

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Section 11-4-1600 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

11-4-1600 Violation of Section 7-28-390, 7-28-440, or 11-4-1500 – Penalty.

(a) *Fines.*

(1) Any person found in violation of Sections 7-28-390, 7-28-440, or 11-4-1500 shall be fined according to the following schedule (quantities of solid waste appear as cubic yards and quantities of liquid waste appear as gallons):

(i) Up to ~~20~~ 5 cubic yards of solid waste and up to ~~20~~ 5 gallons of liquid waste: not less than \$1,500.00 and not more than \$2,500.00

(ii) Greater than ~~20~~ 5 cubic yards or ~~20~~ 5 gallons, but up to ~~50~~ 10 cubic yards or ~~50~~ 10 gallons: \$5,000.00

(iii) Greater than ~~50~~ 10 cubic yards or ~~50~~ 10 gallons, but up to ~~100~~ 20 cubic yards or ~~100~~ 20 gallons: \$10,000.00

(iv) Greater than 20 cubic yards or 20 gallons, but up to 50 cubic yards or 50 gallons: \$25,000.00

(v) Greater than 50 cubic yards or 50 gallons, but up to 100 cubic yards or 100 gallons: \$40,000.00

(~~iv~~ vi) Greater than 100 cubic yards or 100 gallons: \$30,000.00
\$50,000.00

(Omitted text is unaffected by this ordinance)

(f) In addition to the fines provided under this section, any motor vehicle that is used in violation of Section 7-28-390 or 7-28-440 shall be subject to seizure and impoundment pursuant to this section. The owner of record of any motor vehicle that is seized and impounded pursuant to this section shall be liable to the City for an administrative penalty of ~~\$1,000~~ \$2,000, plus towing and storage fees. Whenever a police officer has probable cause 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 by the City or its agent. Before or at the time the motor vehicle is towed, the police officer shall notify any person identifying himself as the owner of the motor vehicle at the time of the alleged violation 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 person, of the fact of the seizure and of the motor vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code by serving such person with a copy of the motor vehicle impoundment seizure report. Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section. The procedures of this subsection (f) shall apply to seize and impound motor vehicles used in violation of Section 7-28-390 or 7-28-440 that are impounded at the scene of the violation. The procedures of Section 9-92-036 shall apply to seize and impound motor vehicles used in violation of Section 7-28-390 or 7-28-440 that are not impounded at the scene of the violation.

(Omitted text is unaffected by this ordinance)

SECTION 2. Chapter 9-92 of the Municipal Code of Chicago is hereby amended by adding a new Section 9-92-036 as follows:

9-92-036 Authority to impound motor vehicle previously used in fly dumping.

(a) A motor vehicle recorded in the act of, or after having been witnessed, violating Section 7-28-390 or Section 7-28-440 shall be subject to impoundment under the procedures of this section.

(b) A police officer or an employee of the Department of Streets and Sanitation who observes a motor vehicle being used to violate Section 7-28-390 or Section 7-28-440 shall, if possible, record the vehicle make and color and the issuing state and number of the license plate. Members of the Department of Police or Department of Streets and Sanitation may collect verifiable evidence, including any photographs or video recordings, that may be used to support the finding of a violation of Section 7-28-390 or Section 7-28-440 and shall transmit any records, verifiable evidence, or both to the appropriate section of the Department of Police responsible for the impoundment and towing of motor vehicles.

(c) The report referenced in subsection (b) shall also include the date, approximate time, and approximate location of the alleged violation of Section 7-28-390 or Section 7-28-440. If possible it shall also include the motor vehicle make and color and the issuing state and number of the license plate of the motor vehicle.

(d) The Department of Police shall send a notice of intent to impound the motor vehicle described in the report to the owner of record of the motor vehicle. The notice shall be sent by first class mail to the address of the owner of record as indicated in state registration records. The notice shall include the following: a statement that the operator of the motor vehicle was observed using the motor vehicle in a violation of Section 7-28-390 or Section 7-28-440; the date, approximate time and approximate location of the event, the description of the motor vehicle as contained in the report; and notice of an opportunity to contest eligibility for impoundment. A copy of the notice shall be forwarded to the Department of Administrative Hearings. A notice is presumed delivered upon being deposited with the United States Postal Service with proper postage affixed.

(e) An owner of record who receives a notice pursuant to subsection (d) of this section may contest eligibility for impoundment by written request delivered to the Department of Administrative Hearings, postmarked within 14 days after the delivery of the notice. The Department of Administrative Hearings shall set a date for a hearing on the eligibility of the motor vehicle for impoundment, and shall notify the owner of the date, time and place of the hearing. The hearing date must be no more than 30 days after a request for a hearing has been filed. At the hearing, the report shall be considered prima facie correct. In order to disprove the motor vehicle's eligibility for impoundment, the owner of record must prove that (1) at the time and date of the alleged violation as described in the report, the described motor vehicle was not operated within the City of Chicago; or (2) at the time and date of the alleged violation, the motor vehicle had been reported stolen; (3) the license information described in the report does not match the listed make of the described motor vehicle. If the owner of record prevails, the notice of intent to impound the owner's motor vehicle shall be withdrawn and the motor vehicle shall not be eligible for impoundment under this section.

(f) If a motor vehicle owner receives a notice pursuant to subsection (d) of this section and (1) fails to contest eligibility under subsection (e) of this section or (2) does not prevail in the contest of eligibility, the motor vehicle described in the notice shall be eligible for

impoundment if found on the public way within 12 months following the conclusion of the contest, if a contest was requested, or following the last date to request a contest, if none was requested. Provided, however, if the owner of the motor vehicle that is eligible for impoundment under this subsection pays the administrative penalty provided in subsection (g) any time before such motor vehicle is impounded, the motor vehicle shall not be eligible for impoundment.

(g) The owner of a motor vehicle eligible for impoundment under this section shall be subject to an administrative penalty of \$2,000. If such motor vehicle is impounded, the owner of the motor vehicle shall be subject to the administrative penalty plus the applicable cost of towing and storage of the motor vehicle under Section 9-92-080.

SECTION 3. Section 2-14-132 of the Municipal Code of Chicago is hereby amended by adding the language underscored as follows:

2-14-132 Impoundment.

(a) (1) Whenever the owner of a vehicle seized and impounded pursuant to Sections 3-46-076, 4-68-195, 4-227-140, 4-227-150, 9-76-140, 9-80-220, 9-112-640 or 9-114-420 of this Code (for purposes of this section, the "status-related offense sections"), or Sections 4-227-080, 7-24-225, 7-24-226, 7-28-390, 7-28-440, 7-38-115(c-5), 8-8-060, 8-20-070, 9-12-090, 9-12-095, 9-12-100, 9-12-105, 9-12-110, 9-32-040, 9-48-050, 9-76-160, 9-80-225, 9-80-240, 9-92-035, 9-92-036, 11-4-1410, 11-4-1500 or 15-20-270 of this Code (for purposes of this section, the "use-related offense sections") requests a preliminary hearing in person and in writing at the Department of Administrative Hearings, within 15 days after the vehicle is seized and impounded, an administrative law officer of the Department of Administrative Hearings shall conduct such preliminary hearing within 48 hours of request, excluding Saturdays, Sundays and legal holidays, unless the vehicle was seized and impounded pursuant to Section 7-24-225 and the Department of Police determines that it must retain custody of the vehicle under the applicable state or federal forfeiture law. If, after the hearing, the administrative law officer determines that there is probable cause to believe that the vehicle was used in a violation of this Code for which seizure and impoundment applies, or, if the impoundment is pursuant to Section 4-227-150, 9-92-035, 9-92-036, 9-12-095 or 9-12-105, that the subject vehicle is eligible for impoundment under that section, the administrative law officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle pays to the City the amount of the administrative penalty prescribed for the code violation plus fees for towing and storing the vehicle.

(Omitted text is unaffected by this ordinance)

(3) If the administrative law officer determines there is no such probable cause, or, if the impoundment is pursuant to Section 4-227-150, 9-92-035, 9-92-036, 9-12-095 or 9-12-105, that the subject vehicle has previously been determined not to be eligible for impoundment under that section, the vehicle will be returned without penalty or other fees.

(b) (1) (A) Within ten days after a vehicle is seized and impounded the Department of Streets and Sanitation or other appropriate department shall notify by certified mail the owner of record (other than a lessee who does not hold title to the vehicle), the person who was found to be in control of the vehicle at the time of the alleged violation, and any lienholder of record, of the owner's right to request a hearing before the Department of Administrative Hearings to challenge whether a violation of this Code for which seizure and impoundment applies has occurred or, if the impoundment is pursuant to Section 4-227-150, 9-92-035, 9-92-036, 9-12-095 or 9-12-105, whether the subject vehicle is eligible for impoundment

under that section. In the case where an owner of record is a lessee who does not hold title to the vehicle, the notice shall be mailed to such lessee within ten days after the Department of Streets and Sanitation or other appropriate department receives a copy or other satisfactory evidence of the vehicle lease or rental agreement, indicating the name, address, and driver's license number of the lessee pursuant to subsection (i). However, no such notice need be sent to the owner of record if the owner is personally served with the notice within ten days after the vehicle is seized and impounded, and the owner acknowledges receipt of the notice in writing. A copy of the notice shall be forwarded to the Department of Administrative Hearings. The notice shall state the penalties that may be imposed if no hearing is requested, including that a vehicle not released by payment of the penalty and fees and remaining in the City pound may be sold or disposed of by the City in accordance with applicable law.

(Omitted text is unaffected by this ordinance)

(2) The owner of record seeking a hearing must file a written request for a hearing with the Department of Administrative Hearings no later than 15 days after notice was mailed or otherwise given under this subsection. The hearing date must be no more than 30 days after a request for a hearing has been filed.

(3) (A) If, after the hearing, the administrative law officer determines by a preponderance of the evidence that the vehicle was used in the violation, or, if the impoundment is pursuant to Section 4-227-150, 9-92-035, 9-92-036, 9-12-095 or 9-12-105, that the subject vehicle was properly impounded under that section, the administrative law officer shall enter an order finding the owner of record liable to the City for the amount of the administrative penalty prescribed for the violation, plus towing and storage fees.

(B) If, after a hearing, the administrative law officer does not determine by a preponderance of the evidence that the vehicle was used in such a violation, or, if the impoundment is pursuant to Section 4-227-150, 9-92-035, 9-92-036, 9-12-095 or 9-12-105, that the subject vehicle was not eligible for impoundment under that section, the administrative law officer shall enter an order finding for the owner and for the return of the vehicle or previously paid penalty and fees; provided that if the vehicle was seized and impounded pursuant to Section 7-24-225, the vehicle shall not be returned unless and until the City receives notice from the appropriate state, or where applicable, federal officials that (i) forfeiture proceedings will not be instituted; or (ii) forfeiture proceedings have concluded and there is a settlement or a court order providing that the vehicle shall be returned to the owner of record.

(Omitted text is unaffected by this ordinance)

SECTION 4 This ordinance shall be in full force and effect 10 days following passage and publication.