

ORDINANCE NO. 21 - _____
AN ORDINANCE AMENDING TITLE 11 (MOTOR VEHICLES AND TRAFFIC),
CHAPTER 5 (MOTOR VEHICLE TOWS), ARTICLE B (TOWING PROCEDURE) OF
THE NAPERVILLE MUNICIPAL CODE
IMPOSING ADMINISTRATIVE TOW FEES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE,
DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority that:

SECTION 1: Chapter 5 (Motor Vehicle Tows), Article B (Towing Procedure) Title 11

(Motor Vehicles and Traffic) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language as follows:

ARTICLE B TOWING PROCEDURE

- 11-5B-1 Definitions
- 11-5B-2 Abandonment Prohibited
- 11-5B-3 Violations of Section 11-5B-2
- 11-5B-4 Abandoned, Lost, Stolen or Unclaimed Vehicles: Notify Policy
- 11-5B-5 Authorization for Towing
- 11-5B-6 Pre-Tow Notice for Abandoned Vehicles
- 11-5B-7 Pre-Tow Hearing Procedures for Abandoned Vehicles
- 11-5B-8 Post-Tow Notice for Hazardous and Unlawful Vehicles
- 11-5B-9 Post-Tow Hearings Procedures
- 11-5B-10 Towing Service Subject to Ordinance
- 11-5B-11 Severability
- 11-5B-12 Towing of Unlawful Vehicles
- 11-5B-13 Procedures for Unlawful Vehicles
- 11-5B 14 Administrative Hearing
- 11-5B-15 Administrative Fee a Debt
- 11-5B-16 Unclaimed Vehicles

11-5B-1 – 11-5B-11:

11-5B-12 TOWING OF UNLAWFUL VEHICLES

1. The Police Department is authorized to seize, tow and impound any unlawful vehicle pursuant to the terms and conditions set forth in this Chapter.
2. The owner of an unlawful vehicle that has been seized, towed and impounded shall be civilly liable to the City of Naperville for an administrative fee of five hundred dollars (\$500.00) ~~three hundred dollars (\$300.00)~~. The owner of an unlawful vehicle is also

liable to the licensed tow operator for towing and storage fees. Prior to the release of the vehicle, the owner shall post bond, in accordance with the appropriate civil liability set forth above, with the City and pay tow and storage fees.

3. An administrative hearing to determine whether the seizure, tow and impoundment are appropriate will be scheduled within forty-five (45) days.
4. The owner of a vehicle that has been stolen, and is subject to seizure, tow and impoundment under this section, shall not be liable for any administrative fee.

11-5B-13: - PROCEDURES FOR SEIZURE, TOW AND IMPOUNDMENT:

1. Whenever a police officer has probable cause to believe that a vehicle is an unlawful vehicle, as defined in this Chapter, the police officer may authorize the towing of the vehicle to a licensed tow facility for impoundment. Said vehicle shall be impounded pending the completion of the hearings provided for herein, unless the owner of the vehicle posts with the City a cash bond equivalent to the applicable civil liability, as set forth above, to secure the release of the vehicle and pays the towing and storage fees
2. The police shall provide written notice, via certified mail, within 10 days of the seizure, tow and impoundment to the owner or lessee of the unlawful vehicle as registered with the Illinois Secretary of State, or other state driver's license authority. If the unlawful vehicle is not registered with the Secretary of State, notice shall be sent to the most recent owner of record at the most recent address by first class mail. The notice shall state the following:
 - a. A description of the unlawful vehicle, the date the vehicle was seized, towed and impounded, the reason(s) therefore, and the location of the impounded vehicle.
 - b. The date, time and location of the administrative hearing.
 - c. That the hearing shall be conducted within forty-five (45) days of the date of the seizure, tow and impoundment.
 - d. That the failure to appear at a hearing shall result in a finding of liability to the City of Naperville for the applicable administrative fee.
 - e. The unlawful vehicle may be released upon the owner posting the applicable bond pursuant to this section with the city.
3. An owner of an unlawful vehicle may secure the release of their vehicle by posting a cash bond with the City of Naperville and the payment of all towing and storage charges. Vehicles that are held as evidence or subject to Article 36 of the Illinois Criminal Code seizures may not be released upon posting of bond.

4. Request for a Preliminary Hearing:

a. The owner of the unlawful vehicle may file a written request for a preliminary hearing, prior to the administrative hearing, within forty-eight (48) hours of the seizure, excluding holidays and weekends.

b. The Chief of Police or his designee shall conduct the preliminary hearing within forty-eight (48) hours after receipt of the request, excluding weekends and holidays.

c. The preliminary hearing shall be informal, not subject to the formal rules of evidence, and may be conducted over the phone.

d. If, after the hearing, the Chief of Police or his designee determine that there was probable cause for the seizure, tow and impoundment of the vehicle, he shall order the continued impoundment of the vehicle as provided in this Section unless the cash bond is posted.

e. If there is a determination that there was no probable cause, the vehicle shall be released without fees or towing or storage costs.

11-5B-14: - ADMINISTRATIVE HEARING:

1. A hearing on the lawfulness of the impoundment shall be conducted in conjunction with the Administrative Hearing section of the Municipal Code, Section 11-1-10 et seq.

2. Any sworn or affirmed report that is prepared in the performance of a law enforcement officer's duties and sufficiently describes the circumstances leading to the seizure, tow and impoundment shall be admissible prima facie evidence of probable cause and the vehicle owner's liability, unless rebutted by clear and convincing evidence.

3. If after the hearing, the hearing officer finds that the vehicle was subject to seizure, tow, and impoundment under the terms of this Chapter, the Hearing Officer may enter a written order finding the owner of the vehicle civilly liable to the City of Naperville.

4. If the owner of fails to appear at the hearing, the hearing officer may enter a default order for the amount of the administrative fee against the owner.

5. If after hearing, the hearing officer finds that there was no probable cause to determine the vehicle was subject to seizure, tow and impoundment, the owner may secure the release of the vehicle without the payment of any tow or storage fees.

6. Any cash bond posted to secure the release of the vehicle shall be applied to the fee.

7. Any vehicle still impounded after the administrative hearing, may not be released before the payment of the appropriate administrative fee.

11-5B-15 through 11-5B-16 * * *

SECTION 2: The Clerk is directed to publish this ordinance in the newspaper within 30 days.

SECTION 3: This Ordinance shall be in full effect 10 days after it is published and in accordance with law.

PASSED this _____ day of _____, 2021.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2021.

Steve Chirico
Mayor

ATTEST:

Pam Gallahue, Ph.D.
City Clerk