ORDINANCE 13-06  Passed: February 11, 2013

AMENDING THE MUNICIPAL CODE OF
THE CITY OF DEKALB, ILLINOIS,
SECTION 35.07 RELATING TO VEHICLE
IMPOUNDMENT OR IMMOBILATION:
TOW FOR SPECIFIED VIOLATIONS.

WHEREAS, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and,

WHEREAS, the Corporate Authorities have previously established a set of ordinances establishing a set of procedures for administrative towing pursuant to 625 ILCS 5/11-208.7 within the City of DeKalb; and,

WHEREAS, the Corporate Authorities have determined that certain updates to the City Code are necessary and appropriate to protect the public health, welfare, safety and morals of the residents of the City of DeKalb;

NOW THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows;

SECTION ONE: SECTION 35.07 AMENDED

Subsection 35.07(b) shall be amended as follows:

b) Procedures for Impoundment:

1. Notice at time of Impoundment: When an officer has cause to believe that a vehicle is subject to impoundment under this Section 35.07, the officer shall utilize the process for dispatching a tow vehicle under the City’s tow rotation list, as provided in this Chapter 35. At such time, the officer shall notify or make a reasonable attempt to notify the owner, lessee or person identifying himself or herself as the owner or lessee, or any person 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 as provided below. The officer shall also notify the person in control that the vehicle shall remain impounded pending completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the City a bond of $500.00, and pays for all towing and storage charges.

2. Written Notice: After impounding a vehicle under this Section 35.07, the City shall issue a written notice to the owner, lessee and any lienholders of record by personal service or by first class mail to such parties at the address registered with the Illinois Secretary of State. Said notice shall be mailed to served upon
such parties within ten forty-five (45) days after the date of impound, and shall contain the date, time and location of an administrative hearing, which hearing shall be convened within 45 ninety (90) days of the date of mailing the notice.

At the time of posting the above-required bond, the party posting the bond shall have the option of either proceeding with a hearing (and potentially being subject to the imposition of costs for such hearing, if the City prevails at such hearing), or of waiving the right to a hearing and avoiding the potential for such costs. The City shall provide a form for the party posting the bond to execute, to indicate accordingly. In the event that the party posting the bond waives hearing, the bond shall be forfeit to the City automatically, without hearing.

3. Administrative Hearing: An administrative hearing shall be conducted by a hearing officer qualified under 625 ILCS 5/11-208.7(g), and the decision of the hearing officer shall be subject to review under the Administrative Review Law. If the impoundment is upheld by the hearing officer, the administrative fee shall be due and payable (or if previously posted to secure the release of the vehicle, shall be forfeited). If the impoundment is overturned by the hearing officer, the administrative fee shall not be payable. The hearing officer shall issue a written decision at the conclusion of the administrative hearing. Any fine, penalty or administrative fee approved by the hearing officer which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review of the decision may be enforced in the same manner as a judgment entered in a court of competent jurisdiction. Said hearing shall not be subject to formal or technical rules of evidence, but shall be recorded and the hearing officer shall be empowered to administer oaths and to secure by subpoena both testimony of witnesses and production of books and papers. The burden of proof at such hearing shall be a preponderance of the evidence. If the City submits a signed complaint for a violation that renders a vehicle eligible for impoundment under this Section 35.07 or order for impoundment of a vehicle under this section, the City shall be deemed to have satisfied its prima facie case for impoundment, and said prima facie case may only be overcome by clear and convincing evidence.

SECTION TWO: GENERAL PROVISIONS

REPEALER: All ordinances or portions thereof in conflict with this Ordinance are hereby temporarily suspended during the term that this Ordinance remains enforceable.

SEVERABILITY: Should any provision of this Resolution be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this Resolution.

This Ordinance shall be in full force and effect on and after its approval and passage. The City Council expressly finds that the public interest and public safety are served by, and require, this ordinance to take effect immediately upon passage, and include this statement of urgency in support of that finding.
ADOPTED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting thereof held on the 11th day of February, 2013 and approved by me as Mayor on the same day. Passed on roll call vote 6-0-2. Aye: Jacobson, Lash, Gallagher, Naylor, Baker, Povlsen. Absent: Teresinski, O'Leary.

ATTEST:

[Signature]
DIANE K, WRIGHT, City Clerk

[Signature]
KRIS POVLSEN, Mayor

[City of DeKalb Seal]