

**147-O-19****AN ORDINANCE****Amending Title 10, Chapter 6 of the City Code to Add an Administrative Penalty Under Certain Circumstances Involving a Vehicle Seizure and Impoundment**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

**SECTION 1:** Title 10, Chapter 6, of the Evanston City Code of 2012, as amended, is hereby further amended to re-title the chapter as follows:

**CHAPTER 6 –TOWING AND IMPOUNDMENT OF VEHICLES**

**SECTION 2:** City Code subsection 10-6-1, "Definitions", of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**10-6-1. – Definitions.**

ABANDONED VEHICLE.	A vehicle parked or otherwise located on the public way; and
	(A) In such a state of disrepair that it is incapable of being driven; or
	(B) That has been unmoved for a period of seven (7) days; or
	(C) Has been left on the public way without valid State registration plates or a valid temporary State registration placard for two (2) or more days.
ACCIDENT INVOLVED VEHICLES.	A vehicle which is inoperable due to an accident and which is located so as to constitute an obstruction to the normal flow of traffic.
DERELICT MOTOR VEHICLE.	A vehicle which lacks wheels, motor, transmission, battery or any other component part such that it is inoperable and constitutes a hazard to the public.
HAZARDOUS VEHICLE.	A vehicle on any public way which by its condition or location constitutes a clear and present danger to the safety of the

	public or an obstruction to the normal flow of traffic. This shall also include vehicles obstruction fire hydrants.
HEARING OFFICER.	A licensed attorney who meets the qualifications set forth in section 11-1-8 of this Code.
LESSEE.	A person operating a motor vehicle pursuant to a lease or any other written document vesting exclusive possession, use, control, and responsibility of the motor vehicle during the specified time period.
LIENHOLDER OF RECORD.	A person holding a security interest in a vehicle.
NONMOTORIZED OBSTRUCTION VEHICLE.	A vehicle without motive power in operation, other than a pole trailer, 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 and located on a public way at a time or in such a manner as to be in violation of Section 10-4-3 of this Title.
OWNER OF RECORD.	The registered or legal owner or person who is otherwise entitled to possession of the motor vehicle.
POLICE IMMOBILIZED VEHICLE (WHEEL LOCK).	A vehicle located on a public way which has been rendered immobile by the Police Department.
RESERVED RESIDENTIAL WHEELCHAIR BOUND SPACE OBSTRUCTION VEHICLE	A vehicle located on a public way at a time or in such a manner as to be in violation of Subsection 10-4-11(B) of this Title.
SNOW EMERGENCY OBSTRUCTION VEHICLE.	A vehicle located on a public way in such a manner as to be in violation of Section 10-4-13 of this Title.
STREET CLEANING OBSTRUCTION VEHICLE.	A vehicle located on a public way at a time or in such a manner as to be in violation of Subsection 10-4-1(C)2. of this Title.
STREET OR SEWER MAINTENANCE OBSTRUCTION VEHICLE.	A vehicle located on a public way at a time or in such a manner as to be in violation of Subsection 10-4-1(C)2. of this Title.
TOW AWAY ZONE OBSTRUCTION VEHICLE.	A vehicle located on a public way at a time or in such a manner as to be in violation of Subsection 10-4-1(C)2. of this Title.
TREE CUTTING OBSTRUCTION VEHICLE.	A vehicle located on a public way at a time or in such a manner as to be in violation of

	Subsection 10-4-1(C)2. of this Title.
VEHICLE PARKED ON PUBLIC AND/OR PRIVATE PROPERTY WITHOUT CONSENT.	(A) A vehicle parked in a public parking lot or in a private parking lot without the consent of the lot owner, proprietor or agent of the property, which person has requested that, at the expense of the vehicle owner, the vehicle be towed; or
	(B) A vehicle located on private property when the property owner, proprietor or agent is unknown, and the vehicle owner cannot be determined or contacted.

**SECTION 3:** Title 10, Chapter 6, of the Evanston City Code of 2012, as amended, is amended to add a new subsection with the following text:

**10-6-15. – VEHICLE SEIZURE**

- A. Police officers shall have the right to seize and impound a motor vehicle, operated, used, or in the physical control of any person with the permission, express or implied, of the owner of record, on any public street within the City that is used in the commission or furtherance of violation of the following offenses, including any subsequent amendments to such provisions:
1. Operation or use of a motor vehicle by a person against whom a warrant has been issued by a Circuit Court Clerk in Illinois for failing to answer charges that the driver violated section 6-101 (No Valid Driver's License), 625 ILCS 5/6/101, 6-303 (Suspended or Revoked License), 625 ILCS 5/6-303, or 11-501 (Driving Under the Influence), 625 ILCS 5/11-501, of the Illinois Vehicle Code;
  2. Operation of a motor vehicle when registration is cancelled, suspended, or revoked in violation of section 3-702 (registration cancelled, suspended, or revoked), 625 ILCS ILCS 5/3-702 of the Illinois Vehicle Code or section 3-708 (registration suspended for noninsurance), 625 ILCS 5/3-708, of the Illinois Vehicle Code, or when registration of a vehicle found upon a highway has been suspended, cancelled, or revoked in violation of section 11-1302(c)(4), 625 ILCS 5/11-1302(c)(4), of the Illinois Vehicle Code;
  3. Operation or use of a motor vehicle with an expired driver's license or permit, in violation of section 6-101 (Drivers Must Have Licenses or

Permits), 625 ILCS 5/6-101, of the Illinois Vehicle Code if the driver's license or permit has been expired for more than one year;

4. Operation or use of a motor vehicle without ever having been issued a driver's license or permit or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age, in violation of 6-101 (Drivers Must Have Licenses or Permits), 625 ILCS 5/6-101, of the Illinois Vehicle Code;
5. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to section 6-303, 625 ILCS 5/6-202, of the Illinois Vehicle Code except that vehicles shall not be subjected to seizure or impoundment if the suspension is for unpaid citations (parking or moving), failure to comply with emission testing, or failure to pay child support;
6. Operation of a motor vehicle while fleeing or attempting to elude a peace officer, in violation of section 11-204 (Fleeing A Peace Officer), 625 ILCS 5/11-204, of the Illinois Vehicle Code or section 11-204.1 (Aggravated fleeing a Peace Officer), 625 ILCS 5/11-204.1, of the Illinois Vehicle Code;
7. Operation or use of a motor vehicle resulting in the personal injury or death of a person in violation of section 11-401, 625 ILCS 5/11-401, of the Illinois Vehicle Code;
8. Operation or use of a motor vehicle resulting in damage to a vehicle which is driven or attended by any person in violation of section 11-402, 625 ILCS 5/11-402, of the Illinois Vehicle Code;
9. Operation or use of a motor vehicle resulting in the personal injury or death of a person or damage to a vehicle which is driven or attended by any person and failure to give information or render aid in violation of section 11-403, 625 ILCS 5/11-403, of the Illinois Vehicle Code;
10. Operation or use of a motor vehicle involved in an accident with any unattended vehicle or other property, resulting in damage, and failure to provide appropriate information in violation of section 11-404, 625 ILCS 5/11-404, of the Illinois Vehicle Code;
11. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of section 11-501 (Driving Under the Influence), 625 ILCS 5/11-501, of the Illinois Vehicle Code;

12. Operation or use of a motor vehicle in a reckless manner in violation of section 11-503 (Reckless Driving), 625 ILCS 5/11-503, of the Illinois Vehicle Code;
13. Operation of a motor vehicle while street racing in violation of section 11-506 (Street Racing), 625 ILCS 5/11-506, of the Illinois Vehicle Code;
14. Operation of an uninsured motor vehicle and the operator of the vehicle has a prior conviction for operation of an uninsured motor vehicle in the past twelve (12) months in violation of section 4-203(i), 625 ILCS 5/4-203(i), of the Illinois Vehicle Code;
15. Operation or use of a motor vehicle in the commission of, or in the attempt to commit an offense in violation of sections 11-14 (Prostitution), 11-14.1 (Solicitation of Sexual Act), 11-14.3 (Promoting Prostitution), 11-14.4 (Promoting Juvenile Prostitution), 11-18 (Patronizing a Prostitute), 11-18.1 (Patronizing a Juvenile Prostitute), 11-26 (Traveling to Meet a Minor), 12-2 (Aggravated Assault), 12-3.05 (Aggravated Battery), 16-25 (Felony Retail Theft), 18-1 (Robbery/Aggravated Robbery), 18-2 (Armed Robbery), 18-3 (Vehicular Hijacking), 18-4 (Aggravated Vehicular Hijacking), 18-6 (Vehicular Invasion), 20-1 (Arson), 20-1.1 (Aggravated Arson), 20-2 (Possession of explosives or incendiary devices), 21-1 (Criminal Damage to Property), 21-1.01 (Criminal Damage to Government Supported Property), 21-1.2 (Institutional Vandalism), 21-1.3 (Criminal Defacement of Property), 24-1 (Unlawful Use of a Weapon), 24-1.1 (Unlawful Use or Possession of Weapons by Felons/People in the Custody of the Department of Corrections), 24-1.6 (Aggravated Unlawful Use of a Weapon), 24-1.7 (Armed Habitual Criminal), 24-1.8 (Unlawful Possession of a Firearm by a Street Gang Member), 24-1.2 (Aggravated Discharge of a Firearm), 24-1.2-5 (Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Silencing Device), 24-1.5 (Reckless Discharge of a Firearm), 24-3.1 (Unlawful Possession of Firearms and/or Firearm Ammunition), 24-3.3 (Unlawful Sale or Delivery of Firearms on School Premises), 21-3 (Criminal Trespass to Real Property), or 21-5 (Criminal Trespass to State Supported Land) of the Illinois Criminal Code;
16. Operation or use of a motor vehicle in the commission of, or in the attempt to commit an offense in violation of the Illinois Cannabis Control Act, 720 ILCS 550/1 et seq., or the Illinois Controlled Substances Act, 720 ILCS 570/100 et seq.;
17. The use of a motor vehicle as part of the commission of a felony not otherwise expressly listed herein shall be subject to seizure and impoundment under this section; and

18. Operation or use of a motor vehicle in the commission of, or in an attempt to commit any violation set forth in section 11-208.7 (Administrative Fees), 625 ILCS 5/11-208.7, of the Illinois Vehicle Code and/or any misdemeanor or felony offense in section 36-1 (Seizure), 720 ILCS 5/36-1 of the Illinois Criminal Code which may not be otherwise referenced herein or may be subsequently added via amendment.
- B. The owner of record of a vehicle that has been seized and impounded pursuant to this section shall be liable to the City for an administrative penalty of two hundred fifty dollars (\$250.00) plus towing and storage fees. The administrative penalty of two hundred fifty dollars (\$250.00) shall be paid to the City of Evanston. Towing and/or storage fees shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle.
- C. Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle by a City-contracted towing company. When the vehicle is towed, the police officer shall notify, or make a reasonable attempt to notify, the owner of record, lessee, or person identifying himself or herself as the owner of record or lessee of the vehicle, or the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner of record's or lessee's right to request an administrative hearing to be conducted under this section. Said vehicle shall be impounded pending the completion of the hearing provided for in subsection D of this section, unless the owner of record or lessee of the vehicle posts with the City a cash bond in the amount of two hundred fifty dollars (\$250.00) plus towing and storage fees.
- D. Within ten (10) days after a vehicle is seized and impounded pursuant to this section, the City shall notify, by mailing a notice via first class mail or certified mail, return receipt requested, to the owner of record or lessee and any lienholder of record of the date, mailing of the written notice to address of the owner of record, lessee and any lienholder of record, as contained in registration records of the Illinois Secretary of State. The administrative hearing shall be conducted no later than forty-five (45) days after the vehicle was seized pursuant to the applicable procedures set forth in Title 11 of this Code. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible.

At the conclusion of the hearing, the Hearing Officer shall issue a written decision either sustaining or overruling the seizure and impoundment of the vehicle. If, after the hearing, the Hearing Officer determines by a preponderance of evidence that the vehicle, operated with the permission, express or implied, of the owner, was used in the commission of any of the violations set forth in this section, the Hearing Officer shall enter an order requiring the vehicle to continue

to be impounded until the owner of record, lessee, or lienholder of record pays the administrative penalty of two hundred fifty dollars (\$250.00) plus payment of towing and storage fees. If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing to the City. If a cash bond was posted, the bond shall be forfeited to the City. If the Hearing Officer overturns the basis for the impoundment of the vehicle, he or she shall order the return of the vehicle and any cash bond that may have been posted.

- E. Unless the Hearing Officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all penalties and fines and towing and storage charges are paid.
- F. Pursuant to chapter 4, article II of the Illinois Vehicle Code, entitled "Abandoned, Lost, Stolen, or Unclaimed Vehicles, 625 ILCS 5/4-201 et seq.," which is adopted and incorporated herein, any motor vehicle that is not reclaimed within thirty-five (35) days after the entry of a final order following a hearing under this section shall be deemed abandoned and may be disposed of as an unclaimed vehicle as provided by law.
- G. This section shall not replace or otherwise abrogate any existing State or Federal laws or local ordinances pertaining to vehicle seizure and impoundment.
- H. The statutory provisions of the Illinois Administrative Review Act ("Review Act"), 735 ILCS 5/3-101 et seq., and section 11-208.7 of the Illinois Vehicle Code, 625 ILCS 5/11-208.7, are hereby adopted and incorporated into this section. The Review Act shall apply to the review of all final decisions issues by the Administrative Hearing Officer in administrative proceedings under this section.
- I. Unless stayed by a court of competent jurisdiction, any fine or penalty, imposed under this section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Review Act may be enforced in the same manner as any judgment entered by a court of competent jurisdiction.

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** The findings in this Ordinance, and the legislative Record, are declared to be prima facie evidence of the law of the City of Evanston, and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

**SECTION 6:** If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 7:** Ordinance 147-O-19 shall be in full force and effect after its passage and approval.

Introduced: November 13, 2019

Approved:

Adopted: November 25, 2019

December 16, 2019

Stephen H. Hagerty  
Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Eduardo Gomez  
~~Devon Reid, City Clerk~~  
Eduardo Gomez, Deputy City Clerk

Michelle L. Masoncup  
Michelle L. Masoncup, Corporation  
Counsel