed building and is deemed to be an Abandoned, Inoperable or Unregistered Vehicle under § 8.16.010, et. seq. of the City of Streator Municipal Code of Ordinances (the Ordinance). You are hereby notified that the Vehicle must be removed, disposed of or placed in an enclosed building within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. If you fail to remove, dispose of, or place the Vehicle in an enclosed building within the specified period, or within any extension granted by the City Manager, the City may cause the towing or removal of the Vehicle without further notice to you, and you may be charged with a violation of the Ordinance and may be subject to penalties pursuant to § 1.08.010 of the City of

Streator Municipal Code of Ordinances. In addition, the costs of towing and storage, including court costs and reasonable attorneys fees may be assessed against you.

D. If the vehicle is located upon private property, the notice shall be substantially in the form set forth in this subsection:

NOTICE TO REMOVE VEHICLE FROM PRIVATE PROPERTY

TO:Name _____ Date _____
Address _____
_____
A Vehicle described as
Make: _____
Year: _____
Color: _____
with registration plates number _____ (the Vehicle) is registered in the name(s) of _____ with the State of _____. The Vehicle is located at _____ outside of an enclosed building and is deemed to be an Abandoned, Inoperable or Unregistered Vehicle under § 8.16.010, et. seq. of the City of Streator Municipal Code of Ordinances (the Ordinance). You are hereby notified that the Vehicle must be removed, disposed of or placed in an enclosed building within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. You may request a hearing on the matter of whether the above described vehicle is an Abandoned, Inoperable or Unregistered Vehicle in violation of § 8.16.010 et. seq. of the Ordinance by submitting a written request for such a hearing to the City Manager addressed as set forth below, within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service. If you submit such a request for a hearing, a hearing date will be set and you will be advised of the time, date and place of such hearing at least three (3) days in advance of the date of such hearing. The City Manager shall, upon good cause being shown, grant an extension of the hearing of not more than thirty (30) days if you submit to the City Manager an affidavit that the Vehicle is being held for sale or for expeditious repair as defined by § 8.16.090 (B) of the Ordinance. To request a hearing, you must hand deliver or mail by certified mail, return receipt requested, a request for such a hearing in writing to the City Manager c/o, City of Streator, 204 S. Bloomington St., Streator, IL 61364. If you fail to request a hearing within seven (7) days of the day after the date this Notice was deposited with the United States Postal Service, and you do not remove, dispose of, or place the Vehicle in an enclosed building within the specified period, or within any extension granted by the City Manager after a hearing, the City may seek a judicial warrant to search and to seize the Vehicle and to cause the towing or removal of the Vehicle without further notice to you, and you may be charged with a violation of the Ordinance and may be subject to penalties pursuant to § 1.08.010 of the City of Streator Municipal Code of Ordinances. In addition, the costs of towing and storage, including court costs and reasonable attorney's fees may be assessed against you.

(Ord. 2004/05-10 (part))

8.16.080 Hearing regarding vehicle located upon private property.

A. The person or persons to whom the notice as specified in Section 8.16.070(D) is directed, shall have the right to a hearing before the city manager on the matter of whether the vehicle cited in such notice is an abandoned, inoperable or unregistered vehicle in violation of this chapter. To obtain such a hearing, a written request for such a hearing must be submitted by hand delivery or by certified mail, return receipt requested, addressed to the city manager c/o, city of Streator, 204 S. Bloomington St., Streator, IL 61364, within seven days of the day after the date this notice was deposited with the United States postal service. In the event that a hearing is so requested, the city manager shall, as soon as reasonably practicable, set a time, date and place for the hearing before the city manager, and shall cause the person or persons so requesting the hearing to be provided with written notice of the time, date and place of the hearing at least three days in advance of the date of the hearing. Enforcement of this chapter shall be stayed pending the hearing and determination by the city manager.

B. The owner of the vehicle or, the owner or occupant of the private property upon which the vehicle is located, may apply for an extension of time of the hearing by submitting to the city manager an affidavit that the vehicle is being held for sale or expeditious repair. Upon receipt of any such application for an extension of time, the city manager shall, upon good cause being shown, grant an extension of the hearing of not more than thirty (30) days. As used in this section, "expeditious repair" means:

    1. That the necessary parts for repair have been ordered but are not available for installation in the vehicle for reasons not within the control of the owner of the vehicle;

    2. That the vehicle is scheduled to be repaired by a person whose regular course of business includes the repair of vehicles and the scheduled repair date is within thirty (30) days; or

    3. That the vehicle is in such condition of being inoperable as a result of a vehicular accident, and the owner of the vehicle or any third party to whom, or from whom, a claim for the damages sustained in such accident is anticipated, is investigating or preparing a claim for such damages.

(Ord. 2004/05-10 (part))

8.16.090 Towing.

A. Public Property. In the event the notice provided for in Section 8.16.070(C) is not complied with, the city, may cause the towing or removal of the abandoned, inoperable or unregistered vehicle from public property without further notice to the vehicle owner.

B. Private Property. In the event the notice provided for in Section 8.16.070(D) is not complied with, the city, except as provided in subsection (B)(1) of this section, may seek a judicial warrant to search and to seize the abandoned, inoperable or unregistered vehicle and to cause the towing or removal thereof from private property.

    1. In the event a request for a hearing before the city manager is made as set forth in Section 8.16.080, and the city manager determines the vehicle is an abandoned, inoperable or unregistered vehicle, the city manager shall set a reasonable date by which the vehicle shall be disposed of or enclosed within a building. The date shall be no less than seven days after the date of the hearing. In the event the vehicle is not disposed of or enclosed within a building by the date set by the city manager, the city may seek a judicial warrant to search and to seize the abandoned, inoperable or unregistered vehicle and to cause the towing or removal of the vehicle from private property without further notice to the vehicle owner or to the owner or occupant of the private property.

C. It shall be the responsibility of the vehicle owner or, the owner of the private property upon which the vehicle is located, if applicable, to deliver a written notice to the city manager, and to provide documentation and/or demonstration of operability of the vehicle, and that the vehicle has been properly registered, if the

vehicle has been put into operable condition and/or registered with the secretary of state of the state of Illinois following issuance of the notice described in Section 8.16.070 hereof. In the event no such written notice and evidence of compliance herewith is received by the city manager, it shall be presumed that the vehicle remains abandoned, inoperable or unregistered and the city may immediately cause the towing or removal of the vehicle from public property, or, if located upon private property, seek a judicial warrant to search and to seize the vehicle and to cause the towing or removal of the vehicle from private property without further notice to the vehicle owner or to the owner or occupant of the private property.

D. Whenever a vehicle is towed or removed by a towing service pursuant to the provisions of this chapter, the owner of the vehicle and the owner or occupant of the property upon which the abandoned, inoperable or unregistered vehicle is located, if applicable, shall be jointly and severally responsible for all towing and storage charges.

E. Within forty-eight (48) hours of the removal of the vehicle, the city will send notice to the vehicle owner and any lien holder, if known, and to the owner or occupant of the private property from which the vehicle was removed, if applicable, that the vehicle has been impounded and stored for violation of this chapter. The notice shall give the location of the vehicle and the costs, if any, incurred by the city for removal.

F. Any vehicle towed or removed pursuant to the provisions of this chapter will be stored and claimed or disposed of in accordance with the applicable provisions of the Illinois Vehicle Code, as amended, entitled "Abandoned, Lost, Stolen or Unclaimed Vehicles," 625 ILCS 5/4-200 et. seq. which is incorporated in this chapter by reference.

(Ord. 2004/05-10 (part))

8.16.100 Record of vehicles towed.

When a vehicle is authorized to be towed, the city shall keep and maintain a record of the vehicle listing the color, year of manufacture, manufacturer's name, manufacturer's series name, body style, vehicle identification number and license plate year and number, if any, displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the city official authorizing the tow.

(Ord. 2004/05-10 (part))

8.16.110 Cumulative remedies.

The provisions and remedies of this chapter shall be in addition to any other provisions and remedies provided by this code or the Illinois compiled statutes.

(Ord. 2004/05-10 (part))

8.16.120 Separability of provisions.

Each section, paragraph, sentence, clause and provision of this chapter is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this chapter nor any part of this chapter, other than that part affected by such decision.

(Ord. 2004/05-10 (part))

8.16.130 Penalty.

Any person violating any of the provisions of this chapter will be subject to penalties pursuant to Section 1.08.010 of this code. If the city incurs expense, including reasonable attorneys' fees, in enforcing this chapter, the vehicle owner and the owner or occupant of private property notified as set forth in Section 8.16.070 will be jointly and severally responsible for the expense.

(Ord. 2004/05-10 (part))

Exhibit B
STEPS TO TOW AND IMPOUND

A. AUTHORITY

The Illinois Municipal Code expressly authorizes that "[t]he corporate authorities of each municipality may define, prevent, and abate nuisances." 65 ILCS 5/11-60-2. "State statute allows a municipality to remove inoperable vehicles on either public or private property." *Radcliff v. Berwyn*, 129 Ill. App. 3d 70, 72 (1st Dist. 1984) (citing 65 ILCS 5/11-40-3).

Section 11-40-3 of the Code states, in relevant part, as follows:

> [T]he corporate authorities of each municipality may by ordinance declare all inoperable motor vehicles, whether on public or private property and in view of the general public, to be a nuisance and authorize fines to be levied for the failure of any person to obey a notice received from the municipality which states that such person is to dispose of any inoperable motor vehicles under his control, and may authorize a law enforcement agency, with applicable jurisdiction, to remove, after 7 days from the issuance of the municipal notice, any inoperable motor vehicle or parts thereof.

65 ILCS 5/11-40-3.

However, towing or impounding vehicles carries Fourth and Fourteenth Amendment implications. Notice and an opportunity to be heard must be provided to the owner. *See generally Redwood v. Lierman*, 331 Ill. App. 3d 1073 (4th Dist. 2002). In addition, the City must obtain a judicial warrant for the limited purpose of entering the property and seizing the inoperable or abandoned vehicle(s). *Id.*

B. STEPS:

The following steps apply to inoperable and/or abandoned vehicles on private property (property of the owner) and in the general view of the public.

1. **DAY 1:** Document when the City first views the inoperable or abandoned vehicle(s). For best practice, take a picture of the vehicle(s) at issue and document the date/time of observation.

2. **AFTER SEVEN (7) DAYS:**
    a. Affix a "police tow" notice on the vehicle, informing the owner that if vehicle is not removed within thirty (30) days, the City will seek legal action to remove it.
    b. Send notice via mail either:

i. to the owner of such vehicle at his last known address if the owner is reasonably ascertainable; or
ii. to the owner of such property, if the owner is reasonably ascertainable.

c. Notice shall contain:
i. Name of the owner of vehicle, if available
ii. Description of Vehicle
iii. Location of Vehicle
iv. Nature of Violation
v. The owner shall be responsible for fees incurred by the City to remove, tow, and/or impound the Vehicle if is not brought into complaint within 30 days.

3. AFTER 30 DAYS:

a. Affix a second "police tow" notice;
b. Chief shall issue a written notice of intent to impound the vehicle(s);
c. Issue a citation for Ordinance Violation of Section 78-104(e) with notice to appear for hearing in the circuit court;
d. Notice shall be given by:
i. Certified and regular mail to the owner of such vehicle at his last known address if the owner is reasonably ascertainable; **and**
ii. Certified and regular mail to the owner or any person in charge or control of said property.

4. HEARING:

a. Request guilty finding for Ordinance Violation;
b. Order allowing the City to impound the vehicle(s); and
c. Order granting the City a valid warrant to enter the property for the limited purpose of removing/impounding the vehicle(s).

5. PENALTY: To Be Set by the City