

ORDINANCE NO. 12-O-0001

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE CITY OF WEST CHICAGO
CHAPTER 17, ARTICLE XIX, SECTION 17-1205**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST CHICAGO IN
REGULAR SESSION ASSEMBLED:

Section 1. That Article XIX, Chapter 17, Section 17-1205 of the Code of Ordinances of the
City of West Chicago be amended to read as follows:

**Sec. 17-1205. Seizure and Impoundment of Motor Vehicles Used in Connection With
Illegal Activities**

A. Violations authorizing seizure

A motor vehicle, operated with the permission, express or implied, 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 vehicle shall be liable to the City for an administrative penalty in addition to any towing and storage fees as hereinafter provided.

1. Driving while the driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, in violation of section 6-303 of the Illinois Vehicle Code, as amended, pursuant to Illinois Secretary of State action; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing, an administrative penalty of five hundred and seventy five dollars (\$575.00)

Driving under the influence of drugs or alcohol, 625 ILCS 5/11-501(a), an administrative penalty of five hundred and seventy five dollars (\$575.00)

3. When a motor vehicle is operated by a person against whom a warrant has been issued by a Circuit Court in Illinois for failing to answer charges that the driver violated section 6-101, 6-303, or 11-501 of the Illinois Vehicle Code, as amended A.1.or A.2. above an administrative penalty of five hundred and seventy five dollars (\$575.00)
4. No valid drivers license, 625 ILCS 5/6-101(a), an administrative penalty of five hundred and seventy five dollars (\$575.00)
 - a. Except a person that had a valid driver's license that is expired for less than twelve (12) months.

- b. Except a person who is less than seventeen (17) years of age operating a motor vehicle on any street or highway when in violation of the Child Curfew Act (720 ILCS 555/0.01 *et seq.*) or Section 66-71.
- 5. Fleeing or attempting to elude, 625 ILCS 5/11-204, an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 6. Drag racing, 625 ILCS 5/11-504, an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 7. Illegal transportation of alcohol/driver, 625 ILCS 5/11-502(a an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 8. Firearms offenses, an administrative penalty of five hundred and seventy five dollars (\$575.00)
 - a. 720 ILCS 5/24-1, Unlawful use of weapons.
 - b. 720 ILCS 5/24-1.1, Unlawful use or possession of weapons by felons or persons in the custody of the Department of Corrections facilities.
 - c. 702 ILCS 5/24-1.2 Aggravated discharge of a firearm.
 - d. 702 ILCS 5/11-1.2-5, Aggravated discharged of a machine gun or a firearm equipped with a devise designed or used for silencing the report of a firearm.
 - e. 720 ILCS 5/24-1.5, Reckless discharge of a firearm.
 - f. 702 ILCS 5/24-1.6, Aggravated unlawful use of a weapon.
- 9. Drug offenses: Possession of cannabis more than thirty (30) grams, 720 ILCS 550/4(d), (e), (f), and (g), an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 10. Drug offenses: Unauthorized possession of controlled substances, 720 ILCS 570/402, an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 11. Indecent Solicitation of a Child, in violation of 720 ILCS 5/11-6, an administrative penalty of five hundred and seventy five dollars (\$575.00)
- 12. Solicitation to meet a child, in violation of 720 ILCS 5/11-6.6, an administrative penalty of five hundred and seventy five dollars (\$575.00)

13. Prostitution, in violation of 720 ILCS 5/11-14, an administrative penalty of five hundred and seventy five dollars (\$575.00)
14. Soliciting for a Prostitute, in violation of 720 ILCS 5/11-15, an administrative penalty of five hundred and seventy five dollars (\$575.00)
15. Pandering, in violation of 720 ILCS 5/11-16, an administrative penalty of five hundred and seventy five dollars (\$575.00)
16. Keeping a Place of Prostitution, in violation of 720 ILCS 5/11-17, an administrative penalty of five hundred and seventy five dollars (\$575.00)
17. Patronizing a Prostitute, in violation of 720 ILCS 5/11-18, an administrative penalty of five hundred and seventy five dollars (\$575.00)
18. Operation of a motor vehicle with Suspended Registration for Non-Insurance, in violation of 625 ILCS 5/3-708, an administrative penalty of five hundred and seventy five dollars (\$575.00)
19. Leaving scene - accident - death or injury, in violation of 625 ILCS 5/11- 401(a), an administrative penalty of five hundred and seventy five dollars (\$575.00)
20. Leaving scene - failure to report death or injury within ½ hour, in violation of 625 ILCS 5/11-401(b), an administrative penalty of five hundred and seventy five dollars (\$575.00)
21. Leaving scene – accident - vehicle damage, in violation of 625 ILCS 5/11-402, an administrative penalty of five hundred and seventy five dollars (\$575.00)

B. General Regulations

1. This section shall not replace or otherwise abrogate any existing State or Federal Laws or City Ordinances pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.
2. This section shall not apply if the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within twenty-four (24) hours after the theft was discovered, or upon verifiable proof that the vehicle was stolen at the time the vehicle was impounded.
3. Fees for towing and storage of a vehicle under this section shall be those approved by the Chief of Police for all tow companies authorized to tow for the Police Department.

C. Notice

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 to a facility authorized by the City. Before or at a time the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and of the vehicle and of the owner's right to request a preliminary vehicle impoundment hearing to be conducted under this section. Said vehicle shall be impounded pending the completion of the hearings provided for in subsection D herein, unless the owner of the vehicle posts with the city a cash bond in the amount of \$575.00 and pays the towing and storage charges.

Before the time a vehicle is towed, if in the judgment of the police officer then present, a person authorized by the owner or operator of the vehicle is present and able to provide for the lawful immediate removal of the vehicle, the vehicle will be released to that person and prompt removal of the vehicle effected, and no administrative penalty imposed.

D. Preliminary Hearing

If the owner of record of a vehicle seized pursuant to this section desires to appeal the seizure, said owner must make a request for said hearing within twenty-four (24) hours of the seizure. Said request shall be in writing and filed with the Chief of Police, or his designee who shall conduct such preliminary hearing within twenty-four (24) hours after receipt of the request excluding Saturdays, Sundays, or City holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence will not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If after the hearing, the Chief of Police or his designee determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this section, he shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the City a cash bond in the amount of \$575.00 and pays the tower any applicable toning and storage fees. If the Chief of Police or his designee determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

E. Hearing

Within ten (10) days after a vehicle is seized and impounded pursuant to this section, the City shall notify by certified mail, return receipt requested, the owner of record or lessee of the vehicle, and any lienholder of record of the date, time, and location of a plea hearing that will be conducted, pursuant to this section. The owner or lessee of the vehicle and any lienholder of record will appear at a plea hearing and enter a plea of guilty or not guilty. If a plea of guilty is entered, the cause will be disposed of at that time. If the owner or lessee of the vehicle and any lienholder of record pleads not guilty,

a final hearing shall be scheduled and held, unless continued by order of the Hearing Officer, no later than forty-five (45) days after the vehicle was seized. All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the Hearing Officer determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this section, the Hearing Officer shall enter an order finding the owner of record of the vehicle civilly liable to the City for an administrative penalty in the amount of \$575.00 and requiring the vehicle to continue to be impounded until the owner or lessee of the vehicle, and any lienholder of record pays the administrative penalty to the City plus fees to the tower for the towing and storage of the vehicle. If the owner of record or lessee of the vehicle and any lienholder of record fails to appear at the hearing, the Hearing Officer shall enter a default order in favor of the City. If the Hearing Officer finds no such violation occurred, the Hearing Officer shall order the immediate return of the owner's vehicle or cash bond without fees.

F. Administrative Penalty

If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing the City. If a cash bond has been posted pursuant to this section the bond shall be applied to the penalty. If a vehicle has been impounded when such a penalty is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicles as provided by law. Except as provided otherwise in this section, a vehicle shall continue to be impounded until the penalty is paid to the City and any applicable towing fees are paid to the tower, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If the administrative penalty and applicable fees are not paid within thirty five (35) days after an administrative penalty is imposed against an owner of record or lessee of the vehicle, and any lienholder of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fee are not paid within thirty five (35) days after the expiration of time at which administrative review of the Hearing Officer's determination may be sought, or within thirty five (35) days after an action seeking administrative review has been resolved in favor of the City, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provide by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code.

G. Vehicle Possession

1. Except as otherwise specifically provided by law, no owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under

this section until the administrative penalty and fees applicable under this Section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund the City the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

2. For purposes of this section, the “owner of record” of a vehicle is the record title holder as registered with the Secretary of State of the State of Illinois

Section 2. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are to the extent of such conflict, expressly repealed.

Section 3. That this Ordinance shall be in full force and effect ten (10) days after its passage, approval, and publication in pamphlet form in the manner required by law.

PASSED, this _____ day of _____, 2012

Alderman L. Chassee	_____	Alderman J. Beifuss	_____
Alderman R. Pineda	_____	Alderman R. Radkiewicz	_____
Alderman A. Murphy	_____	Alderman S. Dimas	_____
Alderman K. Meissner	_____	Alderman R. Stout	_____
Alderman N. Connelly	_____	Alderman N. Dzierzanowski	_____
Alderman M. Fuesting	_____	Alderman H. R. Monroe	_____
Alderman J. Smith	_____	Alderman J.C. Smith	_____

APPROVED as to form: _____
City Attorney

APPROVED this _____ day of _____, 2012.

Mayor Michael Kwasman

ATTEST:

Nancy M. Smith, City Clerk

PUBLISHED: _____