

## GENERAL PROVISIONS

### Chapter 10.04

#### GENERAL PROVISIONS

##### Sections:

10.04.010	Definitions.
10.04.020	Rules of the road.
10.04.021	Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.
10.04.022	Vehicle Seizure and Impoundment-Use of Motor Vehicles for Unlawful purposes.
10.04.025	Inattentive driving.
10.04.030	Equipment of vehicles.
10.04.035	Submission to safety test; Certification of safety.
10.04.040	Size, weight, load and permits.
10.04.050	Placement of signs.
10.04.060	Numbering system; Burden of proof.

##### **10.04.010 Definitions.**

The provisions of 625 ILCS 5/1, as amended, be and are hereby incorporated by reference. (Ord. 1996-M-53 § 21; Ord. 1987-M-74 § 2.)

##### **10.04.020 Rules of the road.**

The following provisions of 625 ILCS 5/11, as amended, be and are hereby adopted by reference:

Article 1 "Special Definitions"

Article 2 "Obedience to and Effect of Traffic Laws," Paragraphs 11-201 through 11-203 and Paragraphs 11-205 through 11-211, as amended.

Article 3 "Traffic Signs, Signals and Markings," Paragraphs 11-302 through 11-313.

Article 4 "Accidents," Paragraph 11-415.

Article 5 "Driving While Intoxicated, Transporting Alcoholic Liquor and Reckless Driving," Paragraphs 11-500 et seq.

Article 6 "Speed Restrictions," Paragraphs 11-601 through 11-611.

Article 7 "Driving on Right Side of Roadway - Overtaking and Passing, etc.," Paragraphs 11-701 through 11-711.

Article 8 "Turning and Starting and Signals on Stopping and Turning," Paragraphs 11-801 through 11-806.

Article 9 "Right-of-Way," Paragraphs 11-901 through 11-908.

Article 10 "Pedestrians' Rights and Duties," Paragraphs 11-1001 through 11-1011.

Article 11 "Street Cars and Safety Zones," Paragraphs 11-1101 through 11-1104.

Article 12 "Special Stops Required," Paragraphs 11-1201 through 11-1205.

Article 14 "Miscellaneous Laws," Paragraphs 11-1401 through 11-1425.

Article 15 "Bicycles," Paragraphs 11-1501 through 11-1514.

(Ord. 2007-M-99 § 1; Ord. 2005-M-63 § 2; Ord. 2005-M-63 § 2; Ord. 1996-M-53 § 22; Ord. 1987-M-74 § 2.)

## GENERAL PROVISIONS

### **10.04.021 Driving while driver's license, permit or privilege to operate a motor vehicle is suspended or revoked.**

The following provisions of 625 ILCS 5/6, as amended, be and are hereby adopted by reference: Article III "Violation of License Provisions," Paragraph 6-303.

(Ord. 2005-M-63 § 3.)

### **10.04.022 Seizure and impoundment of motor vehicles – use in connection with illegal activity.**

A. Violations Authorizing Seizure. A motor vehicle, operated with the permission, express or implied, of the owner of record ("Owner"), which is used in connection with the following violations, may be subject to seizure and impoundment by the City if the violation prevents the driver from lawfully operating the vehicle, or if a police officer determines that seizure and impoundment of the vehicle is reasonably necessary as a community caretaking function so that the vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. The Owner shall be liable to the City for an administrative penalty in the amount of five hundred dollars (\$500.00), in addition to all towing, impoundment and storage fees, as hereinafter provided:

1. Driving with a suspended or revoked license in violation of 625 ILCS 5/6-303.
2. Driving under the influence of drugs or alcohol in violation of 625 ILCS 5/11-501(a).
3. Driving without a valid driver's license in violation of 625 ILCS 5/6-101(a), except to the extent that:
  - a. The person had a valid driver's license that is expired for less than twelve (12) months; or
  - b. The person is less than seventeen (17) years of age and operating a motor vehicle on any street or highway in violation of the Child Curfew Act (720 ILCS 555/0.01 *et seq.*).
4. Fleeing or attempting to elude a peace officer in violation of 625 ILCS 5/11-204.
5. Street racing in violation of 625 ILCS 5/11-506.
6. Illegal transportation or possession of alcoholic liquor in violation of 625 ILCS 5/11-502(a).
7. Firearms offenses:
  - a. Unlawful use of weapons in violation of 720 ILCS 5/24-1.
  - b. Unlawful use or possession of weapons by felons or persons in the custody of the department of corrections facilities in violation of 720 ILCS 5/24-1.1.
  - c. Aggravated discharge of a firearm in violation of 720 ILCS 5/24-1.2.
  - d. Aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm in violation of 720 ILCS 5/11-1.2-5.
  - e. Reckless discharge of a firearm in violation of 720 ILCS 5/24-1.5.
  - f. Aggravated unlawful use of a weapon in violation of 720 ILCS 5/24-1.6.
8. Drug offenses: Possession of cannabis, more than thirty (30) grams, in violation of 720 ILCS 550/4(d), (e), (f), and (g).
9. Drug offenses: Unauthorized possession of controlled substances in violation of 720 ILCS 570/402.
10. Illegal operation of a sound amplification system in violation of 625 ILCS 5/12-611.

B. General Regulations.

1. This Section shall not replace or otherwise abrogate any existing state or federal laws or City ordinances pertaining to vehicle seizure and impoundment.
2. All penalties contained in this Section shall be in addition to any penalties assessed by a court for criminal charges.
3. This Section shall not apply if the vehicle was reported stolen to the appropriate police authorities within twenty-four (24) hours of discovery of such theft.
4. The amount of fees imposed for towing and storage of a vehicle impounded under this Section shall be subject to the approval of the chief of police.
5. Prior to vehicle seizure, if in the judgment of the police officer then present, if a person authorized by the Owner or operator of the vehicle is present and able to provide for the lawful immediate removal of the vehicle, the vehicle shall be released to that person and prompt removal of the vehicle effected, and no administrative penalty shall be imposed.

## GENERAL PROVISIONS

- C. Notice. 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 to a facility authorized by the City except as otherwise provided in this Section. Before or at the time the vehicle is towed, the police officer shall make reasonable attempts to notify any person identifying himself as the Owner or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure and impoundment of the vehicle and of the Owner's right to request a preliminary vehicle impoundment hearing to be conducted pursuant to this Section. Said vehicle shall be impounded pending the completion of such hearing(s) provided for in Subsection (D) herein, unless the Owner posts with the City a cash bond in the amount of five hundred dollars (\$500.00) and pays all towing, impoundment and storage charges.
- D. Preliminary Hearing. If the Owner of a vehicle seized pursuant to this Section desires to appeal the seizure, said Owner must make a request for a preliminary hearing within twenty-four (24) hours of the seizure. All requests shall be in writing and filed with the chief of police, or his designee, who shall conduct such preliminary hearing within twenty-four (24) hours after receipt of the request, excluding Saturdays, Sundays, or City holidays. All interested persons shall be given a reasonable opportunity to be heard. The formal rules of evidence shall not apply at the preliminary 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 preliminary hearing, the chief of police or his designee determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this Section, he shall order the continued impoundment of the vehicle, as provided herein this Section, unless the Owner posts with the City a cash bond in the amount of five hundred dollars (\$500.00) and pays all towing, impoundment and storage charges. If the chief of police or his designee determines that there is no such probable cause, the vehicle shall be returned without penalty or additional fees.
- E. Plea and Hearing. Within ten (10) days of the vehicle seizure and impoundment the City shall mail the Owner, at his last known address, a plea form notifying the Owner of his right to a hearing. The Owner shall complete the plea form and either plead guilty and pay all fines, fees and penalties associated therewith, as provided for in the plea form, in lieu of a hearing or he may request a hearing. If a hearing is requested, a final hearing date shall be scheduled and held no later than forty-five (45) days after the vehicle's seizure and impoundment. All interested persons shall be given an opportunity to be heard. At any time prior to the hearing, the hearing officer may, at the request of either party, direct witnesses to appear and give testimony at the hearing. The formal rules of evidence shall not apply and hearsay evidence shall be admissible if it is a 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 the evidence that the vehicle was used in connection with a violation set forth in this Section, the hearing officer shall enter an order finding the Owner civilly liable to the City for an administrative penalty in the amount of five hundred dollars (\$500.00) and requiring the vehicle's continued impoundment until the Owner pays the administrative penalty to the City plus towing, impoundment and storage charges, all as applicable. The Owner shall further be responsible for reasonable hearing costs as assessed by the hearing officer. If the Owner fails to appear at the hearing, the hearing officer shall enter a default order in favor of the City. If the hearing officer finds no such violation occurred, the hearing officer shall order the immediate return of the Owner's vehicle or cash bond without any additional fees.
- F. Administrative Penalty. If an administrative penalty is imposed pursuant to this Section, such penalty shall constitute a debt due and owing the City. If a cash bond has been posted pursuant to this Section, the bond shall be applied to the penalty. If a vehicle is impounded when such a penalty is imposed, the City may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided for by law. Except as provided otherwise in this Section, a vehicle shall remain impounded until the administrative penalty and all applicable seizure, towing, impoundment and storage charges are paid to the City, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle, or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law. If said administrative penalty and all applicable towing, impoundment and storage charges are not paid to the City within thirty (30) days from and after the expiration of the time in which the Owner could seek judicial review of the hearing officer's determination, or within thirty (30) days after an action seeking judicial review has been resolved in favor of the City, whichever is applicable, the vehicle

## GENERAL PROVISIONS

shall be deemed unclaimed and shall be disposed of in the manner provided for by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code. For the purposes of this Section, the hearing officer's determination, including but not limited to finding of default, shall constitute a final administrative decision subject to judicial review.

### G. Vehicle Possession.

1. Except as otherwise specifically provided by law, no Owner, lien holder, or other person shall be legally entitled to take possession of a vehicle impounded under this Section until the administrative penalty and all applicable fees applicable under this Section have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession of the vehicle shall be given to that person if he or she agrees in writing to refund the City the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.
2. For purposes of this Section, the "Owner" of a vehicle is the record title holder as registered with the Secretary of State of the State of Illinois.

(Ord. 2009-M-4 § 1; Ord. 2008-M-69 § 1; Ord. 2005-M-63 § 4.)

### **10.04.025 Inattentive Driving.**

No person while driving a motor vehicle shall be so engaged or occupied as to interfere with the safe driving of such vehicle.

(Ord. 2003-M-90 § 2.)

### **10.04.030 Equipment of vehicles.**

The following provisions of 625 ILCS 5/12, as amended, be and are hereby adopted by reference:

Article 1 "General Provisions," Paragraphs 12-100 and 12-101.

Article 2 "Lights and Lamps," Paragraphs 12-201 through 12-216.

Article 3 "Brakes," Paragraphs 12-301 through 12-302.

Article 4 "Tires," Paragraphs 12-401 through 12-407.

Article 5 "Glass, Windshields and Mirrors," Paragraphs 12-500 through 12-503.

Article 6 "Miscellaneous Requirements," Paragraphs 12-601 through 12-613.

Article 7 "Special Requirements for Vehicles of the Second Division," Paragraphs 12-701 through 12-711.

Article 8 "Special Requirements for School Buses," Paragraphs 12-800 through 12-820.

Article 9 "Special Requirements for Religious Organization Buses," Paragraphs 12-900 through 12-902.

(Ord. 2011-M-5 § 1; Ord. 1996-M-53 § 23; Ord. 1987-M-74 § 2.)

### **10.04.035 Submission to safety test; Certificate of safety**

The following provision of 625 ILCS 5/13, as amended, be and is hereby adopted by reference: Chapter 13, Paragraph 13-111.

(Ord. 2005-M-63 § 10.)

### **10.04.040 Size, weight, load and permits.**

The following provisions of 625 ILCS 5/15, as amended, be and hereby adopted by reference:

Article 1 "Size, Weight and Load," Paragraphs 15-100 through 15-112 and Paragraph 15-114.

Article 3 "Permits," Paragraphs 15-316 through 15-318.

(Ord. 1996-M-53 § 24; Ord. 1987-M-74 § 2.)

### **10.04.050 Placement of signs.**

The city engineer shall cause signs to be erected and maintained in accordance with the provisions of this title.

(Ord. 1987-M-74 § 2.)

## GENERAL PROVISIONS

### **10.04.060 Numbering system.**

When referring to provisions of the Illinois Vehicle Code hereinbefore adopted by reference in this chapter as provisions of the St. Charles Municipal Code, the paragraph numbering as used in the Illinois Vehicle Code shall be prefixed by the chapter heading, namely "Chapter 10.04", so that, for example, when referring to the ordinance provision for paragraph "12-500" of the Illinois Vehicle Code, that appropriate provision of the St. Charles Municipal Code would be "10.04.12-500."

The burden of proof for any offense classified as a "petty" offense or "business" offense in the provisions of the Illinois Vehicle Code adopted in this chapter shall be by a preponderance of the evidence. Offenses classified therein as "misdemeanor" offenses shall be proven beyond a reasonable doubt.

(Ord. 2010-M-15 § 1; Ord. 1987-M-74 § 2.)