

**AN ORDINANCE AMENDING CHAPTER 3,  
"CODE HEARING UNIT ADJUDICATION"**

BE IT ORDAINED by the City Council of the City of Rolling Meadows, Illinois, as follows:

Section One: Section 3-90(a), "Vehicle Seizure and Impoundment", Chapter 3, "Code Hearing Adjudication" of the Code of Ordinances is hereby repealed.

Section Two: Chapter 3, "Code Hearing Adjudication" of the Code of Ordinances is hereby amended by adding thereto, the following:

**Sec. 3-90. – Vehicle Seizure and Impoundment.**

(a) *Violations authorizing seizure.* Any motor vehicle operated with the express or implied permission of the registered owner of record that is in physical control of or operated by a person:

- (1) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 1961; or
- (2) driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of the Illinois Motor Vehicle Code or of Section 106-625-5/11-501 of this Code; or
- (3) operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act; or
- (4) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled substances Act; or

- (5) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1, 24-1.5, or 24-3.1 of the Criminal Code of 1961; or
- (6) driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of the Illinois Motor Vehicle Code or Section 106-625-5/11-603 of this Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or
- (7) operation or use of a motor vehicle while soliciting, possession, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or
- (8) operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of the Illinois Motor Vehicle Code, if the period of expiration is greater than one year; or
- (9) operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of the Illinois Motor Vehicle Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
- (10) operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of the Illinois Motor Vehicle Code or Sections 106-625-5/6-303 or 106-625-5/11-501 of this Code; or
- (11) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961; or
- (12) operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961.

Section Three: Section 3-90(c), "Vehicle Seizure and Impoundment", Chapter 3, "Code Hearing Adjudication" of the Code of Ordinances is hereby repealed.

Section Four: Chapter 3, "Code Hearing Adjudication" of the Code of Ordinances is hereby amended by adding thereto, the following:

(c) *Notice.*

- (1) Whenever a police officer has cause to believe that a motor vehicle is subject to impoundment, the officer shall provide for the towing of the vehicle to a facility authorized by the city.
- (2) At the time the vehicle is towed, the city shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing.
- (3) The city shall also provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the city a bond equal to the administrative fee as provided herein and pays for all towing and storage charges.
- (4) The registered owner or lessee of the vehicle and any lienholder of record shall be provided with a notice of hearing. The notice shall:
  - (a) be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested party's address as registered with the Secretary of State.
  - (b) be served upon interested parties within 10 days after a vehicle is impounded by the city; and
  - (c) contain the date, time, and location of the administrative hearing. An initial hearing shall be scheduled and convened no later than 45 days after the date of the mailing of the notice of hearing.

Section Five: Sections 3-90(e) and 3-90(f), "Vehicle Seizure and Impoundment", Chapter 3, "Code Hearing Adjudication" are hereby repealed.

Section Six: Chapter 3, "Code Hearing Adjudication", Section 3-90, "Vehicle Seizure and Impoundment" of the Code of Ordinances is hereby amended by adding thereto, the following:

- (e) *Hearing.* The owner shall appear at the hearing and enter a plea of liable or not liable. If a plea of liable is entered, the case will be disposed of at that time. If the owner

pleads not liable, a final seizure/impoundment hearing shall be scheduled and held, no later than 45 days after the vehicle was seized, unless continued by order of the hearing officer. Continuances shall be granted only for good cause. All interested persons shall be given a reasonable opportunity to be heard at the hearing. At any time prior to the hearing date, the hearing officer may, at the request of any party, direct witnesses to appear and give testimony at the hearing. Subpoenas for the production of witnesses and records may be issued upon request and for good cause. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in connection with a violation of an offense set forth in subparagraph (a) hereof, the hearing officer shall enter a written decision finding the owner of record of the vehicle civilly liable to the city for an administrative penalty in an amount not to exceed \$500.00 and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty to the city plus pays any and all fees to the tower for the towing and storage of the vehicle. If after proper service of notice, the owner of record fails to appear at the hearing, the hearing officer shall enter a default order in favor of the city, a copy of which default order shall be sent to the registered owner via first class mail. If at the hearing the hearing officer enters a written decision that no such violation occurred, the hearing officer shall order the immediate return of the owner's vehicle and cash bond without assessing fees or penalty.

(f) *Administrative penalty.* If an administrative penalty is imposed pursuant to this section, such penalty shall constitute a debt due and owing to the City of Rolling

Meadows. If a cash bond has been posted pursuant to this section, the bond shall be forfeited to the city. Except as otherwise provided in this section, a vehicle shall continue to be impounded until the penalty is paid to the city and any applicable towing and storage fees are paid to the tower, in which case possession of the vehicle shall be given to a person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment and lien as provided by law. If the administrative penalty and applicable fees are not paid within 35 days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 35 days after the expiration of time at which administrative review of the hearing officer's determination may be sought, or within 35 days after an action seeking administrative review has been resolved in favor of the city, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law. Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this Section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

Section Seven: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

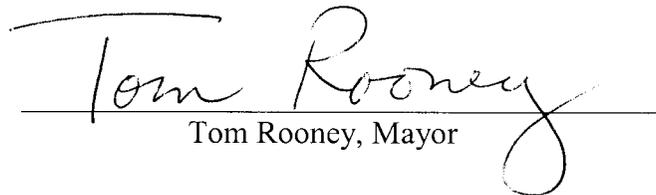
Section Eight: This Ordinance shall be printed and published in pamphlet form by order of the City Council of the City of Rolling Meadows.

YEAS: Cannon, Allen, Judd, Banger, D'Astice, Larsen

NAYS: 0

ABSENT: Buske

Passed and Approved this 28<sup>th</sup> day of February 2012.

  
Tom Rooney, Mayor

ATTEST:

  
Ginny Cotugno, Deputy City Clerk

Published in pamphlet form this 29<sup>th</sup> day of February 2012.

  
Ginny Cotugno, Deputy City Clerk