

**CITY OF LeROY
COUNTY OF McLEAN
STATE OF ILLINOIS**

ORDINANCE NO. 435

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975
(as amended), CHAPTER 12-NUISANCES.**

ADOPTED BY THE CITY COUNCIL OF THE CITY OF LEROY THIS 18th DAY OF
May, 1992.

PRESENTED: May 18, 19 92
PASSED: May 18, 19 92
APPROVED: May 18, 19 92
RECORDED: May 18, 19 92
PUBLISHED: May 18, 19 92

In Pamphlet Form

Voting "Aye" 4
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)

Juanita Bagley
City Clerk of the City of LeRoy,
McLean County, Illinois

Dated: May 18, 19 92

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF
LE ROY, ILLINOIS, 1975
(as amended), CHAPTERS 12- NUISANCES.**

WHEREAS, the City Council of the City of LeRoy, McLean County, Illinois, an Illinois municipal corporation, hereinafter referred to as the "CITY," has determined that the number of inoperable motor vehicles, parts of vehicles, unlicensed motor vehicles, discarded appliances, used machinery, discarded furniture, junk, refuse and other similar items and substances in the CITY, both on private property and on public property, is becoming a significant problem for the CITY in that the public health, safety and welfare, are adversely affected and the appearance of the various private yards, open areas, and streets and alleys in the CITY is also adversely affected, and

WHEREAS, the CITY has authority to regulate the storage, abandonment and discarding of the aforesaid items when the same is necessary to protect the public health, safety and welfare,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of LeRoy, McLean County, Illinois, in lawful meeting assembled, as follows:

Section 1. Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of the following new section 12.02 1/4 in words and figures as follows:

12.02 1/4 Duty to Maintain Private Property. No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

Section 2. Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of the following new section 12.02 1/2 in words and figures as follow:

12.02 1/2 Unsheltered Storage of Personal Property.

(a) Unsheltered storage of old, unused, stripped, junked, and other vehicles, including trailers, snowmobiles, and watercraft of all sort, not in good and safe operating condition, and of any other vehicles, used machinery, implements,

and/or equipment, non-functional equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, which hereinafter are collectively described as "said personalty," for a period of 15 days or more (except in licensed junk yards) within the corporate limits of the City of LeRoy is hereby declared to be a nuisance and dangerous to the public health, safety and welfare. Any vehicle, including trailers, snowmobiles, and watercraft of all sort, not in good and safe operating condition, and any other vehicle, machinery, implements, and/or equipment, non-functional equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, removed from any public thoroughfare, public property, or private property, and returned to any public thoroughfare, or public property within the City of LeRoy, or to the same private premises within one year from the date of its removal shall be deemed not to have been removed from the premises within the aforesaid 15 day period and thus shall be deemed prima facie a violation of the prohibition against the same remaining on a described premises for more than 15 days.

(b) Unsheltered parking of any truck trailer, flat bed trailer, semi-trailer, or any other kind of wheeled vehicle, wagon, flat-bed wagon, and any other type of vehicle customarily used to haul commodities, goods, or personal property, and customarily pulled by a motor driven vehicle, for a period of 15 days or more (except in licensed junk yards) on any public way, public property, or private property, within the corporate limits of the City of LeRoy, unless the same is used as temporary storage for a construction project on the premises, in which event unsheltered parking of the aforesaid vehicle on private property shall be allowed for not more than 120 days total in one calendar year, is hereby declared to be a nuisance and dangerous to the public health, safety and welfare. Any such vehicle removed from any public thoroughfare, public property, or private property, and returned to the same premises within 1 year from the date of its removal shall be deemed not to have been removed from the premises within the aforesaid 15 day (or 120 day temporary construction period) period and thus shall be deemed prima facie a violation of the prohibition against the same remaining on a described premises for more than 15 days. This ordinance provision shall not be construed to permit the parking of any vehicle on public property for up to 15 days if such parking is in violation of any other state statute or provision of this code requiring removal of such vehicle in a shorter time period. Major recreational equipment, and utility trailers of not

more than twenty feet in length from the furthest point of the rear of the trailer to the furthest point forward on the hitch of the trailer, are exempted from the requirements of this sub-section (b) of section 12.02 1/2. "Major recreational equipment" is hereby defined to mean travel trailers (a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational or vacation uses, or one permanently identified as a "Travel Trailer" by the manufacturer of the trailer); pick-up coach (a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation use); motor home (a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle); camping trailer (a canvas, material or metal folding structure, mounted on wheels, and designed for travel, recreation and vacation use) ; boats, boat trailers, snow mobiles and snow mobile trailers. "Utility trailer" is defined for purposes of this section 12.02 1/2 (b) to be any trailer having not more than two axles, and weighing with a load not more than 2,000 pounds and being not longer than twenty feet from the rear most portion of the trailer to the front most tip of the hitch of said trailer. No more than one travel trailer, one boat and boat trailer combination, one snow mobile trailer and one utility trailer may be located on a residential premises [house and lot(s)] at any given time and any such trailers must be licensed if required to be licensed under the motor vehicle code of the State of Illinois.

(c) "Unsheltered storage" and "unsheltered parking" are defined to be, for the purposes of this section 12.02 1/2, storage or parking other than in a completely enclosed building.

(d) **Abatement of nuisances.** The owner, owners, tenants, lessees, and/or occupants of any lot or premises within the corporate limits of this City upon which storage of those items of personal property listed in sub-sections (a) and (b) preceding is made, and also the owner, owners, and/or lessees of said personalty involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate said nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the City, or otherwise to remove said personalty to a location outside of the limits of this City.

(e) Abatement by the City. Whenever said owners fail to abate said nuisance then the City shall remove the said personalty to a location of its selection, the expenses therefore shall be billed to said owners, jointly and severally, said expenses to be recoverable in a suit at law. The removal shall be made in accordance with notice provisions and opportunity for hearing as set forth hereinafter in section 12.06 1/2. When said personalty has been removed and placed in storage by the City, as provided for herein, said personalty shall be sold by the City after the lapse of such time as is provided in regard to the provisions hereinafter set forth for notice and hearing. If the proceeds of such sale are insufficient to pay the costs of abatement, said owner(s) shall be liable to the City for the balance of the costs, jointly and severally, to be recoverable in a suit at law. If the proceeds are in excess of such costs, the balance of such proceeds shall be paid to said owner(s), or deposited in the City Treasury for his, her, its, or their use.

(f) Any person violating the provisions of this section 12.02 1/2, or any rule or regulation adopted or issued in pursuance thereof, shall, upon conviction, be subject to a fine not less than \$100.00 dollars nor more than \$500.00, and the costs of prosecution.

Section 3. Chapter 3, City Administration, Municipal Code of LeRoy, Illinois 1975 (as amended), Section 3.11, is hereby amended by the addition of the following words and figures at the end of the aforesaid section, being at the end of the list designated as "5. Offenses regarding and in regard to minors....(subsection A.)":

6. OFFENSES REGARDING NUISANCES

	<u>CHAPTER</u>	<u>SECTION</u>	<u>AMOUNT</u>
A. Unsheltered storage of one or more vehicles, including snow-mobiles and watercraft of all sort	12	12.02 1/2 (a)	\$ 50.00
B. Unsheltered storage of machinery, implements, and/or equipment and personal property of any kind no longer safely usable for the purpose for which it was manufactured, said unsheltered storage being for a period of 15 days or more	12	12.02 1/2 (b)	\$ 50.00
C. Unsheltered parking of any trailer, wagon, or similar vehicle for more than 15 days (or in excess of 120 days if used as temporary storage for a construction project on the premises)	12	12.02 1/2 (c)	\$ 50.00

Section 4. Section 12.04(c) Abatement by Court Action, Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby repealed. New section 12.04 (c) Abatement by Court Action, Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby adopted in the following words and figures:

(c) Abatement by Court Action. If the inspecting officer shall determine that a public nuisance exists on private premises, but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, welfare, peace, morals or decency, he or she shall file a written report of his or her findings with the Mayor, who shall cause an action to abate such nuisance to be commenced in the name of the City, unless the nuisance involves an inoperable motor vehicle, parts of vehicles, unlicensed or unregistered motor vehicles, abandoned motor vehicles, discarded appliances, used machinery, junk, discarded furniture, refuse or other similar items and substances, in which event the nuisance may be abated by court action or in accordance with the provisions set forth in section 12.02 1/2, section 12.06, or section 12.06 1/2, as may be applicable.

Section 5. Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by renumbering sub-sub-section 12.02(d)14 as 12.02(d)15, and by addition of new sub-sub-section 12.02(d)14-Accumulations Of Junk and Trash, in words and figures as follows:

12.02(d)14. Accumulations of Junk. No person owning, leasing, occupying or having charge of any premises within the City limits shall cause or allow the accumulation or storage on or about said premises within the City, of trash, junk, any partially dismantled motor vehicle, wrecked motor vehicle, any unlicensed or unregistered motor vehicle which under the laws of the State of Illinois would be required to be licensed or registered in order to be operated on public highways within the State of Illinois, discarded appliances, used machinery, non-functional equipment, refuse, discarded furniture, rubble, or other similar items, materials, or substances, whether on public or private property, for a period in excess of 15 days unless the same shall be stored within a fully enclosed, suitable building provided for that purpose, or unless the premises are properly licensed as a junkyard or other proper repository for the items stored or accumulated on the subject premises.

Section 6. Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of new section 12.06 1/2 - Towing of Vehicles, Removal of Trash, Junk, Vehicle Parts, Used Machinery, and Refuse, and establishing procedures relating thereto by addition of new section 12.06 1/2 in words and figures as follow:

12.06 1/2 Towing of Vehicles, Removal of Trash, Junk, Vehicle Parts, Used Machinery and Refuse, and Establishing Procedures Relating Thereto.

(a) Definitions. For the purposes of this section 12.06 1/2, the following terms shall have the meaning stated in this sub-section (a). Any term not defined herein shall have the meaning ascribed to it in other ordinances of the City, and if not defined in any City ordinance, it shall have the meaning ascribed in the Illinois Motor Vehicle Code, Chapter 95 1/2, Illinois Revised Statutes (as amended).

(1). **Owner:** A person who holds legal title to a vehicle, or the right of possession of a vehicle, or who holds legal title to any other item or items of personal property, or the right of possession of said item(s) of personal property, or who holds legal title to any real estate, or who has the right to possess any real estate on which one or more items of personal property are located.

(2). **Vehicle:** Any device in, upon or by which any person or property is or may be transported or drawn upon a street, highway or any public way, except devices moved by human power, devices used exclusively upon stationary rails or tracks, and snowmobiles.

(3). **Hazardous Vehicles:**

(A). A vehicle that has been involved in an accident and is disabled or cannot be immediately moved by the owner or operator of the vehicle; or

(B). A vehicle that presents an immediate danger to the health, safety or welfare of the members of the public; or

(C). A vehicle abandoned or disabled on a public street, way or alley that is impeding the orderly flow of traffic or poses a

potential danger to pedestrians and other operators of vehicles;
or

(D). A vehicle that must be moved to allow for proper
municipal snow removal from a public street, way or alley.

(4). Unlawful Vehicle:

(A). A vehicle that has been reported stolen or is the subject of
a search and seizure by the City Police Department; or

(B). A vehicle parked in violation of State of Illinois statutes or
ordinances of the City which prohibit parking at the location in
question or for the period of time for which the vehicle has been
parked, and where either the statute or City ordinance(s)
authorize the vehicle to be towed and the signs posted at the
general location note that fact.

(5). Abandoned Vehicle:

(A). A vehicle parked or otherwise located on a public way
and

(i). in such a state of disrepair that it is incapable of
being driven, or

(ii). that has been unmoved for a period of at least 24
hours, and from its condition, the period during which it
has not been moved or some other circumstance, appears
to have been, and will be presumed to have been,
abandoned by its owner; or

(B). Vehicles parked in a public parking lot or on private
property without the consent of the lot owner, proprietor or
agent of the property, which person has requested that the
vehicle be towed; or

(C). A vehicle defined as an unlicensed or unregistered
vehicle; or

(D). A vehicle defined as abandoned, or capable of being
towed, by any other ordinance of the City, and which does not fall

into the categories of "hazardous" or "unlawful" vehicles, and therefore is not subject to immediate tow.

(6). Hazardous Junk, Trash or Refuse

(A). Any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, that presents an immediate danger to the health, safety or welfare of the members of the public; or

(B). Any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, that has been placed upon a public street, way or alley and is impeding the orderly flow of traffic or poses a potential danger to pedestrians and other operators of vehicles; or

(C). Any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, that must be moved to allow for proper municipal snow removal from a public street, way or alley.

(7). Unlawful Junk, Trash or Refuse

Any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, deposited or placed on public or private property in violation of the ordinances of the City and where either state statute or City ordinances authorize such junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances to be removed.

(8). Accumulation of Junk

(A). Any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, placed on public or private property without the consent of the owner, proprietor or agent of the property, a request for the removal of which accumulation of junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, the owner, proprietor, or agent of the premises has requested to be removed; or

(B). An accumulation of junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, as defined by any other ordinance of the City and which does not fall into the categories of "hazardous" or "unlawful" junk, trash or refuse, and therefore is not subject to immediate removal.

(b) Authorization for Towing or Removal.

The towing of vehicles or removal of junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, by the City, or by its approved towing service operators, or other entity providing junk and trash removal services, on behalf of the City, shall be authorized only by the City Police Department and only under the circumstances herein provided. Towed vehicles shall be impounded at facilities designated by the City Police Department until lawfully claimed or disposed of pursuant to state law, Chapter 95-1/2, Illinois Revised Statutes. Junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, shall be impounded at facilities designated by the City Police Department until lawfully claimed or disposed of pursuant to applicable state law or city ordinances.

(1). Towing or Removal without Notice; Immediate Tows or Removal.

Hazardous or unlawful vehicles and hazardous and unlawful junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, may be towed or removed without prior notice, except that, when an unlawful vehicle is one that has only been reported as stolen and is not towable for some other specific reason, the owner should be, when practicable, notified by telephone or other means and given the opportunity to claim or move the vehicle, if he, she, or it so wishes, to avoid incurring the expenses of a police-ordered tow. Provided, however, that the vehicle may be towed when the owner permitted the tow to be made when the vehicle was reported stolen or at any time thereafter, in the form provided in sub-section (k) hereafter. Within 24 hours after towing a vehicle or removing hazardous and unlawful junk, trash, or refuse, pursuant to this ordinance, a notice shall be sent to or personally delivered to the owner of the vehicle, or to the owner (if the owner can be determined) of the hazardous and

unlawful junk, trash or refuse, affording the opportunity for a hearing as provided in sub-sections (e) and (f) or (n) and (o) of this ordinance.

(2) Towing or Removal with Prior Notice; Abandoned Vehicles, Accumulations of Junk.

Abandoned vehicles may be towed after the mailing or delivery of prior notice and the affording of an opportunity for hearing as provided in sub-sections (c) and (d) of this ordinance. Accumulations of junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, may be removed after the mailing or delivery of prior notice and the affording of an opportunity for hearing as provided in sub-sections (l) and (m) of this ordinance.

(c) Pre-Tow Notice for Abandoned Vehicles.

(1). Notice pursuant to this sub-section shall be personally delivered to the owner or shall be forwarded by certified or registered mail, return receipt requested, to the address of the owner of the vehicle as indicated in the most current registration list of the Secretary of State. The notice shall be in the form provided in sub-sub-section (g)(1) of this ordinance. In the event that an out-of-state vehicle is proposed to be towed, inquiry by computer, telephone or letter shall be made of the Secretary of State of the particular jurisdiction for the furnishing of the most current registered name and address of the owner of the vehicle, and notice shall be mailed as provided herein to the address furnished, though in no case will the City be required to delay towing more than 7 days after the date of the mailing or personal delivery of the notice if no request for a hearing has been received within that 7-day period.

(2). A Notice of Intent to Tow sticker with the earliest date upon which the tow may take place and the address and telephone number of the City Police Department shall be placed on the vehicle.

(d) Pre-Tow Hearing Procedures.

(1). Opportunity for hearing.

The owner or person entitled to possession of a vehicle to be towed as an abandoned vehicle shall have 7 days after the date of mailing or personal delivery of the Notice to request, in writing, a pre-tow hearing.

Subsequent to this 7-day period the vehicle may be towed if the owner has not filed a written hearing request within the 7-day period, and any hearing rights under the provisions of this ordinance will be deemed waived.

(2). **Scheduling of Pre-Tow Hearing.**

The pre-tow hearing shall be scheduled for a date within 14 days of the mailing or personal delivery of the pre-tow notice. The City shall not be required to delay towing longer than such 14-day period.

(3). **Request for Pre-Tow Hearing.**

Requests for a pre-tow hearing are to be made in person to the office indicated on the notice. Requests for hearings by persons who reside more than 50 miles from the City may be made by mail. Forms for such requests shall be made available at the City Police Department. At the time of making the request, the owner will be provided a hearing date and time by mail or in person, as the circumstances require.

(4). **Appointment of Hearing Officer.**

The City shall choose an officer or employee of the City to serve as a hearing officer. In no case shall that hearing officer be an individual who was involved in the initial decision to tow the vehicle. The hearing officer shall have the authority to require the presence of the enforcement officer who initiated the proposed tow or any other City personnel.

(5). **Nature of Hearing.**

The hearing shall be informal in nature, and the rules of evidence shall not apply. The hearing will not be determinative of, or adjudicate, any citation relative to any vehicle. After receiving all relevant evidence, the hearing officer shall make a written decision (pre-tow hearing decision) based upon a preponderance of the evidence as to whether towing of the vehicle is authorized by the laws of the State of Illinois or the ordinances of the City, with a specific statutory or ordinance section cited in the decision. The owner shall be provided a copy of the pre-tow hearing decision.

(6). **Decision to Tow and Rates to be Charged.**

If the preponderance of the evidence supports towing and compliance with the provisions of this ordinance, the hearing officer shall direct that the vehicle be towed, with any towing and storage costs to then be imposed upon the owner thereof. The fees to be charged for towing and storage services shall be no more than maximum rates set by the Chief of Police pursuant to the provisions of sub-section (e)(5). of this ordinance. The owner of said vehicle having had a pre-tow hearing may avoid the towing by immediately removing the vehicle from the improper location to a proper, lawful, location and correcting any unlawful condition of the vehicle.

(7). **Decision Not to Tow.**

If the preponderance of the evidence fails to support towing of the vehicle, the hearing officer shall direct that the vehicle shall not be towed. The City shall furnish a copy of such decision to the owner, who may place it inside the vehicle in a location plainly visible from the outside, such as the dashboard or rear window. No vehicle about which such a decision has been rendered shall be towed by the City unless the circumstances under which the decision was rendered have changed. If at some subsequent time the City should wish to tow the vehicle from the same location, it shall follow the same procedures required for the towing of any other similarly -situated vehicle.

(8). **Reports and Documents to be Retained; Contesting Decisions.**

Originals or copies of all notices, pre-tow hearing decisions, towing reports, and any associated police reports or documents shall be retained by the City Police Department for a period of at least five years after each hearing, or after each tow if no hearing was requested or held. The City or the owner may contest the decision of the hearing officer in any manner provided by law.

(e) Post-Tow Notice for Hazardous and Unlawful Vehicles.

(1) Mailing or Delivery of Notice.

Notice pursuant to this section shall be forwarded by certified or registered mail, return receipt requested, to the address of the owner of the vehicle as indicated in the most current registration list of the Secretary of State, unless the notice is personally delivered to the owner, in which case the date and time of the delivery and the name of the police officer making the delivery shall be noted in the City Police Department records or reports. The notice shall be in the forms provided in sub-sub-section (g)(1) and sub-sub-section (g)(2) of this ordinance, and shall be mailed or delivered within 24 hours of the tow, as provided in sub-sub-section (b)(1). In the event the City has towed an out-of-state hazardous or unlawful vehicle, inquiry by computer, telephone or letter shall be made of the Secretary of State of the particular jurisdiction for the furnishing of the most current registered name and address of the owner of the vehicle, and notice shall be mailed as provided herein to the address furnished.

(2) Posting of Signs Showing Hearing Rights.

All approved towing service operators shall prominently post at least one sign, with dimensions of at least 12 inches by 18 inches, indicating the opportunity and procedures for a hearing to contest the validity of a towed vehicle. The sign, the form for which is set out in sub-sub-section (g)(1), shall be placed in one or more locations readily visible to the public transacting business at any towing facility. If a towing service operator performs services for more than one municipality, the information for contacting the various appropriate municipal offices can be listed in one such sign, the format for which shall be substantially similar to the form set out in sub-sub-section (g)(1).

(3) Requests for Post-Tow Hearing.

Requests for hearing may be made in person at the office indicated on the notice within 15 days of the mailing or personal delivery of the notification of tow, or release of the vehicle, whichever occurs first; otherwise, the right to a hearing shall be deemed waived. Requests for

hearing by persons who reside more than 50 miles from the City may be made in person or by mail received by the City within the 15-day period.

(4). **Release of Motor Vehicles.**

Before the owner or person entitled to possession of any impounded vehicle shall be permitted to remove same, the owner or other person entitled to possession shall furnish evidence of his or her identity, ownership of the vehicle, or his or her right to possession, sign a receipt for the vehicle, and pay the amount currently owed for towing and storage fees to the towing service operator. The City Police Chief is authorized to promulgate regulations as to the documents or other proof necessary to establish these facts.

(5). **Establishment of Maximum Towing and Storage Rates.**

The owner shall pay fees to the towing service operator for towing and storage on police-ordered tows at rates that do not exceed maximum amounts to be administratively established by the Chief of Police and which may be revised from time to time. The basic rates for such fees shall be shown in the form and sign concerning vehicle release requirements set forth in sub-sub-section (g)(1). However, nothing in this ordinance is intended to prevent a competitive towing service operator from charging less than the established maximum rates for police-ordered or any other tows. In arriving at the maximum rates for various services, the Chief of Police shall consider such matters as the prevailing market rates in the area for the different types of vehicles, the types of storage and area requirements for categories such as large trucks and commercial vehicles, and the relative difficulties and amount of work required to perform various types of towing operations. For particularly difficult or unusual towing jobs, such as large or serious accidents, the Chief of Police is authorized to allow towing operators to charge rates above those established for normal situations, which special charges must be based upon the cost of services provided, taking into account such matters as the man-hours and equipment time required for the job. A towing service operator must fully itemize in writing the details of such billing at special rates for a particularly difficult or unusual tow, and supply a copy of the itemized bill to the owner and to the City Police Department. Any such special rates charged

must be customary in the towing industry in the area for the nature and extent of the services provided. Every towing service operator and the City Police Department shall have available a copy of the complete current rate schedule and any special rate policy established by the Chief of Police, for vehicle owners to view upon request.

(f) Post-Tow Hearing Procedures.

(1). Opportunity for Hearing.

The owner of a vehicle towed as an immediate tow, by or pursuant to the authority of the City Police Department as set forth herein, shall be provided the opportunity for a post-tow hearing to determine the validity of such tow and any towing or storage charges. The hearing will not be determinative of, or adjudicate, any citation issued relative to any towed vehicle.

(2). Nature of the Hearing and Hearing Officer.

The nature of the hearing and the appointment of the hearing officer shall be the same as set forth above in sub-sub-sections (d)(4), and (d)(5).

(3). Scheduling of Post-Tow Hearings.

Hearings shall take place as follows:

(A). In those instances where the vehicle has been released upon the deposit of the full payment currently owed for towing and storage charges, and the owner has properly requested a hearing, the hearing shall take place within 15 days after the release of such vehicle, unless the owner requests a later date convenient to all parties.

(B). In those instances where the vehicle remains impounded, the hearing shall take place, at the option of the owner:

(i). on the next day after the owner's demand for such hearing, excluding Saturdays, Sundays and holidays; if such demand is made after 3:00 P.M., or if the unavailability of a necessary witness or evidence creates a particular difficulty in conducting the hearing on

the next calendar day, then a hearing shall be held on the second day following the request, excluding Saturdays, Sundays and holidays; or

(ii). if acceptable to the owner, within 15 days of said request on a date convenient to all parties.

(4). **Conduct of Post-Tow Hearing.**

The hearing officer shall review all evidence presented by the vehicle owner and the City Police Department or other City employees, and shall make a finding based upon the preponderance of the evidence presented, as to the lawful authority for the towing and storage of the vehicle. The City must establish such authority by a preponderance of the evidence.

(5). **Post-Tow Hearing Decision.**

For each hearing, the hearing officer shall complete a post-tow hearing decision and attach such decision to the City Police Department's original vehicle towing report, and supply a copy of the decision to the owner by personal delivery if the owner is present, otherwise by mail. The decision and findings shall be substantially as stated in the form for the post-tow hearing decision, set forth in **sub-section (i)** of this section.

(6). **Reports and Documents to be Retained; Contesting Decisions.**

All originals or copies of the notices, post-tow hearing decisions, towing reports, and any associated police reports or documents, shall be retained by the City Police Department for a period of at least 5 years after each hearing, or after each tow if no hearing was requested or held. The City or the owner may contest the decision or the hearing in any manner provided by law.

(7). **Towing Services Subject to Ordinance.**

Notwithstanding any other ordinance or statutory provisions to the contrary, any towing service operator authorized to perform tows on behalf of the City must perform its services subject to the provisions of this ordinance. However, the towing company shall have the right to recover the reasonable value of its services from the City for police-ordered tows which are not paid by the vehicle owner. Provided,

however, that if a tow or the charge for a tow is found by a court to be illegal and the towing service operator is required to return the charge for the tow to the owner of the vehicle, the City shall not be liable to reimburse the operator for the towing charges.

(g) Form for Post-Tow Notice and Signs.

(1). The following forms shall be utilized in the administration of sub-sections (e) and (f) of this ordinance for posting in towing establishments and mailing or delivering to owners:

**NOTICE OF VEHICLE RELEASE
REQUIREMENTS AND HEARING RIGHTS**

Before the owner or person entitled to possession of any impounded vehicle shall be permitted to remove the same from custody of the LeRoy City Police Department or towing service operator, he or she shall furnish evidence of his or her identity and ownership of the vehicle, and right of possession thereto, shall sign a receipt for the vehicle, and shall pay a fee not exceeding \$ _____ for a passenger vehicle of not more than 7 passengers, and \$ _____ for a truck or commercial vehicle, to cover the cost of towing or removal to a vehicle pound or authorized garage, and, in addition thereto, the cost of storage not exceeding \$ _____ per day for a passenger vehicle of not more than 7 passengers, and \$ _____ per day for a truck or commercial vehicle. However, higher fees may necessarily be charged in particularly difficult or unusual towing or storage circumstances, for which rate information is available upon request at the LeRoy City Police Department or towing business location. If the owner or person entitled to possession wishes to contest the validity of the tow, he or she may obtain a hearing under the conditions of either paragraphs 1 or 2 stated below:

TO OBTAIN HEARING

1. If the vehicle has been released, he or she may, within 15 days of the release of the vehicle or the mailing or personal delivery to him or her of the notification of the tow, whichever occurs first, request a hearing by contacting in person the office of

Chief of Police
City of LeRoy
111 E. Center Street
LeRoy, Illinois 61752
(309) 962-3031

Anyone residing more than 50 miles away from the City of LeRoy may make a request for hearing by mail. The right to any hearing will be deemed waived unless a written request for hearing is received by the above office within the applicable 15-day period.

2. If the vehicle is still impounded, he or she may contact the above office and obtain a hearing within the next day after the request, excluding Saturdays, Sundays, and holidays, unless the request is made after 3:00 P.M., or unless there are particular difficulties in having the hearing on the next day, in which case the hearing will take place on the second day thereafter, excluding weekends and holidays.

NATURE OF HEARING

The hearing shall be conducted according to municipal ordinance provisions, and shall determine the validity of the impounding of the vehicle and the imposition or refund of any towing or storage charges, but the hearing will not determine or adjudicate any citations issued. If the hearing officer sustains the validity of the tow and storage, the owner or person entitled to possession will be required to pay all unpaid towing and storage fees before obtaining the release of the vehicle.

(2). The following form shall be utilized in the administration of sub-sections (e) and (f) of this ordinance for the mailing or delivery of the post-tow notice to owners, including the form set forth in sub-section (g)(1), above:

	Post-Tow	Incident	Report
	No. _____		
To: _____			
_____	Date of Certified or Registered Mailing: _____		

or

Date and time of and Name of Person Making Personal Delivery:

POST-TOW NOTICE

You are listed as the registered owner or person entitled to possession of the following-described vehicle:

Make _____ Model/Yr. _____

[Other Identifying Features]

[License Plate Number and State]

which is impounded at:

[Name and Address of Towing Service Operator, or City Auto Pound]

The vehicle was towed from _____ on _____
[Location] [date]
by the authority of the City of LeRoy, as an unlawful or hazardous
vehicle, to wit:

[facts forming basis of tow]

as defined in _____
[ordinance or statutory section]

The towing was authorized by _____
[ordinance or statutory section]
which provides that:

You have the rights and payment obligations as set forth in the enclosed Notice of Vehicle Release Requirements and Hearing Rights.

(b) Form for Pre-Tow Notice.

The following form shall be utilized in the administration of sub-sections (c) and (d) of this section for the mailing or delivery of pre-tow notices to owners:

Pre-Tow Incident Report
No. _____

To: _____
_____ Date of Certified or Registered
Mailing: _____

or
Date and time of and Name of Person
Making Personal Delivery:

PRE-TOW NOTICE

You are listed as the registered owner or person entitled to possession of the following-described vehicle:

Make Model/Yr.

[Other Identifying Features]

[License Plate Number and State]

which is located at:

[Location]

in an apparently abandoned or unusable condition, to wit:

[facts forming basis of proposed tow]

as defined in _____
[ordinance or statutory section]

The City of LeRoy will tow the vehicle or cause it to be towed after 7 days from the above date of mailing or personal delivery of this notice unless you move the vehicle to a lawful location or request a hearing as set forth below. Any such hearing will only concern the proposed towing, and will not be determinative of or adjudicate any parking ticket or other citation concerning the vehicle. If the vehicle is towed, you will be required to pay all towing and storage charges before the vehicle is released.

The towing is authorized by _____
[ordinance or statutory section]

which provides that:

If you wish to request a hearing on the legality of the present location and condition of your vehicle, you must contact the office listed below and file in person a request for such hearing within 7 days of the above date of mailing or personal delivery, unless you live more than 50 miles from the City of LeRoy, in which case you may mail a request for hearing that must be received by the office listed below within 7 days from the mailing or personal delivery of this Notice:

Chief of Police
City of LeRoy
111 East Center Street
LeRoy, Illinois 61752
(309) 962-3031

The right to any hearing will be deemed waived unless a written request for hearing is received by the above office within the applicable 7-day period.

(i) Form for Post-Tow Hearing Decision.

The following form shall be utilized by the hearing officer for post-tow hearing decisions as required in sub-section (f) of this ordinance:

Post-Tow Incident Report
No. _____

POST-TOW HEARING DECISION

Following a hearing held after the giving of proper notice and the towing of the vehicle as identified in a post-tow notice bearing the same number as the report number stated above concerning the vehicle owned by or under the control of _____ ("owner"), the following findings are ordered and

[name of the owner]
hereby entered, as checked in the appropriate box and entered on the appropriate lines:

Amount Previously Paid by
owner for Towing and Storage \$ _____

1. **Tow Authorized; Owner Responsible for All Charges.** The towing and storage of the vehicle was authorized by the following law of the State of Illinois: _____; or City of LeRoy Ordinance No. _____, and the owner is liable for the full amount of towing and storage fees incurred to date, in the amount of:

\$ _____

2. **Towing Not Authorized.** There was no authorization in law for the towing and storage, or the City of LeRoy officer or employee causing the vehicle to be towed did not comply with the requirements of the applicable statute or ordinance, as follows:

The owner will not be charged for towing and any amount previously paid will be refunded by the City as shown here: \$ _____

3. **Tow Authorized; Storage Partially Reimbursable.** The towing of the vehicle was authorized by State Law: _____, or City of LeRoy Ordinance No. _____, but the owner was caused to incur additional improper storage charges because of improperly late notification of towing or other reasons for which the City of LeRoy or towing company are responsible, as follows:

Storage Amount to be Excused
or Reimbursed to owner: \$ _____

Towing and Storage Balance for
Which owner is Responsible: \$ _____

4. **Owner Failed to Appear; No Continuance Requested.** This finding constitutes a default against the owner on the matters stated in the post-tow notice. The owner is responsible for all towing and storage charges incurred to date, in the amount of:

\$ _____

After making the appropriate computations with the amounts stated above in the right-hand column for any Amount Previously Paid by owner, and adding or subtracting the appropriate amounts listed under Paragraphs 1, 2, 3, or 4, the final amount either owed by the owner to date or to be refunded to the owner **IS HEREBY ORDERED AS FOLLOWS:**

Amount Currently Owed by owner \$ _____

or

Amount to be Refunded to owner \$ _____

IMPORTANT FURTHER INFORMATION

If the vehicle is presently still impounded, an order for the release of the vehicle is attached to this decision. The owner must take possession of the vehicle within 24 hours of the entry of this decision, or he or she may be responsible for further storage charges.

ENTERED: _____

SIGNATURE: _____
Hearing Officer

(j) **Form for Pre-tow Hearing Decision.**

The following form shall be utilized by the hearing officer for pre-tow hearing decisions as required in sub-section (d) of this section:

Pre-Tow Incident Report
No. _____

PRE-TOW HEARING DECISION

Following a hearing held after giving of proper notice and previous to towing of the vehicle as identified in a pre-tow notice bearing the same number as the report number stated above concerning the vehicle owned by or under the control of _____ ("owner"), the following findings are ordered and [name of the owner] hereby entered, as checked in the appropriate box and entered on the appropriate lines:

1. **Tow Authorized; Owner Responsible for All Charges.** The towing and storage of the vehicle herein identified is authorized by the following law of the State of Illinois: _____; or City of LeRoy Ordinance No. _____, and the owner shall be liable for the full amount of towing and storage fees incurred upon the towing and storage of the aforesaid vehicle, in the amount as prescribed under this ordinance:

\$ _____

2. **Towing Not Authorized.** There is no authorization in law for the towing and storage, or the City of LeRoy officer or employee causing the vehicle to be towed did not comply with the requirements of the applicable statute or ordinance, as follows:

The owner will not be charged for towing and any amount previously paid will be refunded by the City as shown here:

\$ _____

3. **Owner Failed to Appear; No Continuance Requested.** This finding constitutes a default against the owner on the matters stated in the pre-tow notice. The owner shall be responsible for all towing and storage charges incurred upon the towing and storage of the aforesaid vehicle, in the amount as prescribed under this ordinance, in the amount of:

\$ _____

After adding or subtracting the appropriate amounts listed under Paragraphs 1, 2, or 3, the final amount either owed by the owner to date or to be refunded to the owner **IS HEREBY ORDERED AS FOLLOWS:**

Amount Currently Owed by owner \$ _____

or

Amount to be Refunded to owner \$ _____

ENTERED: _____

SIGNATURE: _____
Hearing Officer

(k) Form for Owner's Permission to Tow Stolen Vehicle.

The following form shall be used by police officers when obtaining permission from vehicle owners to tow stolen vehicles that are recovered:

PERMISSION TO TOW STOLEN VEHICLE FORM

I, _____, am the owner of a motor vehicle
[name of owner]

which I have reported to the City of LeRoy Police Department as having been stolen. The vehicle is described as follows: _____

[Description of vehicle]

I understand that the City of LeRoy Police Department may transmit notice of this vehicle theft to other police agencies which may attempt to recover the vehicle. I understand that if the vehicle is recovered, I have the option of requesting that the vehicle be towed to a vehicle pound location or left at the place where the vehicle has been found. While not requiring the law enforcement agency which finds the vehicle to do so, I do hereby grant my permission to have the vehicle towed. I understand that if the vehicle is towed, I will be required to pay reasonable towing and storage charges:

DATED: _____, 19____.

Owner of Vehicle

(1) Notice Prior to Removal of Junk, Vehicle Parts, Used Machinery, Non-functional Equipment, Trash, Refuse, or Similar Items or Substances.

(1). Notice pursuant to this sub-section shall be personally delivered to the owner or shall be forwarded by certified or registered mail, return receipt requested to the address of the owner of the premises on which the junk,

vehicle parts, used machinery, non-functional equipment, refuse, trash, and other similar items and substances are located. Notice shall be in the form provided in sub-sub-section (q) of this ordinance.

(2). A notice of intent to remove sticker with the earliest date upon which the removal may take place and the address and telephone number of the City Police Department shall be placed in a conspicuous place on the premises on or near the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, to be removed.

(m) Pre-Removal Hearing Procedures.

(1). **Opportunity for hearing.** The owner or person entitled to possession of the premises on which junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, to be removed is located shall have 7 days after the date of mailing or personal delivery of the Notice to request, in writing, a pre-removal hearing. Subsequent to this 7-day period, the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, may be removed, if the owner has not filed a written hearing request within the 7-day period, and any hearing rights under the provisions of this ordinance will be deemed waived.

(2). **Scheduling of Pre-Removal Hearing.** The pre-removal hearing shall be scheduled for a date within 14 days of the mailing or personal delivery of the pre-removal notice. The City shall not be required to delay removal longer than such 14-day period.

(3). **Request for Pre-Removal Hearing.** Requests for a pre-removal hearing are to be made in person to the office indicated on the notice. Request for hearing by persons who reside more than 50 miles from the City may be made by mail. Forms for such request shall be made available at the City Police Department. At the time of making the request, the owner will be provided a hearing date and time by mail or in person, as the circumstances require.

(4). **Appointment of Hearing Officer.** The City shall choose an officer or employee of the City to serve as a hearing officer. In no case shall that hearing officer be an individual who was involved in the initial decision to remove the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances. The hearing officer shall have the

authority to require the presence of the enforcement officer who initiated the proposed removal or any other City personnel.

(5). **Nature of Hearing.** The hearing shall be informal in nature, and the rules of evidence shall not apply. The hearing will not be determinative of, or adjudicate, any citation relative to the presence of any junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances upon any described premises. After receiving all relevant evidence, the hearing officer shall make a written decision (pre-removal hearing decision), based upon a preponderance of the evidence as to whether removal of the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances is authorized by the laws of the State of Illinois or the ordinances of the City, with a specific statutory or ordinance section cited in the decision. The owner shall be provided a copy of the pre-removal hearing decision.

(6). **Decision to Remove and Rates to be Charged.** If the preponderance of the evidence supports removal and compliance with the provisions of this ordinance, the hearing officer shall direct that the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, be removed with any removal and storage cost to then be imposed upon the owner thereof. The fees to be charged for removal and storage services shall be no more than the maximum rates set by the Chief of Police pursuant to the provisions of sub-sub-section (n)(5) of this ordinance. The owner of said junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, having had a pre-removal hearing, may avoid the removal by immediately removing the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, from the improper location to a proper, lawful location and correcting any unlawful condition of the premises in regard to the presence thereon of junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, such as to constitute a nuisance or other violation of the ordinances of the City.

(7). **Decision Not to Remove.** If the preponderance of the evidence fails to support removal of the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, the hearing officer shall direct, that the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, shall not be

removed, the City shall furnish a copy of such decision to the owner, who may place it on or about the premises in a location plainly visible from the street, such as a window, wall of a building, or other easily visible place. No junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, about which such a decision has been rendered shall be removed by the City unless the circumstances under which the decision was rendered have changed. If at some subsequent time the City should wish to remove the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, from the same location, it shall follow the same procedures required for the removal of any other similarly-situated items.

(8). **Reports and Documents to be Retained; Contesting Decisions.**

Originals or copies of all notices, pre-removal hearing decisions, removal reports, and any associated police reports or documents shall be retained by the City Police Department for a period of at least five years after each hearing, or after each removal if no hearing was requested or held. The City or the owner may contest the decision of the hearing officer in any manner provided by law.

(a) **Post-Removal Notice for Hazardous and Unlawful Junk, Vehicle Parts, Used Machinery, Trash, Refuse, or Similar Items or Substances.**

(1). **Hailing or Delivery of Notice.** Notice pursuant to this section shall be forwarded by certified or registered mail, return receipt requested, to the address of the owner of the premises on which the junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances are located. Notice shall be in the form provided in sub-sub-section (p)(1) of this ordinance, and shall be mailed or delivered within 24 hours of the removal, as provided in sub-sub-section (b)(1).

(2). **Posting of Signs Showing Hearing Rights.** All approved junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, removal service operators shall prominently post at least one sign, with dimensions of at least 12 inches by 18 inches, indicating the opportunity and procedures for a hearing to contest the validity of a removed item or items. The sign, the form for which is set out in sub-sub-section (p) (1) shall be placed in one or more locations readily visible to the public transacting business at any removal service facility. If a removal service operator performs services for more than one municipality, the information for

contacting the various appropriate municipal offices can be listed in one such sign, the format for which will be substantially similar to the form set out in sub-sub-section (p)(1).

(3) **Requests for Post-Removal Hearing.** Requests for a hearing may be made in person at the office indicated on the notice within 15 days of the mailing or personal delivery of the notification of removal, or release of the items removed, whichever occurs first; otherwise, the right to a hearing shall be deemed waived. Request for hearing by persons who reside more than 50 miles from the City may be made in person or by mail received by the City within the 15-day period.

(4) **Release of Removed Items.** Before the owner or person entitled to possession of any impounded personal property removed from the premises of the owner or person entitled to possession of said items shall be permitted to remove the same, the owner or other person entitled to possession shall furnish evidence of his or her identity, ownership of the items removed, or his or her right to possession of the same, sign a receipt for the items removed, and pay the amount currently owed for removal and storage fees to the removal service operator. The City Police Chief is authorized to promulgate regulations as to the documents or other proof necessary to establish these facts.

(5) **Establishment of Maximum Removal and Storage Rates.** The owner shall pay fees to the removal service operator for removal and storage on police-ordered removals at rates that do not exceed maximum amounts to be administratively established by the Chief of Police and which may be revised from time to time. The basic rates for such fees shall be shown in the form and sign concerning release requirements set forth in sub-sub-section (p)(1).

However, nothing in this ordinance is intended to prevent a competitive removal service operator from charging less than the established maximum rates for police-ordered or any other removals. In arriving at the maximum rates for various services the Chief of Police shall consider such matters as the prevailing market rates in the area for the different types of items to be removed, the types of storage and area requirements for categories such as junk vehicles, operable vehicles, metal storage, wood storage, and the like, and the relative difficulties and amount of work required to perform various types of removal operations. For particularly difficult or unusual removal jobs, the Chief of Police is authorized to allow removal service operators to charge rates

above those established for normal situations, which special charges must be based upon the cost of services provided, taking into account such matters as the man-hours and equipment time required for the job. A removal service operator must fully itemize in writing the details of such billing at special rates for a particularly difficult or unusual removal, and supply a copy of the itemized bill to the owner and to the City Police Department. Any such special rates charged must be customary in the removal service industry in the area for the nature and extent of the services provided. Every removal service operator and the City Police Department shall have available a copy of the complete current rates schedule and any special rate policy established by the Chief of Police for owners of personal property removed to review upon request.

(o) **Post-Removal Hearing Procedure.**

(1). **Opportunity for Hearing.** The owner of personal property removed as hazardous or unlawful junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or similar items or substances, by or pursuant to the authority of the City Police Department as set forth herein, shall be provided the opportunity for a post-removal hearing to determine the validity of such removal and any removal or storage charges. The hearing will not be determinative of, or adjudicate, any citation issued relative to the personal property removed.

(2). **Nature of the Hearing and Hearing Officer.** The nature of the hearing and the appointment of the hearing officer shall be the same as set forth above in sub-sub-sections (m)(5) and (m)(4).

(3). **Scheduling of Post-Removal Hearings.** Hearings shall take place as follows:

(A). In those instances where the personal property has been released upon the deposit of the full payment currently owed for removal and storage charges and the owner has properly requested a hearing, the hearing shall take place within 15 days after the release of such personal property, unless the owner requests a later date convenient to all parties.

(B). In those instances where the personal property remains impounded the hearing shall take place, at the option of the owner:

(i). on the next day after the owner's demand for such hearing, excluding Saturdays, Sundays and holidays; if such demand is made after 3:00 P.M., or if the unavailability of a necessary witness or evidence creates a particular difficulty in conducting the hearing on the next calendar day, then a hearing shall be held on the second day following the request, excluding Saturdays, Sundays and holidays; or

(ii). if acceptable to the owner, within 15 days of said request on a date convenient to all parties.

(4). **Conduct of Post-Removal Hearing.** The hearing officer shall review all evidence presented by the personal property owner and the City Police Department or other City employees, and shall make a finding based upon the preponderance of the evidence presented, as to the lawful authority for the removal and storage of the personal property. The City must establish such authority by a preponderance of the evidence.

(5). **Post-Removal Hearing Decision.** For each hearing, the hearing officer shall complete a post-removal hearing decision and attach such decision to the City Police Department's original removal report, and supply a copy of the decision to the owner by personal delivery if the owner is present, otherwise by mail. The decision and findings shall be substantially as stated in the form for the post-removal hearing decision, set forth in sub-section (r) of this section.

(6). **Reports and Documents to be Retained; Contesting Decisions.** All originals or copies of the notices, post-removal hearing decisions, removal reports, and any associated police reports or documents, shall be retained by the City Police Department for a period of at least five years after each hearing, or after each removal if no hearing was requested or held. The City or the owner of the personal property may contest the decision or the hearing in any manner provided by law.

(7). **Removal Services Subject to Ordinance.** Notwithstanding any other ordinance or statutory provisions to the contrary, any removal service operator authorized to perform removals of personal property on behalf of the City must perform its services subject to the provisions of this ordinance. However, the removal company shall have the right to recover the reasonable value of its services from the City for police-ordered removals which are not

paid by the personal property owner. Provided, however, that if a removal or the charge for a removal of personal property is found by a court to be illegal and the removal service operator is required to return the charge for the removal to the owner of the personal property, the City shall not be liable to reimburse the operator for the removal charges.

(p) Form for Post-Removal Notice and Signs.

(1). The following form shall be utilized in the administration of subsections (n) and (o) of this ordinance for posting in personal property removal establishments and mailing or delivery to owners:

NOTICE OF PERSONAL PROPERTY RELEASE

REQUIREMENTS AND HEARING RIGHTS

Before the owner or person entitled to possession of any impounded personal property shall be permitted to remove the same from custody of the LeRoy City Police Department or removal service operator, he or she shall furnish evidence of his or her identity and ownership of the personal property, and right of possession thereto, shall sign a receipt for the personal property, and shall pay a fee not exceeding the amount set forth in a table of fees propounded by the Chief of Police of the City of LeRoy to cover the cost of removal of the personal property to a pound or other authorized storage facility. If the owner or person entitled to possession of the personal property wishes to contest the validity of the removal, he or she may obtain a hearing under the conditions of either paragraphs (1) or (2) stated below:

TO OBTAIN HEARING

1. If the personal property has been released, he or she may, within 15 days of the release of the personal property or the mailing or personal delivery to him or her of the notification of the removal, whichever occurs first, request a hearing by contacting in person the office of

Chief of Police
City of LeRoy
111 E. Center Street
LeRoy, Illinois 61752
(309) 962-3031

Anyone residing more than 50 miles away from the City of LeRoy may make a request for hearing by mail. The right to any hearing will be deemed waived unless a written request for hearing is received by the above office within the applicable 15-day period.

2. If the personal property is still impounded, he or she may contact the above office and obtain a hearing within the next day after the request, excluding Saturdays, Sundays, and holidays, unless the

request is made after 3:00 P.M., or unless there are particular difficulties in having the hearing on the next day, in which case the hearing will take place on the second day thereafter, excluding weekends and holidays.

NATURE OF HEARING

The hearing shall be conducted according to municipal ordinance provisions, and shall determine the validity of the impounding of the personal property and the imposition or refund of any removal or storage charges, but the hearing will not determine or adjudicate any citations issued. If the hearing officer sustains the validity of the removal and storage, the owner or person entitled to possession of the personal property will be required to pay all unpaid removal and storage fees before obtaining the release of the personal property.

2. The following form shall be utilized in the administration of sub-sections (n) and (o) of this ordinance for the mailing or delivery of the post-removal notice to owners, including the form set forth in sub-sub-section (p)(1). above:

	Post-Removal Incident	Report
	No. _____	
To: _____		
_____	Date of Certified or Registered	
	Mailing: _____	
	or	
	Date and time of and Name of Person	
	Making Personal Delivery:	

POST-REMOVAL NOTICE

You are indicated as the owner or person entitled to possession of the following-described personal property:

which is impounded at:

[Name and Address of Removal Service Operator, or City Pound]

The personal property was removed from _____

[location]

on _____ by the authority of the City of LeRoy,
[date]

as unlawful or hazardous junk, vehicle parts, used machinery, non-functional equipment, trash, refuse, or other similar items or substances, to wit:

[facts forming basis of removal]

as defined in _____
[ordinance or statutory section]

The removal was authorized by _____
[ordinance or statutory section]

which provides that:

You have the rights and payment obligations as set forth in the enclosed Notice of Personal Property Release Requirements and Hearing Rights.

(g) Form for Pre-Removal Notice.

The following form shall be utilized in the administration of sub-sections (l) and (m) of this section for the mailing or delivery of pre-removal notices to owners:

To: _____

Pre-Removal Incident Report
No. _____

Date of Certified or Registered
Mailing: _____

or

Date and time of and Name of Person
Making Personal Delivery:

PRE-REMOVAL NOTICE

You are indicated as the owner or person entitled to possession of the following-described personal property:

which is located at:

[Location]

in apparently abandoned or unusable condition, or which otherwise constitutes a nuisance, to wit:

[facts forming basis of proposed removal]

as defined in _____

[ordinance or statutory section]

The City of LeRoy will remove the personal property described herein or cause it to be removed after 7 days from the above date of mailing or personal delivery of this notice unless you move the personal property to a lawful location or place the same within a fully enclosed building, or request a hearing as set forth below. Any such hearing will only concern the proposed removal, and will not be determinative of or adjudicate any citation concerning the personal property. If the personal property is removed, you will be required to pay all removal and storage charges before the personal property is released.

The removal is authorized by _____

[ordinance or statutory section]

which provides that:

If you wish to request a hearing on the legality of the present location and condition of the personal property, you must contact the office listed below and file in person a request for such hearing within 7 days of the above date of mailing or personal delivery, unless you live more than 50 miles from the City of LeRoy, in which case you may mail a request for hearing that must be received by the office listed below within 7 days from the mailing or personal delivery of this Notice:

Chief of Police

City of LeRoy
111 East Center Street
LeRoy, Illinois 61752
(309) 962-3031

The right to any hearing will be deemed waived unless a written request for hearing is received by the above office within the applicable 7-day period.

(r) **Form for Post-Removal Hearing Decision.**

The following form shall be utilized by the hearing officer for post-removal hearing decisions as required in sub-section (o) of this ordinance:

Post-Removal Incident Report
No. _____

POST-REMOVAL HEARING DECISION

Following a hearing held after the giving of proper notice and the removal of personal property as identified in a post-removal notice bearing the same number as the report number stated above concerning the personal property owned by or under the control of _____ ("owner"), the following findings are
[name of the owner]

ordered and hereby entered, as checked in the appropriate box and entered on the appropriate lines:

Amount Previously Paid by
owner for Removal and Storage \$ _____

1. **Removal Authorized; Owner Responsible for All Charges.** The removal and storage of the personal property was authorized by the following law of the State of Illinois: _____; or City of LeRoy Ordinance No. _____, and the owner is liable for the full amount of removal and storage fees incurred to date, in the amount of:

\$ _____

2. **Removal Not Authorized.** There was no authorization in law for the removal and storage, or the City of LeRoy officer or employee causing the personal property to be removed did not comply with the requirements of the applicable statute or ordinance, as follows:

The owner will not be charged for removal and any amount previously paid will be refunded by the City as shown here: \$ _____

3. **Removal Authorized; Storage Partially Reimbursable.** The removal of the personal property was authorized by State Law: _____, or City of LeRoy Ordinance No. _____, but the owner was caused to incur additional improper storage charges because of improperly late notification of removal or other reasons for

which the City of LeRoy or the removal service company are responsible, as follows:

Storage Amount to be Excused
or Reimbursed to owner: \$ _____

Removal and Storage Balance for
Which owner is Responsible: \$ _____

4. **Owner Failed to Appear; No Continuance Requested.** This finding constitutes a default against the owner on the matters stated in the post-removal notice. The owner is responsible for all removal and storage charges incurred to date, in the amount of:

\$ _____

After making the appropriate computations with the amounts stated above in the right-hand column for any Amount Previously Paid by owner, and adding or subtracting the appropriate amounts listed under Paragraphs 1, 2, 3, or 4, the final amount either owed by the owner to date or to be refunded to the owner **IS HEREBY ORDERED AS FOLLOWS:**

Amount Currently Owed by owner \$ _____

or

Amount to be Refunded to owner \$ _____

IMPORTANT FURTHER INFORMATION

If the personal property is presently still impounded, an order for the release of the personal property is attached to this decision. The owner must take possession of the personal property within 24 hours of the entry of this decision, or he or she may be responsible for further storage charges.

ENTERED: _____

SIGNATURE: _____

Hearing Officer

(s) **Form for Pre-Removal Hearing Decision.**

The following form shall be utilized by the hearing officer for pre-removal hearing decisions as required in sub-section (m) of this section:

Pre-Removal Incident Report
No. _____

PRE-REMOVAL HEARING DECISION

Following a hearing held after giving of proper notice and previous to removal of the personal property as identified in a pre-removal notice bearing the same number as the report number stated above concerning the personal property owned by or under the control of _____ ("owner"), the following findings
[name of the owner]
are ordered and hereby entered, as checked in the appropriate box and entered on the appropriate lines:

1. **Removal Authorized; Owner Responsible for All Charges.** The removal and storage of the personal property herein identified is authorized by the following law of the State of Illinois: _____
_____; or City of LeRoy Ordinance No. _____, and the owner shall be liable for the full amount of removal and storage fees incurred upon the removal and storage of the aforesaid personal property, in the amount as prescribed under this ordinance: \$ _____

2. **Removal Not Authorized.** There is no authorization in law for the removal and storage, or the City of LeRoy officer or employee causing the personal property to be removed did not comply with the requirements of the applicable statute or ordinance, as follows:

The owner will not be charged for removal, and any amount previously paid will be refunded by the City as shown here: \$ _____

3. **Owner Failed to Appear; No Continuance Requested.** This finding constitutes a default against the owner on the matters stated in the pre-removal notice. The owner shall be responsible for all removal and storage charges incurred upon the removal and storage of the aforesaid personal property, in the amount as prescribed under this ordinance, in the amount of: \$ _____

After adding or subtracting the appropriate amounts listed under Paragraphs 1, 2, or 3, the final amount either owed by the owner to date or to be refunded to the owner **IS HEREBY ORDERED AS FOLLOWS:**

Amount Currently Owed by owner \$ _____
or
Amount to be Refunded to owner \$ _____

ENTERED: _____

SIGNATURE: _____
Hearing Officer

Section 7. Chapter 32.06-Business Regulations, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of new subsection 32.06 (f), in words and figures as follows:

(f). Any junk store or junk yard established in the City shall keep all materials, junk, discarded or abandoned items, and the like, within an enclosed building or buildings, or, in addition to or in lieu of an enclosed building, shall keep the aforescribed items within a fenced-in area which fenced-in area shall entirely enclose the location at which the junk store or junk yard is established. Any required fence shall be a solid, non-transparent fence 8 feet in height, which shall be kept neatly painted or stained, in a uniform color, and in good repair at all times, and which shall be constructed of plank board or corrugated iron, so as to exclude the premises from public view. Storage required to be enclosed in a building or behind a solid fence shall not be of greater height than the enclosing building, or fence. A period of 120 days from the passage of this ordinance is allowed the operators of any such store or yard to construct the fence or fences required by this ordinance. The required fence(s) shall not be used for bill postings or other advertising purposes, except that a sign may be placed thereon in compliance with the sign regulations for the zoning district in which such premises are located. No open fire for the burning of rubbish, trash, motor vehicles, or any part thereof, or other waste material shall be permitted at any such location. Any such establishment shall, as far as practicable, be kept clear and clean of all rubbish or waste material. All tanks and engines from motor vehicles shall be kept thoroughly drained of gasoline and other petroleum products. The location at which the junk store or junk yard is established shall have not more than two entrances/exits, with each entrance/exits being allowed to serve as both an entrance and an exit, each of which entrance/exit shall not exceed 15 feet in width and which entrance/exit shall be located along the perimeter of the premises. Such entrance/exit shall have a solid, non-transparent gate or gates which shall be closed during hours other than hours of business.

Section 8. Chapter 32.06-Business Regulations, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of new subsection 32.06 (g), in words and figures as follows:

(g). Any person maintaining or operating a junk store or junk yard shall keep at his, her, or its place of business a book in which a record shall be kept of the day and time of day of each purchase, or receipt of personal property (including those items received for no consideration), the name, residence, and description of the persons selling or giving, and actually delivering, the personal property, including motor vehicles, motor vehicle parts, or motor vehicle accessories, the amount of the purchase price, a description of the items, and if the item purchased or received is a motor vehicle, the make, state license number, motor number, body number, style, seating capacity of the vehicle purchased, make and identifying number of the radiator, speedometer, and other items purchased, together with any other information concerning said property, as may be necessary to prove ownership or identity of the personal property purchased or received, including vehicles or automobile parts or accessories as may be purchased or obtained for free.

Section 9. Chapter 12-Nuisances, Municipal Code of LeRoy, Illinois, 1975 (as amended), is hereby amended by addition of new section 12.06 3/4., in words and figures as follows:

12.06 3/4. It shall be a nuisance for any person owning, leasing, occupying, or having charge of any premises in any business, commercial or industrial district within the City to allow an inoperable, partially dismantled, wrecked, junked, discarded, abandoned, or unlicensed motor vehicle to remain on the premises, unless such vehicle is in an enclosed building, or unless said premises has as its principal use the maintenance or repair of vehicles (which use may include on premises storage as a temporary accessory use, but not a principal use), in which latter situation (premises for which the principal use is the maintenance or repair of vehicles) it shall be a nuisance for any previously-described motor vehicle to remain on such premises, unless in an enclosed building or an enclosed storage area, longer than 60 days. In the event the principal use of the premises in question is for the maintenance or repair of vehicles, the person owning, leasing, occupying or having charge of any premises may, in connection with, or in lieu of, providing an enclosed building, provide a walled storage area surrounded by walls 8 feet in height, said walls to be a solid wall or uniformly-painted solid fence. Storage required to be enclosed in a

building or behind a wall or solid fence shall not be of greater height than the enclosing building or fence.

Section 10. Severability. It is the intention of the City that this ordinance, and every provision thereof, shall be considered separable, and that the invalidity of any section, clause, provision or part or portion of any section, clause or provision of this ordinance, shall not affect the validity of any other portion of this ordinance. If any part or provision of this ordinance or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect the remaining portions of this ordinance which can be given effect independently of any portion or provision ruled invalid, and to this end the provisions of this ordinance are declared to be severable.

Section 11. This ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law.

PASSED by the City Council of the City of LeRoy, Illinois, upon the motion by David Spratt, seconded by William Swindle, by roll call vote on the 18 day of May, 1992, as follows:

Trustees elected 6 Trustees present 4

VOTING AYE:

William Swindle, David Spratt, Robert D. Johnson, Jerry Davis
(names)

VOTING NAY:

None
(names)

ABSENT, ABSTAIN, OTHER:

Gary Builta, Randy Zimmerman
(names)

and deposited and filed in the office of the City Clerk in said municipality on the 18th day of May, 1992.

Jeanita Dagley
Jeanita Dagley, City Clerk of the City of LeRoy,
McLean County, Illinois

APPROVED BY the Mayor of the City of LeRoy, Illinois, this 18th day of


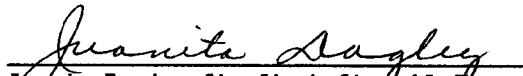
May, 1992.



Jerry C. Davis, Mayor of the City of LeRoy,
McLean County, Illinois

ATTEST:

(SEAL)



Juanita Dagley, City Clerk, City of LeRoy,
McLean County, Illinois.

CERTIFICATE

I, Juanita Dagley, certify that I am the duly elected and acting municipal clerk of the City of LeRoy, of McLean County, Illinois.

I further certify that on May 18, 1992, the Corporate Authorities of such municipality passed and approved Ordinance No. 435, entitled:

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975
(as amended), CHAPTER 12-NUISANCES,**

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 435, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted at the municipal building, commencing on May 18, 1992, 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 LeRoy, Illinois, this 18th day of May, 1992.

(SEAL)

Juanita Dagley
Municipal Clerk

STATE OF ILLINOIS)
) SS:
COUNTY OF McLEAN)

I, Juanita Dagley, do hereby certify that I am the duly qualified and acting City Clerk of the City of LeRoy, 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 AMENDING THE MUNICIPAL CODE OF LEROY, ILLINOIS, 1975
(as amended), CHAPTER 12-NUISANCES.**

Said ordinance was adopted by the Mayor and City Council of the City of LeRoy at a regular meeting on the 18th day of May, 1992, and a faithful record of said ordinance has been made in the record books.

Dated this 18th day of May, 1992.

Juanita Dagley
City Clerk

(SEAL)