

# Request for City Council Action

Date: June 30, 2015

<b>Agenda Section:</b> Consent Agenda  <b>No. 5</b>	<b>Originating Department:</b>  Legal
<b>Item: An Ordinance Amending Title Eighteen (18) of the Carbondale Revised Code</b>  <b>No. 5.9</b>	<b>Approved:</b>

**Background:**

Title 18 of the Carbondale Revised Code regulates the use and operation of vehicles and pedestrians upon the streets and highways within the City limits of Carbondale. Carbondale City Staff has been in a process of reviewing and updating Title 18 of the Carbondale Revised Code to change, add or delete ordinances which are in need of revisions and to bring them in line with the current State statute. The previous Council adopted changes which added sections to Title 18 Chapter 15 of the Carbondale Revised Code, in part 1 of a 2 part amendment. This action, consisting of part 2 simply updates the current code and adds and revises several minor offenses as outlined in Exhibit "A."

Listed below are the sections within the Carbondale Revised Code which are being amended. Page numbers are only included for reference to Exhibit A.

- 18-6-4           Pg 1       Special Speed Limits in Construction Zones
- 18-7-4           Pg 1-2     When Overtaking on Right is Permitted
- 18-9-7           Pg 2       Operation upon Approach of Authorized Emergency Vehicles
- 18-12-4          Pg 3-5     Handicapped Persons; Parking; Fines
- 18-12-15        Pg 5-11    Towing and Impounding Vehicles Involved in a Crime; Definitions
- 18-13-5          Pg 12-13  Windshields: Tinting
- 18-15-23        Pg 14      Use of Motorized or Electric Scooters, Pocket Bikes, and Similar Devices Prohibited; Definitions
- 18-15-25        Pg 14      Drivers Licenses or Permits
- 18-15-26        Pg 14-16  Motor Vehicle Registration; Display of Registration
- 18-15-27        Pg 16-17  Graduated License (Entirely new section)
- 18-15-28        Pg 14      Electronic Communication Devices (Entirely new section)
- 18-15-29        Pg 17      Spilling Loads on Highways Prohibited (Entirely new section)
- 18-15-30        Pg 17-18  Cover or Tarpaulins Required for Certain Loads (Entirely new section)

**Recommended Action:**

The City Council is requested to adopt the amendment to Title Eighteen of the Carbondale Revised Code.

Engineering Approval Obtained	Finance Approval Obtained	Legal Approval Obtained	Approval Obtained	Manager's Approval Obtained
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Council Action: Motion by \_\_\_\_\_ 2nd by \_\_\_\_\_ to \_\_\_\_\_

**CITY OF CARBONDALE, ILLINOIS**

**ORDINANCE NO. 2015-**

**AN ORDINANCE AMENDING TITLE EIGHTEEN (18) OF THE CARBONDALE  
REVISED CODE**

**ADOPTED BY THE CITY COUNCIL**

**OF THE CITY OF CARBONDALE, ILLINOIS**

**THIS 30<sup>TH</sup> DAY OF JUNE, 2015**

**Published in pamphlet form by authority of the City Council of the City of Carbondale,  
Jackson County, Illinois, this 1<sup>st</sup> day of July, 2015.**

**CERTIFICATE OF PUBLICATION**

**I, Jennifer Sorrell, the duly qualified City Clerk of the City of Carbondale, Illinois,  
and the official custodian of the records of said City, do hereby certify that this ordinance  
was published in pamphlet form by authority of the City Council on the 1<sup>st</sup> day of July, 2015.**

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**Jennifer R. Sorrell, City Clerk**

**ORDINANCE NO. 2014-\_\_\_\_**

**AN ORDINANCE AMENDING TITLE EIGHTEEN (18) OF THE CARBONDALE REVISED CODE**

**WHEREAS**, the City of Carbondale, Illinois, is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

**WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

**WHEREAS**, City Staff was asked to review Title Eighteen (18) of the Carbondale Revised Code for any changes or updates to the Code; and

**WHEREAS**, updating and amending Titles of the Carbondale Revised Code is necessary periodically to remain current with State law and to adopt new programs which may be beneficial to the community; and

**WHEREAS**, City Staff reviewed the Illinois Vehicle Code and the Carbondale Revised Code Title 18 to determine if any changes were needed to keep the City Code up to date with the Illinois Vehicle Code; and

**WHEREAS**, City Staff has determined that changes are both appropriate and necessary to stay consistent with the Illinois Vehicle Code; and

**WHEREAS**, the City Council of the City of Carbondale finds it in the best interest of the City of Carbondale to amend Title Eighteen (18) as set out Exhibit "A" attached hereto and incorporated herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF CARBONDALE, ILLINOIS AS FOLLOWS:**

**SECTION 1.** That Title Eighteen (18) Chapter of the Carbondale Revised Code is hereby amended as set out Exhibit “A” attached hereto and incorporated herein.

**SECTION 2.** That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

**SECTION 3.** That repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed Ordinance to the effective date hereof. The provisions of this Ordinance insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinances.

**SECTION 4.** That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable and the invalidity of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

**SECTION 5.** That the City Council of the City of Carbondale finds that the subject matter of this Ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to authorities granted it by State statutes and the Home Rule powers of the City of Carbondale pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution.

**SECTION 6.** That this Ordinance shall be known as Ordinance No. 2013-\_\_\_ of the Ordinances of the City of Carbondale, Illinois, and shall be in full force and effect from and after its passage, approval, recording and publication in accordance with law.

APPROVED: \_\_\_\_\_  
Mike Henry, Acting Mayor

ATTEST: \_\_\_\_\_  
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

\_\_\_\_\_  
P. Michael Kimmel, City Attorney

18-6-4: SPECIAL SPEED LIMIT WHILE IN CONSTRUCTION ZONE:

A. A person may not operate a motor vehicle in a construction or maintenance speed zone at a speed in excess of the posted speed limit whether workers are present or not.

1. Nothing in this Chapter prohibits the use of electronic speed-detecting devices within 500 feet of signs within a construction or maintenance speed zone indicating the zone, as defined in this Section, nor shall evidence obtained by use of those devices be inadmissible in any prosecution for speeding, provided the use of the device shall apply only to the enforcement of the speed limit in the construction or maintenance speed zone.

2. As used in this Section, a "construction or maintenance speed zone" is an area in which the Department, Toll Highway Authority, or local agency has posted signage advising drivers that a construction or maintenance speed zone is being approached, or in which the Department, Authority, or local agency has posted a lower speed limit with a highway construction or maintenance speed zone special speed limit sign after determining that the preexisting established speed limit through a highway construction or maintenance project is greater than is reasonable or safe with respect to the conditions expected to exist in the construction or maintenance speed zone.

3. Penalty: A person who commits a first violation of this section shall pay a minimum fine of \$250, a second or subsequent violation shall be a minimum fine of \$750.

18-7-4: WHEN OVERTAKING ON RIGHT IS PERMITTED:

A. Vehicles With Three Or More Wheels: The driver of a vehicle with three (3) or more wheels may overtake and pass upon the right of another vehicle only under the following conditions:

1. When the vehicle overtaken is making or about to make a left turn;
2. Upon a street or roadway with unobstructed pavement of sufficient width for two (2) or more lanes of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lanes of moving vehicles.

B. Cycles: The driver of a two (2) wheeled vehicle may not pass upon the right of any other vehicle proceeding in the same direction unless the unobstructed pavement to the right of the vehicle being passed is of a width of not less than eight feet (8').

C. Safety Requirement: The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway. (Ord. 97-119)

D. Limitations to overtaking on the Right: Vehicles shall be driven on a roadway, and shall only be driven on the shoulder for the purpose of stopping or accelerating from a stop while

marginizing into traffic. It shall be a violation if while merging into traffic and while on the shoulder, the vehicle passes any other vehicle on the roadway adjacent to it. Nothing in this section shall apply to an authorized emergency vehicle, to any authorized transit bus, to any farm tractor or implement of husbandry, to any service vehicle while engaged in maintenance of the highway or related work, or to any authorized vehicle within a designated construction zone.

18-9-7: OPERATION UPON APPROACH OF AUTHORIZED EMERGENCY VEHICLES:

A. Yield; Move To Right; Stop: Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of this Title, or a police vehicle properly and lawfully making use of an audible or visual signal, the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the highway clear of any intersection and shall, if necessary to permit the safe passage of the emergency vehicle, stop and remain in such position until the authorized emergency vehicle has passed, unless otherwise directed by a police officer.

B. Emergency Vehicle Responsibility: This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (Ord. 97-119)

C. Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, blue, or red and blue lights or amber or yellow warning lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least 4 lanes with not less than 2 lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

As used in this paragraph (C), "authorized emergency vehicle" includes any vehicle authorized by law to be equipped with oscillating, rotating, or flashing lights under Section 12-215 of the Illinois Vehicle Code as amended, while the owner or operator of the vehicle is engaged in his or her official duties.

D. Violation; Penalty: A violation of any part of this Section shall result in a minimum fine of two hundred fifty dollars (\$250.00) in addition to any costs or charges connected with the prosecution of such violation. Any such violation shall be a mandatory conviction, with no disposition of supervision.

18-9-8: APPROACHING HIGHWAY CONSTRUCTION OR MAINTENANCE AREA:

A. Signaled Work Zone: The driver of a vehicle shall yield the right of way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any highway construction or maintenance area indicated by official traffic-control devices.

B. Signaled Work Vehicles: The driver of a vehicle shall yield the right of way to any authorized vehicle obviously and actually engaged in work upon a highway whenever the vehicle engaged in construction or maintenance work displays flashing lights.

C. Flagger: The driver of a vehicle shall stop if signaled to do so by a flagger or a traffic-control signal and remain in such position until signaled to proceed.

D. Violation; Penalty: A violation of any part of this Section shall result in a minimum fine of ~~one~~ two hundred fifty dollars (~~\$150.00~~ 250.00) in addition to any costs or charges connected with the prosecution of such violation. Any such violation shall be a mandatory conviction, with no disposition of supervision. (Ord. 97-119)

18-12-4: HANDICAPPED PERSONS; PARKING:

A. Designation Of Parking Space For Handicapped Persons:

1. The City Manager is hereby authorized to designate parking spaces for physically handicapped persons pursuant to the following conditions:

a. The designated parking spaces shall be located where manmade barriers are less substantial than other locations in the City so that physically handicapped persons will have the most accessible parking spaces available.

b. No more than four (4) such designations shall be made on any one side of the street within one City block within a distance of three hundred (300) lineal feet along any street, whichever is less.

c. The designation of parking spaces may be made in each Municipal parking lot, provided, however, that no more than two (2) such spaces, nor more than ten percent (10%) of the spaces available in any one lot, whichever is greater, may be so designated.

d. The City will, when space allows, construct handicapped parking spaces pursuant to the requirements of the Standard Specifications for Facilities for the Handicapped which is authorized under Illinois Compiled Statutes, a copy of which is on file in the office of the City Clerk.

B. Handicapped Persons; Parking Privileges; Exemptions:

1. A motor vehicle bearing registration plates issued to a handicapped person, pursuant to the applicable sections of the Illinois Vehicle Code, or a motor vehicle registered in another jurisdiction, state, district, territory or foreign country upon which is displayed a registration

plate, special decal or device issued by the other jurisdiction designating the vehicle is operated by or for a handicapped person shall be exempt from the payment of parking meter fees and exempt from any statute or ordinance imposing time limitations on parking, except limitations of one-half ( $\frac{1}{2}$ ) hour or less on any street or highway zone, or any parking lot or parking place which is owned, leased or owned and leased by a municipality or a municipal parking utility; and shall be recognized by State and local authorities as a valid license plate or parking device and shall receive the same parking privileges as residents of this State; but such vehicle shall be subject to the laws which prohibit parking in "no stopping" and "no standing" zones in front of or near fire hydrants, driveways, public building entrances and exits, bus stops and loading areas, and is prohibited from parking where the motor vehicle constitutes a traffic hazard, whereby such motor vehicle shall be moved at the instruction and request of a law enforcement officer to a location designated by the officer. Any motor vehicle bearing registration plates or special decal or device specified in this Section or applicable sections of the Illinois Vehicle Code as evidence that the vehicle is operated by or for a handicapped person or disabled veteran may park, in addition to any other lawful place, in any parking place specifically reserved for such vehicles by the posting of an official sign as provided in subsection [18-12-4A](#) of this Chapter. Parking privileges granted by this Section are strictly limited to the person to whom the special registration plates, special decal or device were issued and to qualified operators acting under his express direction while the disabled person is present.

2. Such parking privileges granted by this Section are also extended to motor vehicles of not-for-profit organizations used for the transportation of handicapped persons when such motor vehicles display the decal or device issued pursuant to the Illinois Vehicle Code.

3. No person shall use any area for the parking of any motor vehicle pursuant to this Section or where an official sign controlling such area expressly prohibits parking at any time or during certain hours.

C. Special Decals For Handicapped Parking: The design, size, color and placement of a handicapped motorist decal or device shall be determined by the administrative rules of the Secretary of State. The decal or device shall be the property of such handicapped individual or organization and may be used by that person or organization to designate and identify a vehicle not owned or displaying a registration plate as provided in the Illinois Vehicle Code to designate when the vehicle is being used to transport said handicapped person or persons, and thus is entitled to enjoy all the privileges that would be afforded a handicapped licensed vehicle. Handicapped decals or devices issued and displayed pursuant to the Illinois Vehicle Code or this Section shall be recognized and honored.

D. Unauthorized Use Of Parking Places Reserved For Handicapped Persons:

1. It shall be unlawful to park any motor vehicle which is not bearing registration plates or decals issued to a "handicapped person" as defined by the Illinois vehicle code as evidence that the vehicle is operated by or for a handicapped person or disabled veteran, in any parking place, including any private or public off street parking facility, specifically reserved, by the posting of an official sign as designated under this section, for motor vehicles bearing such registration plates. Any motor vehicle bearing a handicapped license plate or handicapped parking decal or

device containing the international symbol of access issued to handicapped persons by any local authority, state, district, territory or foreign country shall be recognized by state and local authorities as a valid plate or device and receive the same parking privileges as residents of this city.

2. Any person owning or operating any public or private off street parking facility may, after notifying the police department, remove or cause to be removed to the nearest garage or other place of safety any vehicle parked within a stall or space reserved for use by the handicapped which does not display handicapped registration plate or a special decal or device as required under this section. (Ord. 97-119)

3. Violation of the provisions of this section shall result in a fine of not less than ~~one~~ two hundred fifty dollars (~~\$100.00~~ \$250.00) nor more than ~~two~~ seven hundred fifty dollars (~~\$250.00~~ \$750.00) in addition to any costs or charges connected with the removal or storage of any motor vehicle authorized under this section. (Ord. 97-119; Ord. 2012-38)

#### 18-12-15: TOWING AND IMPOUNDING VEHICLES INVOLVED IN A CRIME:

A. Definitions: For the purpose of this section, the following words and phrases shall have the following meanings ascribed to them respectively:

**ADMINISTRATIVE HEARING OFFICER:** Officer who is an attorney licensed to practice law in this state for a minimum of three (3) years.

**BUSINESS DAY:** Any day in which the offices of city hall are open to the public for a minimum of eight (8) hours.

**CONTROLLED SUBSTANCES:** Any substance as defined and included in the schedules of article II of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/201 et seq., and cannabis as defined in the cannabis control act, 720 Illinois Compiled Statutes 550/1 et seq.

**DRIVING A VEHICLE BY PERSON SUBJECT TO WARRANT:** Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated section 6-101, 6-303, or 11-501 of the Illinois vehicle code.

**DRIVING ON A SUSPENDED OR REVOKED LICENSE, PERMIT, OR PRIVILEGE TO OPERATE A MOTOR VEHICLE:** Any offenses as defined in section 5/6-303 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/6-303; 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.

**DRIVING ON AN EXPIRED LICENSE:** Operation or use of a motor vehicle with an expired license, in violation of section 5/6-101 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/6-101, if the period of expiration is greater than one year.

**DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS AND/OR INTOXICATING COMPOUNDS:** Any offenses as defined in section 5/11-501 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/11-501.

**DRIVING WITHOUT A LICENSE OR PERMIT:** Operation or use of a motor vehicle without ever having been issued a license or permit, in violation of section 6-101 of the Illinois vehicle code, or operating a motor vehicle without ever having been issued a license or permit due to a person's age.

**DRUG PARAPHERNALIA:** Any equipment, products and materials as defined in 720 Illinois Compiled Statutes 600/2.

**FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER:** Any offenses as defined in section 5/11-204 or 11-204.1 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/11-204 and 204.1.

**LEAVING THE SCENE OF A PERSONAL INJURY OR PROPERTY DAMAGE ACCIDENT:** Any offenses as defined in sections 5/11-401, 5/11-402, and 5/11-403 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/11-401, 402 and 403.

**LEVEL 1 ADMINISTRATION FEE:** Four hundred dollars (\$400.00).

**LEVEL 2 ADMINISTRATION FEE:** Two hundred dollars (\$200.00).

**MISDEMEANOR:** Any misdemeanor offense as defined by an Illinois statute or [title 14](#), "Offenses And Penalties", of this code.

**MOTOR VEHICLE:** Every vehicle which is self-propelled, including, but not limited to, automobiles, trucks, vans, motorcycles, and motor scooters.

**OWNER OF RECORD/INTERESTED PERSON:** The recorded title holder(s) or lienholder(s) of the motor vehicle as registered with the secretary of state, state of Illinois, or is not registered in Illinois, the particular state where the motor vehicle is registered.

**PRELIMINARY HEARING OFFICER:** The chief of police, deputy chief of police or a ~~police lieutenant~~ the chief of police designee.

**THEFT OFFENSE:** Any offense in violation of article 16 of the criminal code, chapter 720 of the Illinois Compiled Statutes.

**TRAFFIC VIOLATION:** Any offense as defined by the Illinois vehicle code or of [title 18](#), "Traffic Regulations", of this code.

**WEAPONS OFFENSE:** Any of the following offenses contained within article 24 of chapter 720 of the Illinois Compiled Statutes: 720 Illinois Compiled Statutes 5/24-1, 24-1.1, 24-1.2, 24-1.25, 24-1.5, 24-1.6, 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.2, 24-3.3, 24-3.4, 24-3.5, 24-3.6 and 24-3A.

B. Motor Vehicle Impoundment: Pursuant to article II, chapter 11 of the Illinois vehicle code, 625 Illinois Compiled Statutes 5/11-208.7, the city of Carbondale (the "city") shall follow the procedures set forth herein when impounding vehicles (with the exception of those vehicles impounded pursuant to section [18-12-10](#) of this chapter) and imposing reasonable administrative fees, payable to and collected by the city, related to its administrative and processing costs associated with the investigation, arrest, and detention of an offender, or the removal, impoundment, storage, and release of the vehicle. The administrative fees imposed herein by the city shall be uniform for all similarly situated vehicles and are in addition to any other penalties or fees that may be assessed by a court of law for the underlying violations, or by a person, firm, or entity that tows and stores the impounded vehicle.

C. Violations Authorizing Impoundment (Excepting Impoundment Under Section [18-12-10](#) Of This Chapter):

1. Any motor vehicle, operated with the express or implied permission of the owner of record/interested person, that is used in connection with the following violations shall be subject to seizure and impoundment by the city, and the owner of record of said motor vehicle or its agent, shall be liable to the city for a level 1 administrative fee, as provided for in this section, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law for the underlying offense as hereinafter provided:

a. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to section 36-1 of the criminal code of Illinois; or

b. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of section 11-501 of the Illinois vehicle code; or

c. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of a felony offense in the cannabis control act; or

d. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois controlled substances act; or

e. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of section 24-1 (unlawful use of weapons), 24-1.5 (reckless discharge of a firearm), or 24-3.1 (unlawful possession of firearms and firearm ammunition) of the criminal code of Illinois; or

f. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to section 6-303 of the Illinois vehicle code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing, ~~fleeing or attempting to elude a police officer, or leaving the scene of a personal injury or property damage accident;~~ or

g. Operation or use of a motor vehicle while soliciting, or attempting to solicit cannabis or a controlled substance, as defined by the cannabis control act or the Illinois controlled substances act; or

h. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of article 16 (theft offenses) of the criminal code of Illinois; or

i. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other felony offense in violation of the criminal or vehicle codes of Illinois.

2. Any motor vehicle, operated with the express or implied permission of the owner of record/interested person that is used in connection with the following violations, including arrest warrants, but not including those violations listed in subsection C1 of this section, shall be subject to seizure and impoundment by the city, and the owner of record or its agent, shall be liable to the city for a level 2 administrative fee, as provided for in this section, in addition to any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a court of law for the underlying offense as hereinafter provided:

a. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor violation of the cannabis control act; or

b. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor offense in violation of article 16 (theft offenses) of the criminal code of Illinois; or

c. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor offense in violation of the criminal or vehicle codes of Illinois; or

d. Operation or use of a motor vehicle with an expired driver's license, in violation of section 6-101 of the Illinois vehicle code if the period of expiration is greater than one year.

#### D. Seizure And Impoundment:

1. Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the motor vehicle to a facility controlled or approved by the city. This section shall not apply if the motor vehicle used in the violation was stolen at the time and the theft was reported to the appropriate police authorities within twenty four (24) hours after the theft was discovered or reasonably should have been discovered.

2. The city shall notify, or make a reasonable attempt to notify, the owner of record/interested person or any person who is found to be in control of the motor vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the motor vehicle owner's right to an administrative hearing to be conducted under this section.

3. The city shall also provide a notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner of record/interested person of the

vehicle posts with the city a bond equal to the administrative fee as provided by this section and pays for all towing and storage charges. Whenever the owner of record/interested person of a vehicle seized pursuant to this section requests, in writing, hand delivered to the police department, a preliminary hearing on probable cause within twelve (12) hours after the seizure, a preliminary hearing officer shall conduct such preliminary hearing within seventy two (72) hours after the seizure, excluding Saturdays, Sundays and holidays. The owner of record/interested person at the time of the alleged offense shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the preliminary hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime described as a level 1 or level 2 administrative fee offense, the preliminary hearing officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of record/interested person posts with the city a cash bond in the amount of the level 1 or level 2 administrative fee offense, plus fees for towing and storing the vehicle. If the preliminary hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

#### E. Administrative Hearing:

1. Within ten (10) days after a motor vehicle is seized and impounded pursuant to this section, the city shall notify by personal service or by first class mail, return receipt requested, to the owner of record/interested person, the right to a hearing before the administrative hearing officer, along with the date, time and location of the hearing, to challenge whether a violation of this section has occurred. The owner of record/interested person shall also be notified of the continued impoundment of the vehicle as provided in this section unless the owner of record/interested person posts with the city a cash bond in the amount of the level 1 or level 2 administrative fee offense, plus fees for towing and storing the vehicle. The hearing date must be scheduled and convened no later than forty five (45) days after the mailing of the notice or issuance of the notice of hearing, when requested. The owner of record/interested person and any other interested person(s) 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.
2. If, after the hearing, the administrative hearing officer determines by a preponderance of the evidence that the motor vehicle was used in violation of this section, then the administrative hearing officer shall enter an order finding the owner of record of the motor vehicle liable to the city for the applicable administrative fee.
3. If, after the hearing, the administrative hearing officer does not determine by a preponderance of the evidence that the motor vehicle was used in such a violation, the administrative hearing officer shall enter an order finding for the owner and for the return of the motor vehicle, or the administrative fees if already paid.
4. If owner of record fails to appear at the hearing, the owner of record/interested person shall be deemed to have waived his or her right to a hearing. If the owner of record/interested person pays such administrative fee and the motor vehicle is returned to the owner of record/interested person, no default order need be entered if the owner of record/interested person was informed of

his or her right to a hearing, in which case an order of liability shall be deemed to have been made when the city receives the written waiver.

5. If a bond in the amount equal to the applicable administrative fee is posted with the police department, the impounded motor vehicle shall be released to the owner of record/interested person. The owner of record/interested person shall still be liable to the towing agent for any applicable towing fees.

6. If an administrative fee is imposed for a violation of this section, the bond will be forfeited to the city; however if a violation of this section is not proven by preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this section shall be held by the city until the administrative hearing officer issues a decision, or, if there is a judicial review, until the court of jurisdiction issues its orders.

7. All decisions of the administrative hearing officer shall be subject to review under the provisions of the Illinois administrative review law.

F. Disposition Of Impounded Motor Vehicle:

1. An administrative fee imposed pursuant to this section shall constitute a debt due and owing the city.

2. A motor vehicle impounded pursuant to this section shall remain impounded until:

a. The administrative fee is paid to the city and all applicable towing fees are paid to the towing agent, in which case the owner of record/interested person shall be given possession of the motor vehicle;

b. A bond in an amount equal to the applicable administrative fee is posted with the police department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record/interested person; or

c. Any motor vehicle that is not reclaimed or retrieved from the facility controlled or approved by the city within thirty five (35) days after the administrative hearing officer issues a written decision shall be deemed abandoned and may be disposed of in accordance with the provisions of article II of chapter 4 of the Illinois motor vehicle code.

d. The administrative fee imposed by the city for impounded vehicles shall be in addition to any fees charged for the towing and storage, or both, of an impounded vehicle. The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle. The towing and/or storage company shall be entitled to receive a fee from the owner of record/interested person entitled to possession of any such vehicle prior to the release of the vehicle. The fee shall be to cover the cost of removing said vehicle and, in addition, any fees for the cost of storage of the vehicle for each day or fraction thereof that said vehicle remained at their storage facility in compliance with their practices. Fees for towing and

storage of a vehicle under this section shall be the same as those charged pursuant to section [5-13-2](#) of this code.

e. It shall be the duty of the towing or storage company in possession of the vehicle to obtain documentation issued by the police department confirming compliance with the foregoing requirements and to retain photocopies of that documentation in their files for a period of not less than twelve (12) months following release of said vehicle. The foregoing information shall be made available to the authorities of the city for inspection and copying, upon their request, by the towing or storage company. The towing or storage company is prohibited from releasing any vehicle they may tow within the city until and unless they obtain the documentation as noted above.

f. The administrative fees established by this section are to be paid by the owner of record/interested person, or the agents of the owner or record/interested person, of the vehicle involved in the incident leading to custodial arrest regardless of whether that person was operating the vehicle at the time of the incident. Vehicles towed by the police department for any reason other than those listed above shall be released to the owner of record/interested person with no administrative fee charged by the city. The person purporting to be the owner of record/interested person, or the agents of the owner of record/interested person, must present proof of ownership, current proof of insurance and possess a valid driver's license prior to release.

g. Upon verifiable proof that the vehicle used in the violation was stolen at the time it was impounded; or if the vehicle was operating as a common carrier including, but not limited to, taxicabs or buses and the violation occurred without the knowledge of the person in control of the vehicle, the administrative fee shall be waived by the city.

h. Unless stayed by a court of competent jurisdiction, any 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. This section incorporates sections 4/201 through 4/214.1 of the Illinois vehicle code to the extent they are consistent. Where a provision of this section differs from sections 4/201 through 4/214.1 of the Illinois vehicle code, the provisions of this section shall be controlling. Enforcement and administration of this section shall be consistent with the policies and procedures of section 4/201 through 4/215 of the Illinois vehicle code to the extent that said policies and procedures do not directly conflict with the provisions of this section.

G. Establishment Of Restricted Revenue Account: All fees collected under this section shall be placed into a restrictive revenue account within the city to be used for the purchase of police vehicles and equipment. (Ord. 2012-32)

## 18-13-5: WINDSHIELDS:

A. Certain Window Applications Prohibited: No person shall drive a motor vehicle with any sign, poster, window application, reflective material, nonreflective material or tinted film upon the front windshield, ~~sidewings or side windows immediately adjacent to each side of the driver.~~ A nonreflective tinted film may be used along the uppermost portion of the windshield if such material does not extend more than six inches (6") down from the top of the windshield. Nothing in this Section shall create a cause of action on behalf of a buyer against a dealer or manufacturer who sells a motor vehicle with a window which is in violation of this Section.

B. Exceptions: ~~Nothing contained in this Section shall prohibit the use of nonreflective, smoked or tinted glass, nonreflective film, perforated window screen or other decorative window application on windows to the rear of the driver's seat, except that any motor vehicle with a window to the rear of the driver's seat treated in this manner shall be equipped with a side mirror on each side of the motor vehicle which are in conformance with this Section. No window treatment or tinting shall be applied to the windows immediately adjacent to each side of the driver, except:~~

1. On vehicles where none of the windows to the rear of the driver's seat are treated in a manner that allows less than 30% light transmittance, a nonreflective tinted film that allows at least 50% light transmittance, with a 5% variance observed by any law enforcement official metering the light transmittance, may be used on the vehicle windows immediately adjacent to each side of the driver.

2. On vehicles where none of the windows to the rear of the driver's seat are treated in a manner that allows less than 35% light transmittance, a nonreflective tinted film that allows at least 35% light transmittance, with a 5% variance observed by any law enforcement official metering the light transmittance, may be used on the vehicle windows immediately adjacent to each side of the driver.

3. On vehicles where a nonreflective smoked or tinted glass that was originally installed by the manufacturer on the windows to the rear of the driver's seat, a nonreflective tint that allows at least 50% light transmittance, with a 5% variance observed by a law enforcement official metering the light transmittance, may be used on the vehicle windows immediately adjacent to each side of the driver.

C. Suspended Objects Prohibited: No person shall drive a motor vehicle with any objects placed or suspended between the driver and the front windshield, rear window, side wings or side windows immediately adjacent to each side of the driver which materially obstructs the driver's view.

D. Windshield Wipers: Every motor vehicle, except motorcycles, shall be equipped with a device, controlled by the driver, for cleaning rain, snow, moisture or other obstruction from the windshield; and no person shall drive a motor vehicle with snow, ice, moisture or other material on any of the windows or mirrors, which materially obstructs the driver's clear view of the highway.

E. Condition Of Windows; Rearview Mirrors: No person shall drive a motor vehicle when the windshield, side or rear windows are in such defective condition or repair as to materially impair the driver's view to the front, side or rear. A vehicle equipped with a side mirror on each side of the vehicle which are in conformance with this Section will be deemed to be in compliance in the event the rear window of the vehicle is materially obscured.

F. Exemptions:

1. Subsections A and B of this Section shall not apply to:

- a. Motor vehicles manufactured prior to January 1, 1982; or
- b. To those motor vehicles properly registered in another jurisdiction.

2. Subsection A of this Section shall not apply to any motor vehicle:

a. That is owned and operated by a person afflicted with or suffering from a medical illness, ailment or disease which would require that person to be shielded from the direct rays of the sun; or

b. That is used in transporting a person when such person resides at the same address as the registered owner of the vehicle and such person is afflicted with or suffering from a medical illness or disease which would require such person to be shielded from the direct rays of the sun.

~~c. It must be certified by a physician licensed to practice medicine in Illinois that such person owning and operating or being transported in a motor vehicle is afflicted with or suffers from such illness, ailment, or disease and such certification must be carried in the motor vehicle at all times. The certification shall be legible and shall contain the date of issuance, the name, address and signature of the attending physician, and the name, address, and medical condition of the person requiring exemption. The information on the certificate must remain current and shall be renewed annually by the attending physician.~~ And the motor vehicle is displaying distinctive license plates or license plate stickers that have been issued pursuant to subsection (k) of Section 3-412 of the Illinois Vehicle Code as amended and is used in accordance with subsection (g) of 12-503 of the Illinois Vehicle Code as amended.

d. Subsection A of this Section shall not apply to motor vehicle stickers or other certificates issued by State or local authorities which are required to be displayed upon motor vehicle windows to evidence compliance with requirements concerning motor vehicles.

G. Older Vehicle Restrictions: Those motor vehicles exempted under subsection F1a of this Section shall not cause their windows to be treated as described in subsection A herein after January 1, 1993. (Ord. 97-119)

**18-15-23: USE OF MOTORIZED OR ELECTRIC SCOOTERS, POCKET BIKES, AND SIMILAR DEVICES PROHIBITED:**

Effective April 9, 2005, no person shall operate upon the public streets or other public property, including, but not limited to, parks, rights of way, parking lots, or sidewalks, a motorized or electric scooter, a pocket bike, all-terrain vehicle, an off-highway motorcycle, golf cart or other similar device, unless that vehicle is properly registered, insured, and complies with all other laws of the Illinois vehicle code or meets the provisions of Chapter 16 of this Title, including that the driver be in possession of a valid driver's license and liability insurance. Nothing in this

**18-15-25: DRIVERS MUST HAVE LICENSES OR PERMITS:**

A. No person, except those expressly exempted by section 6-102 of the Illinois vehicle code as amended, shall drive any motor vehicle upon a highway in this state unless such person has a valid license or permit, or a restricted driving permit, issued under the provisions of the Illinois vehicle code as amended.

B. No person shall drive a motor vehicle unless he holds a valid license or permit or a restricted driving permit issued under the provisions of section 6-205, 6-206, or 6-113 of the Illinois vehicle code as amended. (Ord. 2014-45)

C. No person shall operate a motor vehicle unless such person has a valid license with a proper classification to permit the operation of such vehicle, except that any person may operate a moped if such person has a valid current Illinois driver's license, regardless of classification.

D. License and Permits to be carried and exhibited on demand. Every licensee or permittee shall have his drivers license or permit in his immediate possession at all times when operating a motor vehicle and, for the purpose of indicating compliance with this requirement, shall display such license or permit if it is in his possession upon demand made, when in uniform or displaying a badge or other sign of authority, by a member of the State Police, a sheriff or other police officer or designated agent of the Secretary of State. However, no person charged with violating this Section shall be convicted if he produces in court satisfactory evidence that a drivers license was theretofore issued to him and was valid at the time of his arrest. For the purposes of this Section, "display" means the manual surrender of his license certificate into the hands of the demanding officer for his inspection thereof.

**18-15-26: ~~OPERATION OF A VEHICLE WITHOUT EVIDENCE OF REGISTRATION OR A SUSPENDED REGISTRATION~~ MOTOR VEHICLE REGISTRATION:**

A. Evidence Of Registration: No person shall operate, nor shall an owner knowingly permit to be operated, upon any highway unless there shall be attached thereto and displayed thereon when and as required by law, proper evidence of registration in Illinois, as follows:

1. A Vehicle Required To Be Registered In Illinois: A current and valid Illinois registration sticker or stickers and plate or plates, or an Illinois temporary registration permit, or a drive away or in transit permit, issued therefor by the secretary of state; or

2. A Vehicle Eligible For Reciprocity: A current and valid reciprocal foreign registration plate or plates properly issued to such vehicle or a temporary registration issued therefor, by the reciprocal state, and, in addition, when required by the secretary, a current and valid Illinois reciprocity permit or prorated decal issued therefor by the secretary of state; or except as otherwise expressly provided for in this chapter.

3. A Vehicle Commuting For Repairs In Illinois: A dealer plate issued by a foreign state shall exempt a vehicle from the requirements of this section if the vehicle is being operated for the purpose of transport to a repair facility in Illinois to have repairs performed on the vehicle displaying foreign dealer plates. The driver of the motor vehicle bearing dealer plates shall provide a work order or contract with the repair facility to a law enforcement officer upon request.

4. Display of Registration: Registration plates issued for a motor vehicle other than a motorcycle, autocycle, trailer, semitrailer, truck-tractor, apportioned bus, or apportioned truck shall be attached thereto, one in the front and one in the rear. The registration plate issued for a motorcycle, autocycle, trailer or semitrailer required to be registered hereunder and any apportionment plate issued to a bus under the provisions of the Illinois Vehicle Code shall be attached to the rear thereof. The registration plate issued for a truck-tractor or an apportioned truck required to be registered hereunder shall be attached to the front thereof. Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so as to prevent the plate from swinging and at a height of not less than 5 inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained in a condition to be clearly legible, free from any materials that would obstruct the visibility of the plate. A registration plate on a motorcycle may be mounted vertically as long as it is otherwise clearly visible. Registration stickers issued as evidence of renewed annual registration shall be attached to registration plates as required by the Secretary of State, and be clearly visible at all times.

5. Except as provided herein for new residents, every owner of any vehicle which shall be operated upon the public highways of this State shall, within 24 hours after becoming the owner or at such time as such vehicle becomes subject to registration under the provisions of this Act, file in an office of the Secretary of State, an application for registration properly completed and executed. New residents need not secure registration until 30 days after establishing residency in this State, provided the vehicle is properly registered in another jurisdiction. By the expiration of such 30 day statutory grace period, a new resident shall comply with the provisions of this Act and apply for Illinois vehicle registration.

B. Operation Of Motor Vehicle When Registration Suspended For Noninsurance: No person shall operate a vehicle the registration of which is suspended pursuant to section 7-606 or 7-607 of the Illinois vehicle code as amended.

C. Fine: Any person convicted of violating this section is guilty of a business offense and shall be required to pay a fine of not less than one thousand dollars (\$1,000.00) and not more than two thousand dollars (\$2,000.00). Any person convicted of a second or subsequent violation of this section shall be required to pay a fine of not less than one thousand dollars (\$1,000.00) and not more than two thousand dollars (\$2,000.00). (Ord. 2014-45)

18-15-27: GRADUATED LICENSE:

A. For the first 12 months of licensing, or until the driver turns 18, whichever occurs first, the number of passengers is limited to one person under age 20, unless the passenger(s) is a sibling, stepsibling, child or stepchild of the driver. After this period, the number of passengers is limited to one in the front seat and the number of safety belts in the back seat. All occupants must wear safety belts.

B. Cell phone use while driving including a hands free device, is prohibited for drivers under age 19, except in the case of an emergency. Texting while driving is prohibited.

C. Nighttime driving restrictions — Sun.-Thurs., 10 p.m.-6 a.m.; Fri.-Sat., 11 p.m.-6 a.m.

18-15-28: ELECTRONIC COMMUNICATION DEVICES.

A. As used in this Section: "Electronic communication device" means an electronic device, including but not limited to a hand-held wireless telephone, hand-held personal digital assistant, or a portable or mobile computer, but does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

B. A person may not operate a motor vehicle on a roadway while using an electronic communication device.

C. A second or subsequent violation of this Section is an offense against traffic regulations governing the movement of vehicles. A person who violates this Section shall be fined a maximum of \$75 for a first offense, \$100 for a second offense, \$125 for a third offense, and \$150 for a fourth or subsequent offense.

D. This Section does not apply to:

1. a law enforcement officer or operator of an emergency vehicle while performing his or her official duties;

2. a driver using an electronic communication device for the sole purpose of reporting an emergency situation and continued communication with emergency personnel during the emergency situation;

3. a driver using an electronic communication device in hands-free or voice-operated mode, which may include the use of a headset;

4. a driver of a commercial motor vehicle reading a message displayed on a permanently installed communication device designed for a commercial motor vehicle with a screen that does not exceed 10 inches tall by 10 inches wide in size;

5. a driver using an electronic communication device while parked on the shoulder of a roadway;

6. a driver using an electronic communication device when the vehicle is stopped due to normal traffic being obstructed and the driver has the motor vehicle transmission in neutral or park;

7. a driver using two-way or citizens band radio services;

8. a driver using two-way mobile radio transmitters or receivers for licensees of the Federal Communications Commission in the amateur radio service;

9. a driver using an electronic communication device by pressing a single button to initiate or terminate a voice communication; or

10. a driver using an electronic communication device capable of performing multiple functions, other than a hand-held wireless telephone or hand-held personal digital assistant (for example, a fleet management system, dispatching device, citizens band radio, or music player) for a purpose that is not otherwise prohibited by this Section.

18-15-29: SPILLING LOADS ON HIGHWAYS PROHIBITED:

A. Spilling loads on highways prohibited. No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water or other substance may be sprinkled on a roadway in cleaning or maintaining such roadway.

B. No person shall operate on any highway any vehicle with any load unless said load and any covering thereon is securely fastened so as to prevent said covering or load from becoming loose, detached, or in any manner a hazard to other users of the highway.

18-15-30: COVER OR TARPAULINS REQUIRED FOR CERTAIN LOADS:

A. No person shall operate or cause to be operated, on a highway, any vehicle loaded with dirt, aggregate, garbage, refuse, or other similar material, when any portion of the load is falling, sifting, blowing, dropping or in any way escaping from the vehicle.

B. This Section shall not apply to the operation of highway maintenance vehicles engaged in removing snow and ice from the roadway, nor to implements of husbandry or other farm vehicles while transporting agricultural products to or from the original place of production.

C. For the purpose of this Section "aggregate" shall include all ores, minerals, sand, gravel, shale, coal, clay, limestone or any other ore or mineral which may be mined.

D. Notwithstanding any other penalty, whenever a police officer determines that the operator of a vehicle is in violation of this Section, as evidenced by the issuance of a citation for a violation of Section of this Code, or where a police officer determines that a dangerous condition exists whereby any portion of the load may fall, sift, blow, drop, or in any way escape or fall from the vehicle, the police officer shall require the operator to stop the vehicle in a suitable place and keep such vehicle stationary until the load has either been reduced, secured, or covered with a cover or tarpaulin of sufficient size to prevent any further violation of this Section.

E. Any violation of the provisions of this Section shall be a petty offense punishable by a fine not to exceed \$750.