

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF WINNEBAGO )

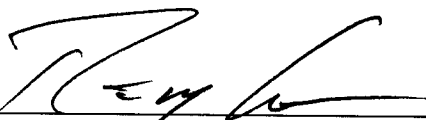
**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, the undersigned, do hereby certify that I am the duly qualified and acting Legal Director and ex officio Keeper of the Records and Seal of the City of Rockford, Winnebago County, Illinois (the "City"), and as such official I am the keeper of the official journal of proceedings, books, records, minutes and files of the City and of the City Council (the "City Council") thereof.

I do further certify that on the 20th day of August, 2007, there was published in pamphlet form, by authority of the City Council, a true, correct and complete copy of Ordinance No. **2007-158-0** and said ordinance as so published was on said date readily available for public inspection and distribution, in sufficient number, at my office as Legal Director and ex officio Keeper of the Records and Seal located in the City.

IN WITNESS WHEREOF I have affixed hereto my official signature and the seal of the City, this 20th day of August, 2007.

[SEAL]

  
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LEGAL DIRECTOR AND EX OFFICIO  
KEEPER OF THE RECORDS AND SEAL

ORDINANCE NO. 2007-158-0

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCKFORD, ILLINOIS, THAT:

Chapter 17, Sections 17-3.1, *et seq.* of the Code of Ordinances of the City of Rockford, Illinois, passed November 30, 1970, approved December 2, 1970, and published December 8, 1970, as amended, be and the same is hereby amended by amending and adding the following, to-wit:

**Sec. 17-3.1. Radios, phonographs, etc. on the public way.**

No person shall operate or permit to be operated any device used to receive broadcast sound, or reproduce any recorded sound if the device is located:

- (1) On the public way; or
- (2) In any motor vehicle on the public way;

and the sound can be heard from 75 feet or more from the device. This section does not apply to authorized emergency vehicles. This section does not apply when the device is being operated solely to request assistance or warn of a hazardous condition.

"Public way" means all streets, alleys, sidewalks, boulevards, public parking lots and other public rights-of-way.

The minimum fine for a violation of this section shall be set forth in section 17-3.2 of this Code for each offense.

**Sec. 17-3.2. Vehicle seizure and impoundment.**

(a) A motor vehicle used in violation of section 17-3.1 of this Code is hereby declared a public nuisance.

(b) A motor vehicle operated with the permission, express or implied, of the owner of the vehicle, which is used in violation of section 17-3.1 of this code shall be subject to

seizure and impoundment under this section. The owner of such vehicle shall be liable for the towing and storage of the vehicle and for an administrative penalty of \$150.00.

For a second offense within a two-year period involving the same vehicle, the owner of each vehicle shall be liable to the city for a penalty of \$300.00 in addition to fees for the towing and storage of the vehicle.

For a third or subsequent offense within a two-year period, the owner of record of such vehicle shall be liable to the city for a penalty of \$750.00 in addition to fees for the towing and storage of the vehicle.

(c) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle by a City of Rockford Police Department contracted impound towing service. When the vehicle is towed, the police officer shall notify the person in control of the vehicle at the time of the alleged violation of the seizure and of the vehicle owner's right to request a preliminary hearing under this section. Said request shall be made in person at the City of Rockford Legal Department, 425 East State Street, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. On evenings, weekends and legal holidays said request shall be made by depositing a written request for a hearing in the silver drop box located behind City Hall. The vehicle shall be impounded pending the completion of hearings in sub-sections (d) and/or (f) and (g) herein, unless the owner of the vehicle posts with the city a cash bond of \$150.00 and pays for the towing and storage of the vehicle.

For a second offense, said vehicle shall be impounded pending the completion of hearings provided for in subsections (d) and/or (f) and (g) herein, unless the owner of the vehicle posts with the city a cash bond in the amount of \$300.00.

For a third or subsequent offense within a two-year period, \$750.00, plus fees for the towing and storage of the vehicle.

(d) Whenever the owner of a vehicle seized pursuant to this section requests a preliminary hearing within 12 hours after the seizure, a preliminary hearing shall be conducted within 72 hours after said seizure, excluding weekends and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle operated with the permission, express or implied, of the owner, was used in the commission of any violation of this section, the hearing officer shall order the continued impoundment of the vehicle unless the owner of the vehicle posts with the city a cash bond in the amount of \$150.00, or, for a second offense within a two year period, \$300.00 plus fees for the towing and storage of the vehicle, or, for a third or subsequent offense

within a two-year period, \$750.00, plus fees for the towing and storage of the vehicle. If the hearing officer determines that there is no such probable cause the vehicle will be returned without penalty or other fees.

(e) Within ten days after a vehicle is seized and impounded pursuant to this section, the city shall notify by certified mail, return receipt requested, the owner of the vehicle at his/her last known address as indicated by the vehicle's registration of his/her right to request before the hearing officer a hearing, which will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this section. However, no such notice shall be sent if the owner is personally served with the notice within ten days after the vehicle is impounded, and the owner acknowledges receipt of the notice in writing. The notice shall state the penalties, which may be imposed if no hearing is requested, including that a vehicle released by payment of the penalty and fees and remaining towing/storage facility may be sold or disposed of by the city or the tow operator in accordance with applicable law.

(f) The owner of record seeking a hearing must file a written request for a hearing with the city legal department no later than 15 days after notice was mailed or otherwise given under this subsection. Said written request shall contain the following information:

- (i) The name of the owner or lien holder of subject vehicle
- (ii) The address of the owner or lien holder of subject vehicle
- (iii) The date of the impoundment of subject vehicle

(g) The hearing shall be scheduled and held unless continued by order of the hearing officer, no later than 45 days after the request for a hearing has been filed. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of a violation of section 17-3.1, the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays an administrative penalty of \$150.00 plus towing and storage of the vehicle, or for a second offense, a penalty of \$300.00 plus towing and storage fees, or, for a third or subsequent offense within a two-year period, \$750.00, plus fees for towing and storage of the vehicle. The penalty and fees shall be a debt due and owing the city. However, if a cash bond has been posted, the bond shall be applied to the penalty. If the hearing officer determines that the vehicle was not used in commission of such a violation, he/she shall order the return of the vehicle or cash bond and the city shall be liable for towing and storage fees.

(h) If the owner of record does not make a timely request for a final hearing and the administrative penalty and other fees are not paid in full within 30 days after the seizure of the vehicle, the vehicle will be deemed abandoned and may be disposed of

by the city. Any motor vehicle that is not reclaimed within 30 days after the expiration of the time during which the owner of record may seek judicial review of the city's action under this section, or the time at which a final judgment is rendered in favor of the city, may be disposed of as an unclaimed vehicle as provided by law. As used in this section, the "owner of record" of a vehicle means the record title holder.

(i) Fees for towing and storage of a vehicle under this section shall be the same as those charged pursuant to section 30-78 of this Code.

(j) This section shall not replace or otherwise abrogate any existing state or federal laws or local ordinances pertaining to noise, vehicle seizure and impoundment.

(k) Notwithstanding any other provision of this section, whenever a person with a lien of record against a vehicle impounded under this section has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he/she agrees in writing to refund to the city the net proceeds of any foreclosure sale, less any amounts necessary to pay all lien holders of record, up to the total amount of penalties and fees imposed under this subsection.

(l) All decisions of the hearing officer may be reviewed in accordance with the terms of the Administrative Review Act, 735 ILCS 5/13-101.

All orders, resolutions, or ordinances in conflict herewith are hereby repealed insofar as such conflict exists, and this Ordinance shall take effect immediately upon its passage, approval, and publication, as required by law.

A full, true and complete copy of this Ordinance shall be published within ten

(10) days after passage in pamphlet form by and under authority of the Corporate

Authorities.

APPROVED:

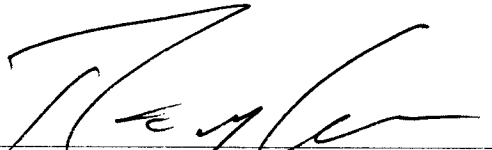
ATTESTED:

  
\_\_\_\_\_  
LEGAL DIRECTOR

  
\_\_\_\_\_  
MAYOR

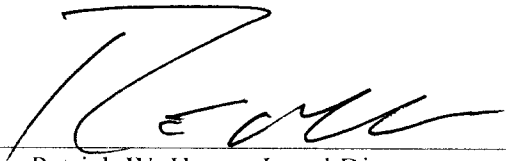
PASSED: 8/13/07 APPROVED: 8/20/07 PUBLISHED: 8/20/07

ATTESTED and FILED in my office this 20th day of August, 2007, and published in pamphlet form this 20th day of August, 2007.

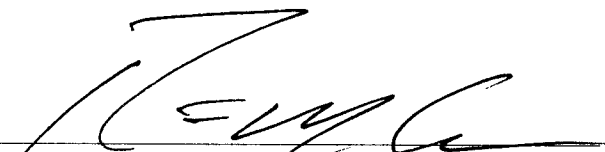
  
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Legal Director and ex officio  
Keeper of the Records and Seal

Published in pamphlet form this 20th day of August, 2007, by order of the City Council of the City of Rockford, Illinois.

APPROVED BY:

  
\_\_\_\_\_  
Patrick W. Hayes, Legal Director

RECOMMENDED BY:

  
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Kerry Partridge, City Attorney