

CITY OF LE ROY
COUNTY OF McLEAN, STATE OF ILLINOIS

ORDINANCE NO. 13-11-03-70

**AN ORDINANCE ADOPTING TITLE SIX, CHAPTER SIX ENTITLED
"SEIZURE AND IMPOUNDING OF VEHICLES" TO THE MUNICIPAL CODE
OF LE ROY, ILLINOIS (AS AMENDED)**

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LE ROY THIS
18th Day of November, 2013

PRESENTED: **November 18, 2013**

PASSED: **November 18, 2013**

APPROVED: **November 18, 2013**

RECORDED: **November 18, 2013**

PUBLISHED: **November 18, 2013**

In Pamphlet Form

Voting "Aye" 8

Voting "Nay" 0

The undersigned being the duly qualified and Acting City Clerk of the City of LeRoy does hereby certify that this document constitutes the publication in pamphlet form, in connection with and pursuant to Section 1-2-4 of the Illinois Municipal Code, of the above-captioned **ordinance** and that such **ordinance** was presented, passed, approved, recorded and published as above stated.

(SEAL)



Vicki Moreland, City Clerk of the City of
Le Roy, McLean County, Illinois
Dated: November 18, 2013

ORDINANCE 13-11-03-70

**AN ORDINANCE ADOPTING TITLE SIX, CHAPTER SIX ENTITLED
"SEIZURE AND IMPOUNDING OF VEHICLES" TO THE MUNICIPAL
CODE OF LE ROY, ILLINOIS (as amended)**

**TITLE 6
MOTOR VEHICLES AND TRAFFIC
CHAPTER 6
SEIZURE AND IMPOUNDING OF VEHICLES**

SECTION:

- 6-6-1: Definitions**
- 6-6-2: Violations Authorizing Impoundment**
- 6-6-3: Offenses**
- 6-6-4: General Regulations**
- 6-6-5: Notice**
- 6-6-6: Preliminary Hearing**
- 6-6-7: Administrative Hearing**
- 6-6-8: Administrative Fee**
- 6-6-9: Vehicle Possession**
- 6-6-10: Administrative Review**
- 6-6-11: Fund Management**
- 6-6-12: Severability**

6-6-1: DEFINITIONS: As used in this chapter, the following words, terms, and titles shall have the following meanings:

A. HEARING OFFICER: An attorney with three (3) years of experience as a practicing attorney and certified to practice law in the State of Illinois

B. OWNER, OWNER OF RECORD, OR REGISTERED OWNER: The owner, lessee, or record title holder to any motor vehicle as registered with the Secretary of State, State of Illinois.

C. ILCS: Illinois Compiled Statutes, or the Criminal Code of 1961, or the Criminal Code of 2012.

6-6-2: VIOLATIONS AUTHORIZING IMPOUNDMENT:

A motor vehicle, operated with permission, express or implied, of the owner of record, which is used in connection with any of the following violations set forth in Section 6-6-3 herein, may be subject to seizure and impoundment by the City or authorized towing company if the violation prevents the driver from lawfully operating the vehicle, or if a Police Officer authorized to make arrests by the City, determines that impoundment of the vehicle is reasonably necessary as a community care taking function so that the vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. The owner of record of said vehicle, or agent of said owner, shall be liable to the City for an administrative fee in addition to any towing and storage fees charged by the authorized towing company, as hereinafter provided.

6-6-3: OFFENSES:

- A.** Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 2012, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).
- B.** Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of the Illinois Vehicle Code, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).
- C.** Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).
- D.** Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).
- E.** Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1, 24-1.5, or 24-3.1 of the Criminal Code of 1961 or the Criminal Code of 2012, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

F. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of the Illinois Vehicle Code; 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, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

G. Operation or use of a motor vehicle while soliciting, possessing, or attempting to possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

H. Operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of the Illinois Vehicle Code, if the period of expiration is greater than one year, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

I. Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of 6-101 of the Illinois Vehicle Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

J. Operation or use of 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 Section 6-101, 6-303, or 11-501 of the Illinois Vehicle Code, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

K. Operation or use of a motor vehicle in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961 or the Criminal Code of 2012, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

L. Operation or use of a motor vehicle in the commission of or attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961 or the Criminal Code of 2012, shall subject the owner to an administrative fee of four hundred dollars (\$400.00);

M. Operation or use of a motor vehicle in violation of Section 11-503 of this Code: (1) while the vehicle is part of a funeral procession; or (2) in a manner that interferes with a funeral procession, shall subject the owner to an administrative fee of four hundred dollars (\$400.00).

6-6-4: GENERAL REGULATIONS

A. This chapter shall not replace or otherwise abrogate any existing State or Federal laws or City Ordinances pertaining to the vehicle seizure, towing and impoundment, and the owner of record shall be subject to the fees and penalties provided in this chapter in addition to any penalties that may be assessed by a court for any underlying criminal charges, and in addition to any fees charge by an authorized towing company for towing and storage.

B. Fees provided for in this chapter shall not apply if the vehicle used in the violation was stolen at the time of impounding, as demonstrated by verifiable proof, such as if the theft was reported to the appropriate police authorities within twenty-four (24) hours after the theft was discovered.

6-6-5: NOTICE:

A. Whenever a Police Officer has probable cause to believe that a vehicle is subject to towing and impoundment pursuant to this chapter, the police officer shall provide for the towing of the vehicle to a facility authorized by the City of LeRoy. The Police Chief is authorized to develop internal protocol and procedures in this regard.

B. Before or at the time the vehicle is towed, the police 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 who is found to be in control of the vehicle at the time of the alleged offense, of the seizure and impoundment, and of the owner's or lessee's right to request a preliminary and an administrative vehicle impoundment hearing to challenge the impoundment and fees, as provided for in Sections 6-6-6 through 6-6-8 of this chapter.

C. The vehicle shall be impounded pending the completion of the administrative hearing, unless the owner, lessee, or lien holder of the vehicle posts with the City a cash bond in the amount of four hundred dollars (\$400.00) and pays the accrued towing and storage charges.

6-6-6: PRELIMINARY HEARING:

A. If the owner of record of a vehicle impounded pursuant to this chapter desires a preliminary appeal of the impoundment, said owner must make a request for the preliminary hearing within twenty-four (24) hours of the impoundment, excluding Saturdays, Sundays, and City holidays.

B. Said request shall be in writing and filed with the Chief of Police, or his or her designee, who shall conduct such preliminary hearing within forty-eight (48) hours after receipt of the request, excluding Saturdays, Sundays, and City holidays.

C. All interested persons shall be given reasonable opportunity to be heard at the preliminary vehicle impoundment hearing.

D. The preliminary hearing shall be recorded and the formal rules of evidence will not apply. Hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Persons appearing at the preliminary hearing may be represented by counsel at their expense.

E. If, after the hearing, the Chief of Police, or his or her designee, determines there is probable cause to believe that the vehicle is subject to impoundment pursuant to this chapter, he/she shall order the continued impoundment of the vehicle as provided in this chapter unless the owner of the vehicle posts with the City a cash bond in the amount of four hundred dollars (\$400.00) and pays the accrued towing and storage charges.

F. If the Chief of Police, or his or her designee, determines that there is no probable cause to believe that the vehicle is subject to impoundment pursuant to this chapter, the vehicle will be returned without penalty or other fees.

6-6-7: ADMINISTRATIVE HEARING:

A. Within ten (10) days after a vehicle is impounded pursuant to this chapter, unless the Chief of Police determines that no probable cause exists per Section 6-6-6(F) of this chapter, the City shall notify by personal service or certified mail, return receipt requested, the owner of record and any lessee and lien holders of record of the date, time, and location of an administrative hearing that will be conducted, pursuant to this chapter, within forty five (45) days of the service or mailing of said notice of hearing.

B. The hearing shall be recorded and conducted by a Hearing Officer, as defined in Section 6-6-1(A), designated by the City Administrator. Persons appearing at the hearing may be represented by counsel at their expense.

C. The owner of record or lessee of the impounded vehicle shall appear at this administrative 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 of record of the impounded vehicle enters a plea of not guilty, the administrative hearing will go forward unless continued by the Hearing Officer. If continued, the hearing shall be held within forty-five (45) days of the continuance.

D. At any time prior to the hearing date, the Hearing Officer may, at the request of either party, or on his own initiative, 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 people in the conduct of their affairs.

E. If, after the hearing, the Hearing Officer determines, by a preponderance of the evidence, that the impounded vehicle was used in connection with a violation set forth in this chapter, the Hearing Officer shall enter a written decision sustaining the impoundment and finding owner of record or lessee of the impounded vehicle civilly liable to the City for an Administrative fee in the amount of four hundred dollars (\$400.00) and requiring the impounded vehicle to be impounded until the owner of record pays the administrative fee to the City plus costs to the authorized towing company of record for the towing and storage of the vehicle.

F. If the Hearing Officer finds no such violation occurred, the Hearing Officer shall enter a written order overruling the impoundment and directing the immediate return of the owner's cash bond without fees and the release of the vehicle.

6-6-8: ADMINISTRATIVE FEE:

A. If an administrative fee is imposed pursuant to this Chapter, such fee shall constitute a debt due and owing the City. If a cash bond has been posted pursuant to this Chapter the bond shall be applied to the fee. If a vehicle has been impounded when such fee is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicle's owner as provided by law.

B. Except as provided otherwise in this Chapter, a vehicle shall continue to be impounded until the fee is paid to the City and any applicable towing/storage costs are paid to the towing company, 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.

C. If the administrative fee and other applicable fees and costs are not paid within thirty-five (35) days after the Hearing Officer issues a written decision sustaining the impounding, if no administrative review is sought, or within thirty-five (35) days after an action for administrative review has been resolved in favor of the City, whichever is applicable, the vehicle shall be deemed abandoned and shall be disposed of in a manner provided by law for the disposition of abandoned vehicles.

6-6-9: VEHICLE POSSESSION:

A. 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 administrative fees and costs applicable under this chapter 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 they agree in writing to refund the City the amount of the net proceeds of any foreclosure sale, less the amounts required to pay all lien holders of record, not to exceed the administrative fee, plus applicable towing and storage costs.

6-6-10: ADMINISTRATIVE REVIEW:

A. Any owner, lien holder, or other person with a legal interest in the vehicle, shall have the right to appeal the decision of the Hearing Officer to Circuit Court, pursuant to the Administrative Review Act (735 ILCS 5/3-101 et seq.).

6-6-11: FUNDS MANAGEMENT:

A. All funds related to penalties and forfeiture described in this Chapter shall be managed by the City Clerk. All such funds shall be deposited in the DUI account of the LeRoy Police Department.

6-6-12: SEVERABILITY:

A. If any section, sentence, clause, or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court with competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Chapter.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED by the City Council of the City of Le Roy, Illinois, upon the motion made by James Bratcher, and seconded by Rae Anne Ahlers by roll call vote on the 18th day of November, 2013 as follows

Aldermen Elected 8

Aldermen Present 8

Voting Aye:

Dawn Hanafin, Rae Ann Ahlers, Mike Bailey, Anne Anderson, Greg Steffen, Judy Marshall, Monti Albert, James Bratcher

Voting Nay:

None

Absent:

Abstain:

None

Other:

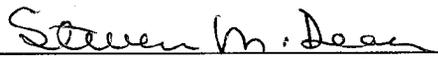
None

And deposited and filed in the office of the City Clerk in said municipality on the 18th day of November, 2013.



Vicki Moreland, City Clerk of the
City of Le Roy, Mc Lean County, Illinois

APPROVED BY the Mayor of the City of Le Roy, Illinois, this 18th day of November, 2013



Steve Dean Mayor of the City of Le Roy,
Mc Lean County, Illinois

ATTEST: (SEAL)



Vicki Moreland, City Clerk of the
City of Le Roy, Mc Lean County, Illinois

CERTIFICATE

I, Vicki Moreland, certify that I am the duly appointed and acting Municipal City Clerk of the City of Le Roy, of McLean County, Illinois.

I further certify that on **November 18, 2013** the Corporate Authorities of such municipality passed and approved **Ordinance No. 13-11-03-70** entitled:

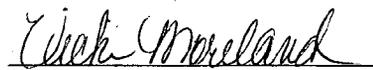
**AN ORDINANCE ADOPTING TITLE SIX, CHAPTER SIX ENTITLED
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Which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. **13-11-03-70**, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on November 18, 2013 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Le Roy, Illinois this 18th day of November, 2013.

(SEAL)


Vicki Moreland, Municipal City
Clerk of the City of Le Roy, McLean
County, Illinois

STATE OF ILLINOIS)
) SS:
COUNTY OF MCLEAN)

I, Vicki Moreland, do hereby certify that I am the duly qualified and acting City Clerk of the City of Le Roy, McLean County, Illinois, and as such City Clerk that I am the keeper of the records and files of the Mayor and the City Council of said City.

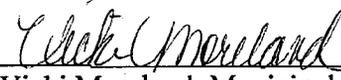
I do further certify that the foregoing is a true, correct and complete copy of an ordinance entitled:

**AN ORDINANCE ADOPTING TITLE SIX, CHAPTER SIX ENTITLED
"SEIZURE AND IMPOUNDING OF VEHICLES" TO THE MUNICIPAL CODE
OF LE ROY, ILLINOIS (AS AMENDED)**

I do further certify said *ordinance* was adopted by the City Council of the City of Le Roy at a regular meeting on the 18th day of November 2013 and prior to the making of this certificate the said ordinance was on file with the permanent records of said City where it now appears and remains as a permanent record of said ordinance in the record books.

Dated this 18th day of November, 2013.

(SEAL)



Vicki Moreland, Municipal City
Clerk of the City of Le Roy, McLean
County, Illinois