

**POLICE COMMITTEE
MEETING MINUTES
October 7, 2010**

1. Call to Order

Alderman Galan called the meeting to order at 6:00 p.m. in the Council Chambers of the Darien City Hall. Committee members in attendance:

Alderman John Poteraske, Chairman McIvor was absent from the meeting.

Staff members in attendance: Chief of Police Robert Pavelchik, Deputy Chief David Skala, Deputy Chief Cooper and City Administrator Bryon Vana

Elected Officials in attendance: Mayor Kathleen Weaver and City Treasurer Michael Coren

Guest/Residents in attendance:

John Ferraro, DU-COMM

Brian Tegtmeier, DU-COMM

Karen Novac, 835 Saylor, Elmhurst

Emil Novac, 835 Saylor, Elmhurst

Brian Silanskis, 7753 Brunswick Rd., Darien

Brooke Silanskis, 7753 Brunswick Rd., Darien

Catherine Scheck, 8128 Fairmount Ave, Downers Grove

Kim Krause, 7623 Wilton, Darien

Corinna Ortiz, 7628 Wilton Ct., Darien

Bob Erickson, 7737 Brunswick Rd., Darien

Tom & Joanne Masek, 7129 Wirth, Darien

Paul Kobleski, 2233 Green Valley Rd., Darien

Diane Daly, Darien Area Dispatch Center

Michael Drelich, 7209 Wirth Dr., Darien

Joe Rabig, 7759 Brompton Dr., Darien

Dina Panos, Darien Area Dispatch Center

Kathleen Weaver, 1112 Foxtail Ct., Darien

Scott Solderstrom, 1901 Manning Rd., Darien

Michael Colen, 2980 Meadow Ct., Darien

Colleen Quigley, Darien Area Dispatch Center

Felix Mozockie, 8536 Meadow Lane, Darien

Kristina Oldracek, 7540 Wilton Rd., Darien

Alice Mosbach, 7769 Brompton Dr.

Kevin Monahan, 7509 Norman Drive, Darien

2. Approval of Minutes

Alderman John Poteraske made a motion to approve the minutes of the September 2, 2010 meeting; the motion was seconded by Alderman John Galan and approved by a voice vote of two ayes.

3. Communications

**Communications Items were discussed between Items 4a and 4b. The only communication item was an e-mail from Mr. Will Repole regarding the Manning and Fairview stop sign issue (Item 4b).

4. Old Business (The Committee reviewed Item 4b ahead of Item 4a to accommodate the residents present)

b. Crosswalk Installation Manning and Fairview

Chief Pavelchik introduced the Committee to a request from residents for a crosswalk and/or three-way stop intersection at Manning and Fairview. Administrator Vana informed the Council that the police staff provided three recommendations in the agenda memo, but did not pick one over the others. Alderman Galan read an e-mail from Mr. Will Repole of Dickens Circle who was against the three-way stop sign.

The Committee heard from residents:

1. Mr. Scott Solderstrom, 1901 Manning Rd. Mr. Solderstrom is an engineer for the IL Department of Transportation and he quoted the Manual on Uniform Traffic Control Devices (MUTCD) in support of the three-way stop intersection.
2. Felix Mozockie, 8536 Meadow Lane, Darien, thought that the intersection is fine the way it is, no need for a new sign.
3. Brooke Silanskis, 7753 Brunswick, Darien, spoke in favor of three-way stop intersection adding that it is tough to cross the street.
4. Paul Kobleski, 2233 Green Valley Road, Darien, spoke against the signage, thought that all drivers using Manning Rd. should be contacted about this issue, complained that the stop sign will cause pollution issues.
5. Alice Mosbach, 7769 Brompton, Darien, indicated that it is difficult to cross the street and that visibility is an issue.
6. Kim Krause, 7623 Wilton, Darien, spoke in favor of three-way stop sign and was concerned about previous crashes at the intersection. Crossing Manning Rd. is her main concern.
7. Catherine Scheck, 8128 Fairmount, Downers Grove, spoke as a regular bike user of the roadway and stated it is difficult to cross Manning Road to get to the bike trail.
8. Joe Rabig, 7759 Brompton, Darien, spoke in favor of the sign as crossing Manning Rd. is a safety issue.
9. Bob Erickson, 7737 Brunswick Rd., Darien, in favor of the three-way stop as a public safety issue, mentioned trimming the trees in the area to accommodate the signage, and wants the Council to follow the traffic engineer's recommendation.
10. Brian Silanskas, 7753 Brunswick, Darien, in favor of the stop sign and opined that stopping on a 25 mph street is not a big deal.

Alderman Poteraske did not provide an opinion on this issue. Alderman Galan indicated that the total cost for the sidewalk, striping, stop signs and tree trimming will be about \$5,000. He also indicated that the traffic consultant previously recommended this all-way stop intersection, but the recommendation was rejected by the City Council. Alderman Galan

distributed a copy of an aerial photograph that had been provided by the Municipal Services Department.

Mr. Joe Rabig commented that the crossing and stop sign will be close to a curve on Manning Road.

Administrator Vana informed the Committee that if this recommendation is approved by the full City Council, the job can be done before winter.

Motion by Alderman Galan, second by Alderman Poteraske to recommend City Council approval of an Ordinance that will legislate a three-way stop intersection with a marked crossing and sidewalk access at the intersection of Manning Road and Fairview Avenue. Motion approved by voice vote, two ayes.

Communications Item 3 was discussed at this point in the meeting

a. Dispatch Services – DU-COMM

Chief Pavelchik informed the Committee that research on potential dispatch consolidation has brought a proposal from DuPage Public Safety Communications (DU-COMM) to provide emergency dispatch services to the City of Darien at a savings of approximately \$160,000 to the City. DU-COMM Executive Director Brian Tegtmeier made a presentation about DU-COMM for the Committee and fielded their questions. Alderman Poteraske was very concerned that the cost DU-COMM represented today might drastically increase in the future and he wanted assurances from Mr. Tegtmeier about those increases.

Resident Michael Drelich, 7209 Wirth Dr., Darien, questioned whether or not a center like DU-COMM could be overwhelmed by calls as he observed in some hurricane prone areas. Mr. Drelich also offered compliments to the current dispatch staff for their wonderful service.

Police dispatcher Joanne Masek gave an impassioned soliloquy to the Committee about the personal service that is currently provided to Darien residents and police personnel by the Darien Area Dispatch Center. Ms. Masek also expressed concerns about experiences she has had transferring calls to DU-COMM and those calls were not answered in a timely fashion.

Alderman Galan questioned Administrator Vana about the process for a potential move to DU-COMM. Mr. Vana indicated that the full City Council would need to approve a Resolution authorizing the Mayor and City Clerk to sign an Intergovernmental Agreement with DU-COMM. Alderman Poteraske again expressed his concerns about future increases in expenses. Alderman Galan asked Chief Pavelchik what the Village of Lisle was going to do because if Lisle is also going to DU-COMM then Darien will be footing the bill for the entire dispatch budget. DADC Director Diane Daly asked Mr. Tegtmeier how Darien communications would be connected to DU-COMM, the answer via phone lines.

Administrator Vana also informed the Committee that DADC will need extensive upgrades in equipment in the coming years and this move to DU-COMM will negate that upgrade.

Motion by Alderman Galan, second by Alderman Poteraske to recommend City Council approval of the DU-COMM Resolution pending review of final budget numbers from DU-COMM (both Aldermen added that any increase above the proposed \$320,679 could change their position on this issue). Motion carried by voice vote two ayes.

5. New Business

Purchase Agenda Memo – Ballistic Vests

Motion by Alderman Poteraske, second by Alderman Galan to purchase ballistic vests from the Ray O’Herron Company in the amount of \$9,395. Motion carried by voice vote, two ayes.

6. Department Report

DarienFest Salary Expense

Chief Pavelchik presented to the Committee the DarienFest report from Detective Sgt. Reed, which included an expense report from the police department. The police salary and overtime expense for this year was \$18,630.50, which is down from last year’s combined expense of \$19,829.12. Alderman Galan also commented that the Municipal Service Department incurred DarienFest expenses in both manpower and barricade rental that totaled approximately \$2,000. Alderman Poteraske asked what Downers Grove did this year for police service at their smaller version of Heritage Fest. Alderman Galan commented that the 2010 Downers Grove festival was much smaller than previous years.

7. Public Comment

There was no public comment other than the comments of residents under Item 4.

8. Next Meeting Date

Alderman Galan announced that the next Committee meeting will be on Thursday, November 4, 2010, 6:00 p.m. in the City Council Chambers.

9. Executive Session

There was no Executive Session.

10. Adjournment

The Committee Meeting was adjourned at 8:37 p.m., motion by Alderman Galan, second by Alderman Poteraske.

Minutes Submitted by: Chief Robert Pavelchik

Approved: _____
Date

Alderman: _____
John Galan

Chairman: _____
Sylvia McIvor

Alderman: _____
John Poteraske

AGENDA MEMO
Police Committee
November 3, 2010

ISSUE STATEMENT

Residents have asked to speak to the Police Committee regarding the removal of stop signs on 79th Street at Farmingdale Drive.

BACKGROUND/HISTORY

On January 19, 2009, the City Council approved the recommendations of Staff and the traffic consultant in regards to Sub Areas 3 through 6 of the Neighborhood Traffic Study. The recommendations in those areas of the City were to remove stop signs at some locations and install stop signs at other locations (see attached NEIGHBORHOOD TRAFFIC STUDY SUB AREAS 3-6, SUMMARY OF TRAFFIC ISSUES & RECOMMENDED IMPROVEMENTS).

STAFF/COMMITTEE RECOMMENDATION

Several Aldermen and staff members have been contacted by residents who disagree with the removal of the stop signs and would like to be heard. (E-mails attached)

ALTERNATE CONSIDERATION

This issue is brought to the Committee for discussion purposes.

DECISION MODE

Staff will follow the direction of the Committee.

AGENDA MEMO
POLICE COMMITTEE
November 3, 2010

ISSUE STATEMENT

The Police Committee is requested to again review and recommend City Council approval of an Ordinance authorizing service fees for the processing of prisoners (booking fee), and the towing & impounding of motor vehicles under certain arrest conditions.

BACKGROUND/HISTORY

Many neighboring municipalities collect administrative service fees for services that their police departments provide. These fees include the towing of vehicles, non-criminal fingerprinting, false alarms and vehicle lockouts.

At the June 10, 2010 meeting of the Police Committee, the Committee discussed and approved the concept of charging service fees for the booking of prisoners and for the towing & impounding of motor vehicles under certain arrest conditions. Subsequent to that meeting the City Council met in a Goal Setting Session (October 13, 2010) and affirmed the concept of these fees.

STAFF/COMMITTEE RECOMMENDATION

Staff brings this issue back to the Committee for final discussion of offenses and fees. The attached sample ordinance is from the Village of Westmont, but City Attorney Murphey will have similar ordinances available when he reviews. Staff supports the approval of an Ordinance for administrative service fees. The recommended fee structure is \$500.00 per tow and \$50.00 for booking.

Vehicles would be subject to the administrative tow fee when the driver is arrested for D.U.I., driving while license suspended/revoked, no valid driver's license when the vehicle is uninsured and any other violations of the Illinois Vehicle Code that dictates mandatory towing. Individuals would be subject to a booking fee only when arrested and booked at the Darien Police facility for violations of State and local statutes.

The Committee needs to be aware that this process will involve the expenditure of funds for an administrative law judge that will be based on the number of cases heard and the length of the hearings. Additionally, police staff will have additional duties regarding the paper work involved in the process. The amount of time that will be delegated to this task is unknown at this time.

ALTERNATE CONSIDERATION

The alternate consideration would be not to adopt an administrative service fee for towing and or booking.

DECISION MODE

This ordinance will be presented to the City Council once the Police Committee affirms the final offenses and fees.

Westmont Ordinance *With Comments Added*ARTICLE XII. ADMINISTRATIVE HEARING SYSTEMDIVISION 1. GENERALLY

Sec. 78-500. City administrative hearing system--Established.

(a) There is hereby established and created within the city an administrative hearing system to enforce and adjudicate violations ("violations") of the following chapters of the Municipal Code of the City of Darien (the "Code"), as the same have been, and may from time to time hereafter be, amended:

(1) Chapter 78-511. Vehicle seizure and impoundment: use of motor vehicles for unlawful purposes.

(2) Such other city ordinances and Code provisions as the mayor and city council may from time to time designate.

(b) The provisions of 65 ILCS 5/1-2.1 of the Illinois Municipal Code are hereby adopted and incorporated into this chapter as if fully set forth herein.

(c) The provisions of this chapter shall apply to administrative adjudication proceedings to the extent that they are not inconsistent with the provisions of the Code which set forth specific procedures for the administrative adjudication of particular Code provisions.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-501. Hearing procedures non-exclusive.

The provisions of this chapter shall not preclude the city from using other methods or proceedings to enforce and adjudicate the Code or other ordinances of the city, including, without limitation, the institution of an action in the DuPage County Circuit Court or the United States District Court, or any administrative proceeding.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-502. Administrative composition.

The administrative hearing system shall provide for one or more hearing officers, all with the power, authority and limitations as set forth in this chapter.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-503. Hearing officer.

(a) *Appointment*. The city administrator shall appoint one or more qualified hearing officers to perform the functions set forth in this section.

(b) *Independent contractor*. A hearing officer shall be employed as an independent contractor of the city and shall not be considered an employee of the city. A hearing officer may be removed, with or without cause, by the city administrator.

(c) *Qualifications*. To qualify as a hearing officer, an individual must:

(1) Be an attorney licensed to practice law in the State of Illinois for at least three years;

(2) Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission;

(3) Complete a formal training program approved by the city administrator and the city attorney consisting of:

a. Instruction on the rules of procedure for administrative hearings;

b. Orientation to each subject area of the Code that will be adjudicated;

c. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and

d. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.

(d) *Compensation.* Authorization for compensation for a hearing officer shall be made by the mayor and city council through the city's annual budget process. Compensation shall be determined by the city administrator within approved budget limitations.

(e) *Authority and powers.* Hearing officers shall have all powers necessary to conduct fair and impartial hearings including, but limited to, the power to:

- (1) Hold conferences for the settlement or simplification of the issues;
- (2) Administer oaths and affirmations;
- (3) Hear testimony and accept evidence that is relevant to the allegation of a violation;
- (4) Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
- (5) Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing;
- (6) Issue a determination, based on the evidence presented at the hearing, on whether a violation occurred or exists. The hearing officer's determination shall be in writing and shall include a written finding of fact, decision, and order, including the fine, penalty, or other action with which the defendant must comply; and
- (7) Impose penalties consistent with applicable Code provisions and assess costs upon finding a defendant liable for the charged violation, except as expressly provided in this chapter.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-504. Violation notice.

(a) A notice of any violation ("violation notice") shall be issued by the persons authorized under this chapter, shall contain information as to the nature of the violation, shall be certified, and shall constitute prima facie evidence of the violation cited.

(b) All officers, as well as other specifically authorized individuals of any department of the city, shall have the authority to issue violation notices.

(c) Any individual authorized to issue violation notices that detects a violation, is authorized to issue a violation notice thereof and shall serve the violation notice in the manner set forth in the Code.

(d) The correctness of facts contained in any violation notice shall be certified by the person issuing the notice through signing his or her name to the violation notice at the time of issuance.

(e) The records department of the Darien Police Department shall retain the original or a facsimile of the violation notice and keep it as a record in the ordinary course of business.

(f) The violation notice or a copy thereof shall be admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-505. Service.

(a) Service of any violation notice shall be made as follows:

- (1) Handing the notice to the registered owner, operator or lessee of the vehicle, if present; or
- (2) Mailing the notice by certified mail to the registered owner, operator or lessee of the vehicle; or

(b) If service of notice is provided by mail for any violation notice or for any hearing notice, said service shall be deemed sent and shall be complete on the date the notice is deposited, postage prepaid, in the United States mail. The counting of any time period as set forth in the Code shall begin to run on the date the notice is deposited, postage prepaid, in the United States mail.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-506. Hearings.

All hearings conducted under the administrative hearing system shall be conducted by a hearing officer and shall be in accordance with the following rules and procedures:

- (1) A record of the hearing shall be made by tape recording or other appropriate means.
- (2) The parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.
- (3) The hearing officer may grant continuances only upon a finding of good cause.
- (4) All testimony shall be given under oath or affirmation.
- (5) Parties may request the hearing officer to issue, and the hearing officer shall have the authority to issue, subpoenas to direct the attendance and testimony of relevant witnesses and produce relevant documents.
- (6) The formal and technical rules of evidence shall not apply. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- (7) In a hearing on the propriety of impoundment of a vehicle any sworn or affirmed report that (i) is prepared in the performance of a law enforcement officer's duties and (ii) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the vehicle owner's liability, unless rebutted by clear and convincing evidence.
- (8) Each hearing shall culminate in a determination of liable or not-liable by the hearing officer or a determination of liability based upon the failure of the defendant to appear at the hearing.
- (9) The hearing officer shall, upon a determination of liability, assess fines and penalties in accordance with the Code. In addition, the hearing officer shall have the discretion to assess costs upon finding a defendant liable for the charged violation. In no event shall the hearing officer have authority to: (a) impose a penalty of incarceration; or (b) impose a fine in excess of \$1,000.00 for a violation.
- (10) The maximum monetary fine imposed under the Code shall be exclusive of costs of enforcement or costs incurred by the city to secure compliance with the city's Code and ordinances, and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the city.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-507. Judicial review.

Any final decision by a hearing officer that a violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-508. Debt to the city.

Any fine, penalty or part of any fine or penalty assessed in accordance with the provisions of the Code and remaining unpaid after the exhaustion of, or the failure to exhaust, administrative procedures under this chapter and the conclusion of any judicial review procedures, shall be a debt due and owing the city, and, as such, may be collected in accordance with applicable law.

(Ord. No. 09-190, § 1, 11-16-2009)

Sec. 78-509. Enforcement of judgments.

(a) After expiration of the period that judicial review under the Illinois Administrative Review Law may be sought for a final determination of any violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(b) Prior to any expenses being fixed by the hearing officer pursuant to this subsection (b), the City shall provide a notice to the defendant that states that the defendant shall appear at a hearing before the hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such hearing that shall not be less than ten days from the date that notice is served. If notice is served by mail, the ten day period shall begin to run on the date that the notice is deposited in the mail.

(Ord. No. 09-190, § 1, 11-16-2009)

~~Sec. 78-510.~~ Schedule of fines/penalties.

For a violation of any city ordinance, fines and penalties shall be as established from time to time by the mayor and city council.

(Ord. No. 09-190, § 1, 11-16-2009)

~~DIVISION 2.~~ VEHICLE SEIZURE AND IMPOUNDMENT

~~Sec. 78-511.~~ Vehicle seizure and impoundment-use of motor vehicles for unlawful purposes.

(a) *Definitions.*

Business day. Any day in which the office of the City Clerk of the City of Darien is open to the public for a minimum of seven hours.

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 vehicle as registered with the Secretary of State, State of Illinois or if not registered in Illinois, the particular state where the vehicle is registered.

(b) *Conduct prohibited.* A motor vehicle that is used in connection with any of the following violations may 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 of \$500.00 plus any applicable towing fees:

- (1) Driving under the influence of alcohol, other drug or drugs, intoxicating compound(s) or any combination thereof, as provided in section 5/11-501(a) of the Illinois Vehicle Code (625 ILCS 5/11-501(a), as amended), or in any local ordinance patterned after this statute; or
- (2) Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, as provided in Section 5/6-303 of the Illinois Vehicle Code (625 ILCS 5/6-303, as amended), or in any local ordinance patterned after this statute; or
- (3) Driving with no valid drivers license or an expired drivers license when it has been expired in excess of 12 months, as provided in 5/6-101 of the Illinois Vehicle Code (625 ILCS 5/6-101, as amended) or any local ordinance patterned after this statute.
- (4) Driving with no valid driver's license in conjunction with no proof of liability insurance as required by Illinois law.

Other reasons you may want to add – or not – From Hinsdale – covers more violations-more reasons to tow bad guys

A motor vehicle, operated with the permission, express or implied, of the owner of record, shall be declared a public nuisance and shall be subject to seizure and impoundment under this chapter where such motor vehicle is used in the commission of any of the violations set forth in this section or the commission of any of the violations set forth in this section makes impoundment of the vehicle reasonably necessary as a community caretaking function so that the vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. It shall not be necessary for criminal charges to be filed, prosecuted, and/or proven in order to demonstrate that one of the following violations has been committed:

A violation of subsection 5-3-11C, "Discharge Of Firearms", of this code, as amended, or section 5-3-3, "Fighting" (assault or battery), of this code, as amended.

Repeated already in the one from Westmont

A violation of 625 Illinois Compiled Statutes 5/6-303, "driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked" of the Illinois vehicle code, as amended, except a person whose driver's license, permit or privilege to operate a motor vehicle is suspended only for a violation of 625 Illinois Compiled Statutes 5/13 et seq., "the emissions inspection law", of the Illinois vehicle code, as amended.

A violation of 625 Illinois Compiled Statutes 5/11-204, "fleeing or attempting to elude a peace officer", of the Illinois vehicle code, as amended; 625 Illinois Compiled Statutes 5/11-501, "driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof", of the Illinois vehicle code, as amended; 625 Illinois Compiled Statutes 5/11-503, "reckless driving or aggravated reckless driving", of the Illinois vehicle code, as amended; or 625 Illinois Compiled Statutes 5/11-504, "drag racing", of the Illinois vehicle code, as amended, or against whom a warrant has been issued by a circuit court for failing to appear to answer charges that the person was: 1) operating a motor vehicle while that person's license was suspended or revoked or 2) operating a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

A violation of 720 Illinois Compiled Statutes 5/11-6, "indecent solicitation of a child", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/12-2, "aggravated assault", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/12-4, "aggravated battery", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/12-4.2, "aggravated battery with a firearm", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/12-4.3, "aggravated battery of a child", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/12-4.6, "aggravated battery of a senior citizen", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/16A-3, "retail theft", of the Illinois criminal code of 1961, as amended, when the value of the merchandise exceeds one hundred fifty dollars (\$150.00), 720 Illinois Compiled Statutes 5/18-1, "robbery", all of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/18-2, "armed robbery", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/19-1, "burglary", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/19-3, "residential burglary", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/20-1, "arson", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/20-1.1, "aggravated arson", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/20-2, "possession of explosives or explosive or incendiary devices", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/21-1, "criminal damage to property", of the Illinois criminal code of 1961 as amended, or 720 Illinois Compiled Statutes 5/25-1, "mob action", of the Illinois criminal code of 1961.

A violation of 720 Illinois Compiled Statutes 570/401, "manufacture or delivery of a controlled substance", of the Illinois controlled substances act, as amended, 720 Illinois Compiled Statutes 570/401.1, "controlled substance trafficking", of the Illinois controlled substances act, as amended, or 720 Illinois Compiled Statutes 570/402, "possession of a controlled substance", of the Illinois controlled substances act, as amended.

A violation of 720 Illinois Compiled Statutes 550/4(d), "possession of more than thirty grams of any substance containing cannabis", of the Illinois cannabis control act, as amended, 720 Illinois Compiled Statutes 550/5, "manufacture or delivery of cannabis", of the Illinois cannabis control act, as amended, 720 Illinois Compiled Statutes 550/5.1, "cannabis trafficking", Illinois cannabis control act, as amended, 720 Illinois Compiled Statutes 550/5.2, "delivery of cannabis on school grounds", of the Illinois cannabis control act, as amended, or 720 Illinois Compiled Statutes 550/8, "unauthorized production or possession of Cannabis sativa plant", of the Illinois cannabis control act, as amended.

A violation of 720 Illinois Compiled Statutes 5/24-1, "unlawful use of weapons", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/24-3.1, "unlawful possession of firearms and firearm ammunition", of the Illinois criminal code of 1961, as amended, or 720 Illinois Compiled Statutes 5/24-3.3, "unlawful sale or delivery of firearms on the premises of any school", of the Illinois criminal code of 1961, as amended. This subsection shall not apply when any of the exemptions set forth in 720 Illinois Compiled Statutes 5/24-2 of the Illinois criminal code of 1961, as amended, are met.

A violation of 720 Illinois Compiled Statutes 5/11-14, "prostitution", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/11-14.1, "solicitation of a sexual act", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/11-15, "soliciting for a prostitute", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/11-15.1, "soliciting for a juvenile prostitute", of the Illinois criminal code of 1961, as amended, 720 Illinois Compiled Statutes 5/11-18, "patronizing a prostitute", of the Illinois criminal code of 1961, as amended, or 720 Illinois Compiled Statutes 5/11-18.1, "patronizing a juvenile prostitute", of the Illinois criminal code of 1961, as amended.

The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 Illinois Compiled Statutes 5/36-1, "seizure", of the Illinois criminal code, as amended.

A violation of 625 Illinois Compiled Statutes 5/6-101, "drivers must have licenses or permits", of the Illinois vehicle code, as amended. (Ord. O2008-45, 8-12-2008)

(c) Seizure and impoundment.

(1) Whenever a police officer has reason to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer may provide for the towing of the vehicle to a facility approved by the chief of police. This section shall not apply if the vehicle used in the violation was stolen at that 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.

(2) 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, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request an administrative hearing to be conducted under this section.

(d) *Administrative hearing.* Within five business days after a vehicle is seized and impounded pursuant to this Section, the city shall notify by personal service or by certified mail the owner of record of the owner's right to request a hearing to challenge whether a violation of this section has occurred. The owner of record seeking a hearing must file a written request for a hearing with the chief of police or his/her designee no later than ten business days after notice was mailed. The hearing date must be scheduled no more than **ten** business days after a request for a hearing has been filed. 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. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in violation of this section, then the hearing officer shall enter an order finding the owner of record of the vehicle civilly liable to the city for the administrative penalty of \$500.00. If, after a hearing, the hearing officer does not determine by a preponderance of the evidence that the vehicle was used in such a violation, the hearing officer shall enter an order finding for the owner and for the return of the vehicle. 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 the hearing officer shall enter a default order in favor of the city in the amount of the administrative penalty. However, if the owner of record pays such penalty and the vehicle is returned to the owner, no default order need be entered if the owner is informed of his or her right to a hearing and signs a written waiver, in which case an order of liability shall be deemed to have been made when the city receives the written waiver.

(e) *Disposition of impounded vehicle.* A penalty imposed pursuant to this section shall constitute a debt due and owing the city. A vehicle impounded pursuant to this section shall remain impounded until:

- (1) The penalty of \$500.00 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 vehicle, or
- (2) A bond in the amount of \$500.00 is posted with the police department and all applicable towing fees are paid to the towing agent, at which time the vehicle will be released to the owner of record, or
- (3) The vehicle is deemed abandoned, in which case the vehicle shall be disposed of in the manner provided by law for the disposition of abandoned vehicles.

(f) *Posting of bond.* If a bond in the amount of \$500.00 is posted with the police department, the impounded vehicle shall be released to the owner of record; the owner of the vehicle shall still be liable to the towing agent for any applicable towing fees. If a \$500.00 penalty is imposed for violation of this section, the \$500.00 bond will be forfeited to the city; however if a violation of this section is not proven by a preponderance of the evidence, the \$500.00 bond will be returned to the person posting the bond. If a \$500.00 bond is posted and either a hearing is requested in writing as required in section (d), herein, but the owner fails to appear at the hearing and there is a finding of liability imposed by the hearing officer or if a written waiver of hearing is signed by the owner, the \$500.00 will be forfeited to the city. All bond money posted pursuant to this section shall be held by the city until the hearing officer issues a decision, or, if there is a judicial review, until the court issues its decision. *Posting of bond may occur at the Darien Police Department 24-hours a day, any day.*

(g) *Vehicle possession.* Any motor vehicle that is not reclaimed within 30 days after the expiration of the time during which the owner of record may seek judicial review of the city's action under this section, or the time at which a final judgment is rendered in favor of the city, or the time a final administrative decision is rendered against an owner of record who is in default, may be disposed of as an unclaimed vehicle as provided by law, provided, however, that where proceedings have been instituted under state or federal drug asset forfeiture laws, the subject vehicle may not be disposed of by the city except as consistent with those proceedings.

(Ord. No. 09-190, § 1, 11-16-2009)