

ORDINANCE NO. 4601

**AN ORDINANCE AMENDING TITLE 11 OF THE
EAST PEORIA CITY CODE REGARDING IMPOUNDMENT OF
MOTOR VEHICLES FOR ENGAGING IN UNLAWFUL ACTIVITIES**

WHEREAS, Section 11-13-1 of the City Code for the City of East Peoria currently establishes the unlawful acts and criminal conduct for which a vehicle can be impounded by the City when the driver of the vehicle is committing such unlawful acts and criminal conduct; and

WHEREAS, pursuant to Section 11-60-2 of the Illinois Municipal Code, the City has the authority to establish and define the type of conduct that is considered to be a public nuisance and to regulate and abate such public nuisances; and

WHEREAS, the City of East Peoria hereby finds that the act of fleeing or attempting to elude a police officer when driving a motor vehicle places public citizens using the City's roadways and rights-of-way for vehicular traffic, biking, running, and walking in grave danger and jeopardizes the safety and security of their persons and property; and

WHEREAS, the City of East Peoria hereby further finds that the act of fleeing or attempting to elude a police officer when driving a motor vehicle also places the City's police officers and the City's police vehicles in harm's way when attempting to apprehend a person engaging in such unlawful and criminal actions; and

WHEREAS, based upon the finding that the act of fleeing or attempting to elude a police officer when driving a motor vehicle is a public nuisance, the City of East Peoria hereby defines the act of committing the offense of fleeing or attempting to elude a police officer under Section 11-204 of the Illinois Vehicle Code (625 ILCS 5/11-204) and the offense of aggravated fleeing or attempting to elude a police officer under Section 11-204.1 of the Illinois Vehicle Code (625 ILCS 5/11-204.1) to both be a public nuisance; and

WHEREAS, the City of East Peoria hereby further finds that in order to abate this public nuisance, the City has the authority to seize and impound any vehicle used to commit the act of fleeing or attempting to elude a police officer under Section 11-204 of the Illinois Vehicle Code or the act of aggravated fleeing or attempting to elude a police officer under Section 11-204.1 of the Illinois Vehicle Code; and

WHEREAS, the City of East Peoria finds that it is in the best interests of the City and for the health, safety, and welfare of its citizens to declare the acts of fleeing or attempting to elude a police officer under Section 11-204 of the Illinois Vehicle Code and

aggravated fleeing or attempting to elude a police officer under Section 11-204.1 of the Illinois Vehicle Code to be public nuisances, and further that seizing and impounding any vehicle used in committing these offenses is warranted to protect the general public and the City of East Peoria;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EAST PEORIA, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The recitals set forth above are hereby found to be accurate, true, and correct, and are hereby incorporated herein by reference.

Section 2. Title 11, Chapter 13, Section 1 of the East Peoria City Code is hereby amended to read as follows (additions are indicated by underline; deletions by ~~strikeout~~):

11-13-1. Impoundment of motor vehicles used in connection with illegal activities.

(a) *Impoundment.* A motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with any of the following violations, or which may jeopardize the public's safety and safe vehicular movement and in furtherance of public safety or in the exercise by the Police Department of its community caretaker functions, may be subject to tow and impoundment by the City, and the owner of record of said vehicle shall be liable to the City for an administrative and processing fee of \$500.00 in addition to any towing and storage fees:

(b) Violations:

1. Operation or use of a motor vehicle in the commission or attempted commission of any offense for which a motor vehicle may be seized and forfeited pursuant to 720 ILCS 5/36-1 et seq.; or
2. Driving under the influence of alcohol, other drug or drugs, or intoxicating compounds, in violation of 625 ILCS 5/11-501 or a similar provision of the City Code; or
3. Operation or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the provisions of the Illinois Cannabis Control Act, 720 ILCS 550/1 et seq., provided, however, that no vehicle shall be subject to impound or forfeiture solely for the possession of cannabis or cannabis paraphernalia by persons twenty-one (21) years of age or older in accordance with the Cannabis Regulation and Tax Act. Further, no vehicle shall be subject to impound or forfeiture for the possession of medical

cannabis or cannabis paraphernalia by a registered qualifying patient or registered designated caregiver, as those terms are defined in the Compassionate use of Medical Cannabis Program Act (410 ILCS 130/1 *et seq.*), where such possession is in compliance with the provisions of that Act; or

4. Operation or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the Illinois Controlled Substances Act, 720 ILCS 570/100, *et seq.*; or
5. Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess a controlled substance, as defined by the Illinois Controlled Substances Act, 720 ILCS 570/100, *et seq.*; or
6. Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis in violation of the Cannabis Control Act, 720 ILCS 550/1 *et seq.*; or
7. Unlawful use of a weapon in violation of 720 ILCS 5/24-1; aggravated discharge of a firearm in violation of 720 ILCS 5/24-1.5; and unlawful possession of a firearm and firearm ammunition in violation of 720 ILCS 5/24-3.1; or
8. Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, the violation of 625 ILCS 5/6-303; except that vehicles shall not be subject to seizure impoundment if the suspension is for an unpaid citation (parking or moving), or due to failure to comply with emission testing; or
9. Operation or use of a motor vehicle with an expired driver's license in violation of Section 6-101 of the Illinois Vehicle Code, 625 ILCS 5/6-101, where the period of expiration is greater than one (1) year; or
10. Operation or use of a motor vehicle without ever having been issued a driver's license or permit in violation of Section 6-101 of the Illinois Vehicle Code, 625 ILCS 5/6-101, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
11. Operation or use a motor vehicle by a person against whom a warrant has been issued by a Circuit Clerk in Illinois for failing

to answer charges that the driver violated the offenses of: driving while license is revoked or suspended, 625 ILCS 5/6-303; operating a motor vehicle without a valid driver's license, 625 ILCS 5/6-101; and/or driving under the influence of alcohol, other drugs, intoxicating compound(s), or a combination thereof, 625 ILCS 5/11-501; or

12. Operation or use of a motor vehicle in connection with the commission or attempted commission of any other misdemeanor or felony offense in violation of the Criminal Code of 2012, 720 ILCS 5/1-1 *et seq*; or
13. Operation or use of motor vehicle in connection with the commission or attempted commission of the offense of fleeing or attempting to elude a police officer under Section 11-204 of the Illinois Vehicle Code, 625 ILCS 5/11-204, or aggravated fleeing or attempting to elude a police officer under Section 11-204.1 of the Illinois Vehicle Code, 625 ILCS 5/11-204.1; or
- ~~14~~13. Operation or use of a motor vehicle in violation of Section 11-503 of the Illinois Vehicle Code, 625 ILCS 5/11-503:
 - a. While the vehicle is part of a funeral procession; or
 - b. In a manner that interferes with a funeral procession.

Section 3. If any part, provision or provisions of this Ordinance shall be held to be unconstitutional or otherwise illegal, such unconstitutionality or illegality shall not affect the validity of remaining parts of the Ordinance, and the City hereby declares it would have passed the remaining parts of this Ordinance in any event, had it known that such part, provision, or provisions might be unenforceable because unconstitutional or illegal.

Section 4. This Ordinance is hereby ordered to be published in pamphlet form by the East Peoria City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 5. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 6. After its passage, approval and ten (10) day period of publication in the manner provided by law.

