

ORDINANCE NO. 10170

**AN ORDINANCE AMENDING ORDINANCE 8282, TO CONFORM TO STATE
STATUTES AND PROVIDING RULES AND REGULATIONS FOR THE
IMPOUNDMENT OF MOTOR VEHICLES**

WHEREAS, the City of Granite City tows and impounds private motor vehicles when there are concerns about the condition of the driver or because of the nature of certain pending criminal charges; and

WHEREAS, the process associated with private motor vehicles that have been towed and/or impounded utilizes City resources in the form of Police Department personnel time and administrative and processing costs associated with the investigation, arrest, and detention of an offender, or the removal of a vehicle, or evidence within the vehicle; and

WHEREAS, the City is authorized to recover the expenditure of such resources, under P.A. 97-109, effective January 1, 2012, and codified at 625 ILCS 5/11-208.7, and the Granite City City Council hereby amends the City's procedures associated with the impoundment of private motor vehicles to conform to P.A. 102-905, effective in 2023.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Granite City, Illinois, to amend as Granite City Municipal Code, Section 10.50.010 through 10.50.120, as follows:

10.50.010. Definitions

- A. Business Day means any day in which the offices of City Hall are open to the public for a minimum of seven hours.
- B. Level 1 Administrative Fee means and shall be \$500.00
- C. Level 2 Administrative Fee means and shall be \$250.00
- D. Level 3 Administrative Fee means and shall be \$100.00
- E. Motor Vehicle. Every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles, and motor scooters.
- F. 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.

10.50.020. Violations Authorizing Impoundment

- A. Any motor vehicle, operated with the express or implied permission of the owner of record, that is subsequently used in the commission of, or in the attempt to commit, violations of any of the following statutes, as now or as here after amended, 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 Ordinance, in addition to any towing and storage fees as hereinafter provided. Vehicles used in connection with any of the following violations are deemed similarly situated, in that they typically involve a suspect present, and evidence, which calls for significantly greater time by police officers and staff.

<u>State Statute</u>	<u>Similarly Situated Violations</u>
625 ILCS 5/6-303	Driving while license revoked
625 ILCS 5/11-204	Fleeing or attempting to elude a peace officer
625 ILCS 5/11-501	Driving under the influence of alcohol/drugs
625 ILCS 5/11-503	Reckless driving or aggravated reckless driving
625 ILCS 5/11-504	Drag racing
625 ILCS 5/11-601.5	Speeding in excess of 40 mph Class A misdemeanor
625 ILCS 5/11-6	Indecent solicitation of a child
720 ILCS 5/12-4	Aggravated battery
720 ILCS 5/12-4.2	Aggravated battery with a firearm
720 ILCS 5/12-4.3	Aggravated battery of a child
720 ILCS 5/12-4.6	Aggravated battery of a senior citizen
720 ILCS 5/16A-3	Felony retail theft
720 ILCS 5/18-1	Robbery
720 ILCS 5/18-2	Armed Robbery
720 ILCS 5/19-1	Burglary
720 ILCS 5/19-3	Residential burglary
720 ILCS 5/20-1.1	Aggravated arson
720 ILCS 5/20-2	Possession of explosives or incendiary devices
720 ILCS 5/21-1	Felony criminal damage to property
720 ILCS 5/25-1	Mob action
720 ILCS 570/401	Manufacture or delivery unauthorized
720 ILCS 570/401.1	Controlled substance trafficking
720 ILCS 570/402	Unauthorized possession under the Controlled Substances Act
720 ILCS 550/4	Possession of more than 10 grams of any substances containing cannabis
720 ILCS 550/5	Manufacture or delivery of cannabis
720 ILCS 55/5.1	Cannabis trafficking
720 ILCS 550/5.2	Delivery of cannabis on school grounds
720 ILCS 550/8	Unauthorized production or possession of cannabis sativa plant
720 ILCS 5/24-1	Felony unlawful use of weapons
720 ILCS 5/24-3.1	Felony unlawful possession of firearms and firearm ammunition
720 ILCS 5/24-3.3	Unlawful sale or delivery of firearms on the

premises of a school.

Any other felony charge not mentioned above, under Illinois State statute, as now or as hereafter amended.

- B. For any motor vehicle, operated with the express or implied permission of the owner of record, that is subsequently used in the commission of, or in the attempt to commit, any violations not listed in sub-Section A, above, but in any of 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 2 Administrative Fee, as provided in this Ordinance, in addition to any towing and storage fees as herein after provided;

Similarly Situated Violations

Violations of Illinois statutes constituting misdemeanors, or City Ordinance violations, as now or as hereafter amended; traffic violations; drug paraphernalia or drug equipment arrests; hit and run vehicles with accompanying traffic arrests; outstanding warrants, whether for failure to appear in Court, or original arrest warrants.

Vehicles used in connection with these offenses are deemed similarly situated, in that they typically involve a suspect present, and little or no evidence is located and dealt with in the tow process. Such offenses therefore require time of the officers in transporting, booking, processing, and either releasing on bail or lodging, the arrestee.

- C. Any motor vehicle, operated with the express or implied permission of the owner of record, that is subsequently used in the commission of, or in the attempt to commit, violations of any of the following, as now or as hereafter amended, 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 3 Administrative Fee, as provided for in this Ordinance, in addition to any towing and storage fees as herein after provided

Similarly Situated Violations

non-custodial tows;
parking violations;
abandoned or junk vehicles.

Vehicles used in connection with these offenses are deemed similarly situated, in that no suspect is typically present, and typically no evidence to be processed or handled independently of the vehicle itself.

10.50.030. Seizure and Notice of Impoundment

- A. Whenever a police officer has reason to believe that a motor vehicle is

subject to seizure and impoundment pursuant to this Ordinance, the police officer may provide for the towing of the motor vehicle to a facility approved by the Chief of Police. This Ordinance shall not apply if the motor vehicle used in the violation was stolen or hijacked at that time.

- 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 request an administrative hearing to be conducted under this section.
- C. At the time the vehicle is towed under this section, the municipality shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing. The municipality shall also provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the administrative fee as provided by this Ordinance and pays for all towing and storage charges. The registered owner or lessee of the vehicle and any lienholder of record shall be provided with a notice of hearing. The notice shall:
 - (i) be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested party's address as registered with the Secretary of State;
 - (ii) be served upon interested parties within 10 days after a vehicle is impounded by the municipality; and
 - (iii) contain the date, time, and location of the administrative hearing. An initial hearing shall be scheduled and convened no later than 45 days after the date of the mailing of the notice of hearing.

10.50.040. Administrative Hearing

- A. All interested persons shall be given a reasonable opportunity to be heard at the hearing, and to ask reasonable questions of other witnesses, in the discretion of the hearing officer. 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 evidence that the motor vehicle was used in the commission of, or in the attempt to commit, any violation of this Ordinance, or any violation of any statute or ordinance referenced in this Ordinance, then the hearing officer shall enter an order finding the owner of record of the motor vehicle civilly liable to the City for the applicable Administrative Fee.
- C. If, after a hearing, the hearing officer determines by a preponderance of evidence that the motor vehicle was not used in connection with such a violation, the hearing officer shall enter an order finding for the owner and for the return of the motor vehicle. No administrative fees shall be imposed on the registered owner or the agents of the owner of the motor vehicle if the motor vehicle was stolen or hijacked at the time the vehicle was impounded. To demonstrate that the motor vehicle was hijacked or stolen at the time the vehicle was impounded, the owner or the agents of the owner must submit proof that a report concerning the motor vehicle was filed with a law enforcement agency in a timely manner.
- D. If the owner of record requests a hearing but fails to appear at the hearing or fails to request a hearing in a timely manner, the owner of record shall be deemed to have waived his or her right to a hearing and hearing officer shall enter a default order in favor of the City in the amount of the Administrative Fee. However, if the owner of record pays such Administrative Fee and the motor vehicle is returned to the owner, no default order need be entered where the owner is informed of his or her right to a hearing and signs a written waiver. An order and finding of liability to the City for the Administrative Fee shall be deemed to have been made when the City receives the signed written waiver.
- E. The hearing officer shall consider as a defense to the vehicle impoundment that the motor vehicle was stolen or hijacked at the time the vehicle was impounded. To demonstrate that the motor vehicle was hijacked or stolen at the time the vehicle was impounded the owner or the agents of the owner a or a lessee must submit proof that a report concerning the motor vehicle was filed with a law enforcement agency in a timely manner.
- F. All of the following 4 requirements shall apply to any administrative hearing conducted under this section:
- (i) Administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in this State for a minimum of 3 years;

- (ii) At the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment;
- (iii) If the basis for the vehicle impoundment is sustained by the administrative hearing officer, any administrative fee posted to secure the release of the vehicle shall be forfeited to the municipality;
- (iv) All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois Administrative Review Law, 735 ILCS 5/3-101 et seq.

10.50.050

Disposition of Impounded Motor Vehicle

- A. An Administrative Fee imposed pursuant to this Ordinance shall constitute a debt due and owing the City. A motor vehicle impounded pursuant to this Ordinance shall remain impounded until:
 - (i) The Administrative Fee is paid to the City and all applicable storage and towing fees are paid to the towing agent, in which case the owner of record shall be given possession of the motor vehicle; or
 - (ii) A bond in an amount equal to the applicable Administrative Fee is posted with the 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
 - (iii) 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 vehicle.
- B. Notwithstanding any other provision of this Ordinance, before any impounded motor vehicle is returned or released under this Ordinance, any person seeking said return or release of the impounded motor vehicle, or the person purporting to be the registered owner, must present proof of ownership of the vehicle.

10.50.060. Posting of Bond

If a bond in the amount equal to the applicable Administrative Fee is posted with the 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 and storage fees.

10.50.070 Motor Vehicle Possession

Any motor vehicle that is not reclaimed within 35 days after the administrative hearing officer issues a written decision, or upon the expiration of the time during which the owner of record may seek judicial review of the City's action under this Ordinance, may be disposed of as an abandoned or 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.

10.50.080 Towing Agency

- A. It shall be the duty of the towing or storage company in possession of the motor vehicle to obtain documentation confirming compliance with all the foregoing requirements of this Ordinance and to retain photocopies of that documentation in their files for a period of not less than six (6) months following release of the motor vehicle. The foregoing information shall be made available to the authorities of the City of Granite City for inspection and copying, upon their request, made to the towing or storage company. The towing or storage company is prohibited from releasing any motor vehicle they may tow within the City until and unless they obtain 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 such 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 administrative fee, fine, penalty, or fee, levied or assessed against the owner or operator of said motor vehicle by reason of violation of any ordinance or statute, and any arrest which may have resulted from such violation.

10.50.090 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 City Police Department, any Administrative Fees or posted bond obtained by the City under this Ordinance shall be refunded to the paying party. Notwithstanding any other provision of law to the contrary, if the administrative hearing officer finds that a municipality impounded a motor vehicle that was stolen or hijacked at the time the vehicle was impounded the City shall refund any administrative fees already paid by the registered owner or lessee

of the vehicle.

10.50.100. All ordinances or parts of other ordinances in conflict herewith shall be and hereby are repealed to the extent of any such conflict, provided that nothing herein shall in any way excuse or prevent prosecution of any previous or existing violation of any ordinance or part of any ordinance repealed or superseded hereby. Nothing in this Ordinance shall be construed to affect any suit or proceeding now pending in any court, any rights acquired, any liability incurred, any cause of action acquired or existing by reason of any ordinance, or any part thereof repealed by this Ordinance. No accrued legal right or remedy of any kind or character shall be lost, impaired or affected by this Ordinance. No private cause of action is created, based on, or arising out of, this Ordinance. Where any conflict should be found to exist with sec. 2.84.010 through 2.84.060 of the Granite City Municipal Code, or with Ordinance Nos. 7885 or 8282, as now or as here after amended, this Ordinance shall govern.

10.50.110


If any part of this Ordinance is found to be unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or effectiveness of the remaining provisions of the Ordinance or any part thereof and said Ordinance shall be read as if said invalid provision was struck therefrom and the context thereof changed accordingly with the remainder of the Ordinance to be and remain in full force and effect.

10.50.120. This Ordinance shall be in full force and effect upon passage and approval, and may be published in pamphlet form by the City Clerk.

Passed by the City Council of the City of Granite City, Illinois on the 5th day of September, 2023.

APPROVED:


MAYOR M. PARKINSON

ATTEST: 
CITY CLERK JENNA DEYONG