

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2953

**AN ORDINANCE ADOPTING PROCEDURES AND GUIDELINES
FOR VEHICLE IMPOUNDMENT IN THE CITY OF COLUMBIA,
ILLINOIS, TO INCLUDE ADMINISTRATIVE FEES AND THE
RIGHT TO A HEARING**

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 21st day of May, 2012**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 21st day
of May, 2012**

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J. Ronald Colyer
City Clerk

WHEREAS, the Illinois Vehicle Code (625 ILCS 5/11-208.7) allows and provides for the establishment of certain procedures by the City of Columbia, Illinois (the "City") for the impoundment and release of vehicles, as well as administrative fees and the right to a hearing pertaining thereto; and

WHEREAS, the City may exercise its authority to legislate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the Corporate Authorities of the City have determined that it is in the best interest of the City to provide for a system of impoundment of motor vehicles operated by persons in connection with the commission of certain offenses; and

WHEREAS, the Corporate Authorities of the City have determined that it is in the best interest of the City to establish administrative penalties and hearing procedures for such violations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, MONROE AND ST. CLAIR COUNTIES, ILLINOIS, as follows:

- Section 1. The foregoing recitals are adopted as the findings of the Corporate Authorities of the City.
- Section 2. The corporate authorities of the City hereby determine that it is advisable, necessary, and in the public interest that the City adopt procedures and guidelines for the impoundment and release of certain motor vehicles as well as for administrative fees and the right to a hearing associated with said impoundment and release.
- Section 3. Chapter 10.56 (IMPOUNDMENT OF MOTOR VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) of the City of Columbia, Illinois Municipal Code is hereby added to read as follows:

Chapter 10.56 - IMPOUNDMENT OF MOTOR VEHICLES

Section 10.56.010 - DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the following meanings ascribed to them respectively.

BUSINESS DAY. Any day in which the offices of City Hall are open to the public for a minimum of seven hours.

LEVEL 1 ADMINISTRATIVE FEE. Means and shall be \$500.

LEVEL 2 ADMINISTRATIVE FEE. Means and shall be \$250.

MOTOR VEHICLE. Every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles, and motor scooters.

OWNER OF RECORD. The record title holder(s) of the motor vehicle as registered with the Secretary of State, State of Illinois; or if not registered in Illinois, the particular state where the motor vehicle is registered.

ADMINISTRATIVE HEARING OFFICER. Officer who is an attorney licensed to practice law in this State for a minimum of 3 years.

Section 10.56.020 - VIOLATIONS AUTHORIZING IMPOUNDMENT.

(A) Any motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the city, and the owner of record of said motor vehicle shall be liable to the city for a Level 1 administrative fee, as provided for in this chapter, in addition to any towing and storage fees as hereinafter provided.

STATE STATUTE	VIOLATIONS
ILCS Ch. 625, Act 5, § 6-303	Driving while license revoked
ILCS Ch. 625, Act 5, § 11-204	Fleeing or attempting to elude a peace officer
ILCS Ch. 625, Act 5, § 11-501	Driving under the influence of alcohol/drugs
ILCS Ch. 625, Act 5, § 11-503	Reckless driving or aggravated reckless driving
ILCS Ch. 625, Act 5, § 11-506	Street racing; aggravated street racing
ILCS Ch. 625, Act 5, § 11-601.5	Driving at 31 mph more, but less than 40 mph over the applicable speed limit - Class B misdemeanor; or driving 40 mph or more over the applicable speed limit - Class A misdemeanor
ILCS Ch. 720, Act 5, § 11-6	Indecent solicitation of a child
ILCS Ch. 720, Act 5, § 12-2	Aggravated assault
ILCS Ch. 720, Act 5, § 12-3.05	Aggravated battery
ILCS Ch. 720, Act 5, § 16-25	Retail theft of merchandise (exceeding \$300 in value)

STATE STATUTE	VIOLATIONS
ILCS Ch. 720, Act 5, § 18-1	Robbery
ILCS Ch. 720, Act 5, § 18-2	Armed robbery
ILCS Ch. 720, Act 5, § 19-1	Burglary
ILCS Ch. 720, Act 5, § 19-3	Residential burglary
ILCS Ch. 720, Act 5, § 20-1	Arson
ILCS Ch. 720, Act 5, § 20-1.1	Aggravated arson
ILCS Ch. 720, Act 5, § 20-2	Possession of explosives or incendiary devices
ILCS Ch. 720, Act 5, § 21-1	Criminal damage to property
ILCS Ch. 720, Act 5, § 25-1	Mob action
ILCS Ch. 720, Act 570, § 401	Manufacture or delivery of an unauthorized controlled substance
ILCS Ch. 720, Act 570, § 401.1	Controlled substance trafficking
ILCS Ch. 720, Act 570, § 402	Unauthorized possession under the Controlled Substances Act
ILCS Ch. 720, Act 550, § 4	Possession of more than 10 grams or any substances containing Cannabis
ILCS Ch. 720, Act 550, § 5	Manufacture or delivery of cannabis
ILCS Ch. 720, Act 55, § 5.1	Cannabis trafficking
ILCS Ch. 720, Act 550, § 5.2	Delivery of cannabis on school grounds
ILCS Ch. 720, Act 550, § 8	Unauthorized production or possession of cannabis sativa plant
ILCS Ch. 720, Act 5, § 24-1	Unlawful use of weapons
ILCS Ch. 720, Act 5, § 24-3.1	Unlawful possession of firearms and firearm ammunition
ILCS Ch. 720, Act 5, § 24-3.3	Unlawful sale or delivery of firearms on the premises of a school

- (B) For any motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with any violation of federal, state, or local law that is not listed in division (A) of this section, including arrest warrants, which results in seizure and impoundment of the vehicle by the city, the owner of record of said motor vehicle shall be liable to the city for a Level 2 administrative fee, as provided for in this chapter, in addition to any towing and storage fees as hereinafter provided.

Section 10.56.030 - SEIZURE AND IMPOUNDMENT.

(A) Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment pursuant to this chapter, the police officer shall provide for the towing of the motor vehicle to a facility approved by the city. This chapter shall not apply if the motor vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered or reasonably should have been discovered.

(B) The police officer shall notify any person identifying himself as the owner of the motor vehicle or any person who is found to be in control of the motor vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the motor vehicle owner's right to an administrative hearing to be conducted under this chapter.

Section 10.56.040 - ADMINISTRATIVE HEARING.

(A) Within ten days after a motor vehicle is seized and impounded pursuant to this chapter, the city shall notify by personal service or by first class mail the owner of record, lessee, and all lien holders of record, of the right to a hearing, along with the date, time and location of the hearing, to challenge whether a violation of this chapter has occurred. The hearing date must be scheduled and convened no later than 45 days after the mailing of the notice, or issuance of the notice of hearing. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible.

(B) If, after the hearing, the hearing officer determines by a preponderance of the evidence that the impounded motor vehicle was used in a violation described in Section 10.56.020 of this chapter, then the hearing officer shall enter an order finding the owner of record of the motor vehicle liable to the city for the applicable administrative fee.

(C) If, after the hearing, the hearing officer does not determine by a preponderance of the evidence that the impounded motor vehicle was used in such a violation, the hearing officer shall enter an order finding for the owner and for the return of the motor vehicle, or the administrative fees if already paid.

(D) If the owner of record fails to appear at the hearing, the owner of record shall be deemed to have waived his or her right to a hearing. If the owner of record pays such administrative fee and the motor vehicle is returned to the owner, no default order need be entered if the owner was informed of his or her right to a hearing, in which case an order of liability shall be deemed to have been made when the city receives the written waiver.

(E) If a bond in the amount equal to the applicable administrative fee is posted with the Columbia Police Department, the impounded motor vehicle shall be released to the

owner of record. The owner of the motor vehicle shall still be liable to the towing agent for any applicable towing fees.

(F) If an administrative fee is imposed for a violation described in Section 10.56.020 of this chapter, the bond will be forfeited to the city; however if a violation described in said section is not proven by a preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this chapter shall be held by the city until the hearing officer issues a decision, or, if there is a judicial review, until the court of jurisdiction issues its order(s).

(G) All decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law.

Section 10.56.050 - DISPOSITION OF IMPOUNDED MOTOR VEHICLE.

An administrative fee imposed pursuant to this chapter shall constitute a debt due and owing the city. A motor vehicle impounded pursuant to this chapter shall remain impounded until:

(A) The administrative fee is paid to the city and all applicable towing fees are paid to the towing agent, in which case the owner of record shall be given possession of the motor vehicle;

(B) A bond in an amount equal to the applicable administrative fee is posted with the Columbia Police Department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record; or

(C) The motor vehicle is deemed abandoned in which case the motor vehicle shall be disposed of in the manner provided by law for the disposition of abandoned motor vehicles.

Section 10.56.060 - MOTOR VEHICLE POSSESSION.

Any motor vehicle that is not reclaimed within 35 days after: 1) the expiration of the time during which the owner of record may seek judicial review of the city's action under this chapter, or 2) the time at which a final judgment is rendered against an owner of record who is in default; may be disposed of as an unclaimed motor vehicle as provided by law; provided, however, that where proceedings have been instituted under state or federal drug asset forfeiture laws, the subject motor vehicle may not be disposed of by the city except as consistent with those proceedings.

Section 10.56.070 - TOWING AGENCY.

(A) It shall be the duty of the towing or storage company in possession of the impounded motor vehicle to obtain documentation issued by the Columbia Police

Department confirming compliance with the foregoing requirements, and retain photocopies of that documentation in the company's files for a period of not less than six months following release of the motor vehicle. The foregoing information shall be made available to the authorities of the city for inspection and copying, upon request, by the towing or storage company. The towing or storage company is prohibited from releasing any motor vehicle towed and impounded pursuant to the provisions of this chapter until and unless the company obtains the documentation as aforesaid.

(B) The towing or storage company shall be entitled to receive a reasonable fee from the owner or person entitled to possession of any impounded motor vehicle prior to the release of the motor vehicle. The fee shall be to cover the cost of removing said motor vehicle and, in addition thereto, the cost of storage of said motor vehicle for each day or fraction thereof that said motor vehicle shall have remained stored.

(C) The fees in this section shall be in addition to any fee levied or assessed against the owner or operator of said impounded motor vehicle by reason of violation of any ordinance or statute and any arrest which may have resulted from such violation.

Section 10.56.080 - REFUND OF ADMINISTRATIVE FEE.

In the event a judgment of "Not Guilty" is entered by a court of competent jurisdiction on all underlying charges that could have resulted in the impoundment of a motor vehicle, then within 30 days of presentation of a certified copy of said judgment to the Columbia Police Department, any administrative fees or posted bonds obtained by the city shall be refunded to the paying party.

Section 4. All ordinances, resolutions or orders, or parts thereof, which conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed.

Section 5. This Ordinance shall be in full force and effect following its passage and publication in pamphlet form, as required by law.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Mathews, Piazza and

Reis.

NAYS: None.

ABSENT: Alderman Huch.

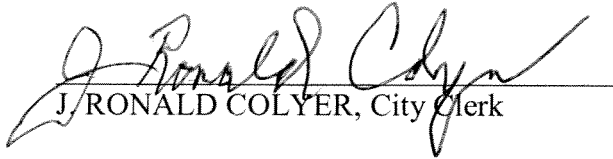
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 21st day of May, 2012.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

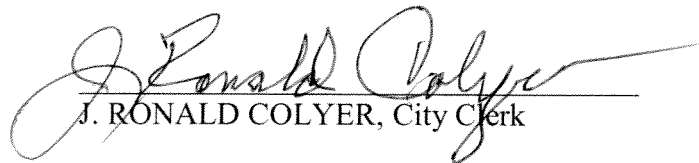
I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2953, entitled:

“AN ORDINANCE ADOPTING PROCEDURES AND GUIDELINES FOR VEHICLE IMPOUNDMENT IN THE CITY OF COLUMBIA, ILLINOIS, TO INCLUDE ADMINISTRATIVE FEES AND THE RIGHT TO A HEARING”

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois, City Council held on the 21st day of May, 2012.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 21st day of May, 2012.



J. RONALD COLYER, City Clerk

(SEAL)