

Chapter 35

TOWING

Current as of 12-31-14

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35.01 DEFINITIONS.

For the purpose of this Chapter 35, the following words shall have the meanings hereinafter assigned to them.

“GoJak” means a combination jack/dolly which enables the lifting and moving of a locked, blocked or disabled vehicle into hook-up alignment with a tow truck or car carrier.

"Relocator" means any person, firm, corporation or entity engaged in the business of removing trespassing vehicles from private property to impound area by towing or other means.

"Impound Lot" means any real property owned by or in the lawful possession or control of the relocator for which will be properly used in accordance with the zoning laws of the City of DeKalb for the relocation to and storage of trespassing vehicles removed from private property.

“Police Chief” shall mean the Chief of Police of the City of DeKalb Police Department, or his authorized designee.

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"Property owner" means any person owning or in lawful control or possession of a property or his authorized agent.

"Tow Vehicle" means any truck permanently equipped with booms, towbars, winches, dollies or similar equipment maintained and designed for the recovery and transportation of vehicles, which adhere to the specifications for tow trucks enumerated in Illinois Revised Statutes, Chapter 95-1/2, Section 12-606.

35.02 COMPLIANCE WITH APPLICABLE LAWS.

It shall be unlawful to operate any Tow Vehicle in violation of any applicable law, rule or regulation, including but not limited to the Illinois Commercial Safety Towing Law, 625 ILCS 5/18d-101, etc. seq. The Commercial Safety Towing Law is hereby adopted by reference, as if set forth fully herein, and a violation thereof shall also be a violation of City ordinance, punishable by fine.

35.03 INTERFERENCE WITH LAWFUL TOWING ACTIVITIES.

It shall be unlawful to interfere with any towing company engaged in lawful towing activities, within the City of DeKalb, or to engage in disorderly conduct or other unlawful behavior in an attempt to prevent the towing of a vehicle that is eligible for towing.

It shall further be unlawful to improperly stop payment or attempt to reverse charges on any form of payment provided to a towing company which has lawfully towed a vehicle. A violation of this Section 35.03 is punishable by a fine of not less than Two Hundred and Fifty Dollars (\$250), unless the violation is interfering with lawful towing activities initiated by the City of DeKalb (i.e. City ordered towing or towing from public property), in which case the minimum fine shall be Five Hundred Dollars (\$500).

35.04 CITY OF DEKALB TOW ROTATION.

a) Tow Rotation Authorized: Pursuant to the provisions of this Section 35.04, the Chief of Police is and shall be authorized to maintain a tow rotation list for towing services to be utilized by the Police Department and other City departments, when it is necessary to tow any vehicle within the City of DeKalb or within the jurisdictional area covered by the Police Department or any other City department.

b) Qualifications for Inclusion on Tow Rotation List: Any towing company which operates towing services within the City of DeKalb may submit an application for inclusion on the City of DeKalb Tow Rotation List on a form prescribed by the Chief of Police, for review and consideration by the Police Chief. Should the Police Chief deny an applicant for inclusion on the Tow Rotation, such applicant may submit the Police Chief's decision for review by the City Council, by requesting the same within thirty days of the issuance of the Police Chief's written notice of denial. Any such applicant shall be required to comply with the following requirements:

1. Insurance: All parties listed on the tow rotation shall be required to maintain the following insurance:

(a) Comprehensive Automobile Liability Insurance with minimum coverage limits of \$1,000,000 per occurrence, naming the City of DeKalb as additional primary insured.

(b) Comprehensive General Liability Insurance with minimum coverage limits of \$1,000,000 per

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occurrence, naming the City of DeKalb as additional primary insured.

(c) Worker's Compensation and other statutorily required forms of insurance, with no less than minimum coverage limits as required by law.

(d) Premises liability or other acceptable form of insurance coverage to cover any vehicles, or the contents thereof, that are towed by the party in question for the period of time between when the tow vehicle takes custody until the vehicle is released to the owner or otherwise disposed of (i.e. while vehicle is being towed or stored), with minimum coverage limits of \$500,000 per occurrence, naming the City of DeKalb as additional primary insured.

(e) The coverages contemplated by sections (a), (b) and (d) may be obtained either through primary coverage, or through a combination of primary coverage and umbrella insurance policies, provided that the minimum coverage limits are satisfied.

(f) A certificate of insurance evidencing compliance with these requirements shall be provided to the City prior to the time at which the party is approved for the tow rotation list.

2. **Equipment:** Any applicant must provide a list of the equipment proposed to be utilized for services rendered to the City, including the make, model and year of chassis/truck, the towing capacity (in both weight capacity and type of vehicle which may be towed), a description of the type of tow vehicle (bumper lift, rollback, etc.), a description of the lighting and safety equipment utilized, a copy of the most recent safety-test passing result, and the location at which such vehicle is stored. Applicants must be able to tow a wide variety of vehicles to be considered for inclusion on the tow rotation list. Equipment must be modern, reliable, and equipped to safely handle towing services for the City.

3. **Secure Lot:** Any applicant must provide a description and picture of the location of their secure parking lot, to be used for short-term vehicle storage after a vehicle is towed. Such lot must be equipped with adequate security features (fences, cameras, and other similar equipment), and must be in a location within the City of DeKalb.

4. **Indoor Storage:** From time to time, the Police Department may request locked, indoor storage for towed vehicles. The applicant must provide a description and picture of the indoor storage area that it proposes to use, with capacity for at least 3 vehicles, in a location within the corporate limits of the City.

5. **Response Times:** Any applicant must certify that, based upon the location of their equipment as stored, the applicant will be able to respond to any location within the City of DeKalb within thirty (30) minutes of being dispatched.

6. **Communications Equipment:** Any applicant must provide a description of at least two methods of communication (e.g. 2-way radio and cellular telephone) that may be utilized for communicating between the towing company and its tow vehicles. Applicant must also provide at least one phone number which is monitored 24 hours per day, 365 days per year by a live person, dispatching tow vehicles for applicant.

7. **Compliance with Laws / Safe Operational Practices:** Any applicant shall certify that their vehicles shall be operated in compliance with all applicable laws, and in a safe and reasonable fashion designed to minimize the potential risk of harm to the public or to public or private property, by persons having adequate skill and training to operate the equipment provided. Any company selected for inclusion on the tow rotation list shall operate solely as an independent contractor, fully responsible for the safe operation

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of and liability for their tow vehicle and conduct. Applicants shall also be required to operate their companies in compliance with all applicable laws, including but not limited to laws prohibiting discrimination and the Illinois Drug Free Workplace Act. Applicants shall be required to complete a certification provided by the Chief of Police, certifying compliance with applicable regulations.

8. Commercial Driver's Licenses: Applicants must certify that all of the persons who may respond to a City request for towing possess valid, current, Illinois commercial driver's licenses with all certifications required for operation of the tow vehicle utilized.

9. Experience: Applicants must demonstrate their years of experience towing or engaging in commercial vehicle towing, and must list any commendations or complaints/citations/moving or equipment violations received within the past five years.

10. Additional Qualifications: Applicants must also demonstrate compliance with any additional qualifications required by the Chief of Police.

11. Certification of Required Services: Applicants must certify that they shall be responsible for cleaning up fluids, broken glass or plastic, vehicle parts, or other debris or substances left on the roadway from a vehicle that they are requested to tow.

12. Registered Sex Offenders: Applicants must certify that they shall not permit registered sex offenders, as defined under Illinois law, to operate tow vehicles for any tow initiated through the City's tow rotation.

c) Dispatch of Tow Services: Any time that any City personnel require the assistance of a towing service, said personnel shall contact the City's emergency dispatch services. The City's emergency dispatch services shall maintain a current list of all approved towing services for the tow rotation, and shall contact the towing services in the order listed on the rotation (e.g. if towing services A, B and C are listed on the rotation, the first tow shall go to A, the second tow shall go to B, the third tow shall go to C, and the fourth tow shall go to A). In the event an approved towing service is not available or does not have adequate equipment for the nature of the vehicle to be towed, dispatch shall contact the next listed towing company on the tow rotation. The Police Department may elect to use an order other than the tow rotation list from time to time, based upon operational needs; inclusion on the tow rotation list is not a guarantee that a towing service shall be utilized in the order contemplated therein.

d) Update of Documentation: Companies listed on the tow rotation shall, on a schedule established by the Police Chief, provide updated documentation to demonstrate compliance with the qualifications contemplated by subsection (b) above (i.e. updated equipment lists, safety test results, insurance certificates, etc.).

e) Review of Tow Rotation: The Police Chief shall review the tow rotation on a periodic basis. The Police Chief may suspend or remove any company from the tow rotation in his sole and absolute discretion, based upon the performance of the company, compliance with the Qualifications contemplated in subsection (b) hereof, or other factors he deems appropriate. Any such removal may be appealed to the City Council by submitting a written request for the same within thirty (30) days of the issuance of the Police Chief's notice of suspension or removal. Inclusion on the tow rotation list is not a property right and there is no expectation of continuing service generated by inclusion on the list; the City reserves the right to suspend or remove a towing service from the tow rotation at any time, for any reason.

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f) **Fee for Towing Services:** The Police Chief shall be authorized to review and approve a standard fee list for all towing services to be provided by any company listed on the City of DeKalb Tow Rotation; all companies listed shall adhere to the standard fee list. In addition, the Police Chief may update such list from time to time, and shall provide not less than thirty (30) days written notice to participants on the tow list of any such modification.

g) **Supplemental Tow Rotation Lists:** The Police Chief may, in his discretion, establish separate tow rotation lists for tow companies that provide specialized services (e.g. the ability to tow heavy vehicles, rollback services, etc.).

h) **Additional Terms for Tow Rotation Participants:** Applying for inclusion on the City's tow rotation list constitutes acceptance of the following terms:

1. The tow company shall be responsible to the City for the payment of all City fines and charges collected on behalf of the City and shall be responsible to the City for any costs or expenses incurred, or fines and penalties lost, as a result of the improper release of a vehicle from impoundment.

2. The tow company shall keep a record of all charges associated with the towing of any vehicle ordered to be towed by the City, along with a written log of signatures for any vehicle reclaimed by the owner, and shall provide the City with access to said record upon request by the City.

3. The tow company acknowledges that, in the event the City advises the tow company that a vehicle was erroneously ordered to be towed, said vehicle shall be released immediately, without charge to the owner or the City.

4. Prior to the release of any vehicle, the tow company shall contact the City for confirmation of fines, penalties or fees due. The tow company shall be responsible for calculation of its own towing and storage fees, in accordance with the then-current schedule.

35.05 Orders for Towing and Impounding of Vehicles by City:

a) The provisions of this Section 35.05 shall authorize the towing and impounding of vehicles, within the City of DeKalb. This Section shall not impair the authority provided under any other applicable City Ordinance or Regulation, but rather shall be read to provide additional authority to authorized City employees, to have vehicles towed and impounded.

b) **Towing and Impounding Authorized:** City of DeKalb Police Officers, Code Enforcement Officers and their authorized designees shall be authorized to have a vehicle towed and impounded as authorized under any other applicable City Ordinance or Regulation, and also under the following conditions:

1. A vehicle is involved in a traffic stop or is otherwise stopped during or as a component of the investigation of a potential traffic or criminal violation, which investigation results in the arrest of the driver of the vehicle.

2. A vehicle is illegally parked upon or is illegally trespassing upon property owned by the City of DeKalb, other than a roadway or public right of way.

3. A vehicle is reasonably believed to have been the scene of a crime or is reasonably believed to have or contain evidence of a crime or other unlawful activity.

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4. A vehicle is subject to being seized or towed under any applicable federal, state or local ordinance, statute, code or regulation, including but not limited to vehicles eligible for towing under:

65 ILCS 5/11-1302;
625 ILCS 5/11-208.7;
725 ILCS 150/1;
720 ILCS 5/36-1;
625 ILCS 5/4-203.

5. A vehicle is subject to being towed and impounded based upon the accrual of a sufficient number of parking tickets, and issuance of appropriate notices, under applicable City Ordinance.

6. A vehicle is parked in a location that presents an immediate and unwarranted threat to public health, welfare or safety, including but not limited to:

- (a) Vehicles parked in front of fire hydrants, fire doors, fire lanes, or other similar locations.
- (b) Vehicles parked in a location so as to block ingress or egress from any City Fire Department, Police Department or Public Works Department building or parking lot.
- (c) Vehicles parked in a location so as to block ingress or egress from any runway access drive or emergency access drive at DeKalb Taylor Municipal Airport.
- (d) Vehicles parked in a location so as to block ingress or egress from any hospital, urgent care center or other emergency medical facility.
- (e) Vehicles parked within a roadway (other than within a designated parking zone).
- (f) Vehicles on or in dangerously close proximity to railroad tracks.
- (g) Vehicles that are on or in close proximity to a public right of way, that have become immobilized due to mechanical difficulty, weather conditions, or for any other cause.
- (h) Vehicles in such other location that is determined, by the City agent or employee ordering the towing, to be unsafe or unlawful, in their absolute and sole discretion.

7. A vehicle is illegally parked on private property for which the City has a valid traffic enforcement agreement that permits towing without property owner notification or consent, or is illegally parked on private property and the property owner consents to the tow.

c) Towing Not Required: In the event that a vehicle is eligible to be towed under 35.05 1., above, and the City officer or agent involved determines that the vehicle does not require towing (e.g. a vehicle involved in a traffic stop resulting in the driver being arrested, where the vehicle is either lawfully parked or capable of being lawfully driven by another, properly licensed occupant in the vehicle), the City officer or agent may elect to not have the vehicle towed or impounded, or may elect to have the vehicle towed and impounded, in his or her absolute and sole discretion.

d) Warrant or Other Authority: In the event a City of DeKalb Police Officer believes that a vehicle

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contains evidence of a crime or other unlawful activity but the officer lacks legal authority to seize the vehicle and have it towed, the Officer shall be authorized to promptly seek and secure a search warrant or other similar authority to authorize the seizure, towing and/or search of the vehicle.

e) Towing and Impoundment: Any City agent or employee authorized to order the towing of a vehicle under this Section shall utilize the tow rotation procedures contemplated by this Chapter 35. Any vehicle towed or impounded under this Section shall be retained by the party towing the vehicle until: a) all outstanding fines, penalties, fees, interest, or other charges whatsoever have been paid to the City and the party towing the vehicle, in full; b) the vehicle is ordered to be released from impound by the City of DeKalb Administrative Hearing Officer; c) the vehicle is ordered to be released from impound by a Court having jurisdiction over the matter; or, d) the vehicle is ordered to be released from impound by the City Manager, Assistant City Manager, Police Chief, or their designee. Any time a vehicle is towed, the City may require that such vehicle be towed to the City of DeKalb Police Station, City Impound lot, or another location within the corporate limits of the City. Any company towing a vehicle, where the tow is initiated by the City and/or where a vehicle is seized by the City, shall comply with the City's requirements and shall deposit the vehicle where instructed, at no additional charge. The owner of the vehicle shall still remain liable for any costs incurred in towing. Companies on the Tow Rotation shall comply with the Immediate Release and 24 hour release provisions applicable to Commercial Relocators under City Code Section 35.09(m) (or any successor or similar provision). The Chief of Police shall be authorized to set storage fees for any vehicle retained at the City impound lot, provided that such fees shall only be assessed after a vehicle is available for pickup by the owner of said vehicle (i.e. no longer needed for evidentiary purposes). The owner of said vehicle shall be responsible for payment of all towing and storage charges prior to release of the vehicle. In the event that the City no longer requires a vehicle at the impound lot, the Chief of Police may authorize removal of the vehicle from the City's impound lot and transferal to a towing company's storage lot.

f) Towing Policy: The Chief of Police is and shall be authorized to approve changes, amendments or modifications to the City's official Towing Policy from time to time, without requiring approval of the City Council or amendment of this Ordinance, and shall maintain a current copy of the Towing Policy at the Police Department office, for public inspection. Use of a "Denver Boot" or other vehicle immobilization device, and use of towing and impoundment of vehicles is and shall be authorized in accordance with the requirements of the then-current Towing Policy. The City presently maintains a system for Administrative adjudication of violations of traffic regulations regarding the stopping, standing or parking of vehicles, and pursuant to the City's authority, the City approves the Towing Policy's provisions on booting/immobilizing/towing/impounding of vehicles, and delegates to the Police Chief the authority to modify or amend that Towing Policy, including but not limited to the number of citations required to trigger booting/immobilization/towing/impound of vehicles.

g) Presumption of Ownership: In the case of any parking citation or handicapped parking violation issued by or on behalf of the City, regardless of whether such citation is issued in the form of a mail-in citation, or whether such citation is prosecuted through the City's Administrative Hearings or through the Circuit Court, the provisions of this subsection (g) shall apply. As the City's parking citations are civil in nature, the City exercises its home rule authority to determine the liability of owners for the parking of vehicles registered in their name, within the Corporate Limits of the City of DeKalb.

1. Citation issued to occupied vehicle: In the case of any citation issued to a vehicle which is occupied or claimed by a driver at the time of issuance of the citation, the citation shall be issued and prosecuted in the name of the driver or person claiming responsibility.

2. Citation issued to unoccupied vehicle: In the case of any citation issued to a vehicle which is

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unoccupied and unclaimed by a driver at the time of issuance, the citation shall be issued to the registered owner of the vehicle.

(a) In all such cases, there shall be a rebuttable presumption that the registered owner of the vehicle is the party responsible and liable for the vehicle's parking, violation of City or State code or ordinance, and resulting fines, penalties and other liabilities.

(b) For any parking citation issued to the owner of an unoccupied vehicle, the City may accept payment for such citation from any party or person.

(c) For any parking citation issued to an unoccupied vehicle, the only party that shall be authorized or entitled to contest the parking citation and/or to request an Administrative Hearing on such citation is the registered owner to whom such vehicle is registered.

i. In the event that the registered owner contests such a citation on the basis that a driver or person other than the registered owner was operating the vehicle and/or parked the vehicle unlawfully, the registered owner shall nonetheless be liable for the parking, violation of City or State code or ordinance, and resulting fines, penalties and other liabilities unless:

(A) The registered owner produces a police report and other documentation acceptable to the party reviewing the citation, demonstrating that at the time the citation was issued, the vehicle had been reported stolen; or,

(B) The registered owner produces documentary or testimonial evidence demonstrating that at the time the citation was issued, an individual, discrete, expressly named person identified by the registered owner had actual custody of the vehicle and had personally parked the vehicle and incurred the parking citation.

ii. It shall not be a defense to a citation issued to the registered owner of an unoccupied vehicle that such vehicle was leased, rented, loaned or otherwise utilized by a third party, in the absence of proof that the vehicle was under such person's actual direct operation at the time that the citation was issued, as required under subsection (g)(2)(c)(i)(B), above.

35.06 VEHICLE IMPOUNDMENT OR IMMOBILATION: MULTIPLE PARKING TICKETS:

a) Authorization to Impound, Immobilize or Tow Motor Vehicle. Any motor vehicle, the registered owner of which has been determined to be liable for ten (10) or more vehicular standing or parking regulation violations, for which the fines, penalties and costs assessed remain unpaid, may be immobilized or towed and impounded if:

1. The Ordinance Enforcement Administrator has determined that a person is liable for ten (10) or more violations, for which the fines, penalties and costs remain unpaid.

2. The person determined to be liable for ten (10) or more violations is the registered owner of a motor vehicle located within the City's geographical boundaries.

3. A Seizure Notice has been sent, via first class mail, to the registered owner of the motor vehicle located within the geographic boundaries of the City at the address registered with the Secretary of State,

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which contains, but shall not be limited to the following:

(a) That a final determination has been made on ten (10) or more violations, for which the fines, penalties and costs remain unpaid;

(b) A listing of the violations for which the person has been determined to be liable, which shall include for each violation:

- i. the ticket number;
- ii. date of issuance of the ticket; and
- iii. total amount of fines, penalties and costs assessed;

(c) That the motor vehicle owned by the person and located within the geographic boundaries of the City is subject to immobilization and/or towing and impoundment if the fines, penalties and costs are not paid within fifteen (15) days of the date of the Seizure Notice;

(d) Date of impending immobilization;

(e) Date of impending towing and impoundment; and

(f) That the registered owner may contest the validity of the Seizure Notice by filing a written request for a hearing with the Ordinance Enforcement Administrator, or his/her designee, within fifteen (15) days of the date of the Seizure Notice and submitting such evidence which would conclusively disprove liability, such as, but not limited to, the following:

i. That the registered owner was not the driver, owner or lessee of the vehicle, or otherwise responsible for the vehicle on the date or dates the notices of violation were issued; or

ii. That the fines, penalties and costs for the violations cited in the notice have been paid in full; or

iii. That the registered owner has not accumulated ten (10) or more violations which are unpaid or not adjudicated.

4. The registered owner to whom a Seizure Notice has been sent has failed to make payment of the fines, penalties and costs as specified in the Seizure Notice and has failed to request a hearing to contest the validity of the Seizure Notice.

b) Request for Hearing in Cases of Immobilization, Impoundment and Towing of Motor Vehicle. Upon the receipt of a request for hearing to contest the validity of immobilization or towing and impoundment, the Ordinance Enforcement Administrator, or his/her designee, shall schedule an administrative hearing to contest the validity of the immobilization or towing and impoundment on the next scheduled hearing date, but in no case, shall the hearing be scheduled later than thirty (30) days after the request for hearing is filed. Notice of the hearing date shall be served upon the registered owner by first class mail, postage prepaid, to the address set forth on the request for hearing. Service of the notice of hearing shall be complete on the date it is placed in the United States mail.

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c) Notice Affixed to Vehicle in Cases of Immobilization. Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous place. Such notice shall warn that the vehicle is immobilized and that any attempt to move the vehicle may result in damage. The notice shall also state that the unauthorized removal of or damage to the immobilizing restraint is a violation of Sections 16-1 and 21-1 of the Illinois Criminal Code. The notice shall also provide the following information, specifying that a release of the immobilizing restraint may be had by:

1. Paying all the fines, penalties and costs, if any, due on the outstanding violations for which notice has been sent prior to the date of immobilization; or

2. Submitting a written request for hearing, as set forth in Sections a) and b) above, on all outstanding violations for which notice has been sent prior to the date of the immobilization and making a deposit with the City in the amount of Fifty Per Cent (50%) of the total fines, penalties and costs, if any, for these outstanding violations, or \$500.00, whichever is less.

d) Towing of Immobilized Vehicle. Except where the vehicle is otherwise subject to towing, if the immobilization restraint has not been released as hereinabove provided, within seventy-two (72) hours of its placement, the vehicle may be towed and impounded.

e) Post-Impoundment Notice. Within ten (10) days after a vehicle has been impounded, notice of impoundment shall be sent by certified mail, return receipt requested, to the registered owner of the vehicle, at the last address reflected in the records of the Secretary of State. The notice shall state that the owner has the right to a post-immobilization and post-towing hearing as provided in Section 35.06 f) and that if the vehicle is not claimed within thirty (30) days from the date of the notice, the vehicle may be sold or otherwise disposed of in accordance with the Illinois Vehicle Code.

f) Hearing in Cases of Vehicle Impoundment. The owner of an impounded vehicle shall have the right to a hearing to determine whether the immobilization or any subsequent towing and impoundment were erroneous or whether the vehicle was properly included on an immobilization list, if the owner files a written demand for a hearing with the Ordinance Enforcement Administrator or his/her designee within fourteen (14) days after issuance of the notice specified in 35.06 e), or within fourteen (14) days of immobilization, whichever is later. A hearing shall be conducted on any business day within forty-eight (48) hours of receipt of a written demand for hearing, unless otherwise mutually agreed by the parties. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of such failure, any amount deposited pursuant to this Section 35.06 shall be forfeited to the City, and shall not apply towards accrued fines or penalties. A hearing provided by this Section shall not determine the validity of or otherwise adjudicate any citation or notice of violation issued relative to the immobilized vehicle or the violator, but shall only relate to whether the vehicle was properly immobilized or towed, by determining whether the owner previously submitted evidence required by this Section 35.06.

g) Fines and Fees for Immobilization and Impoundment. The fine for immobilization of a vehicle shall be One Hundred Fifty Dollars (\$150.00) and the fine for impoundment and towing shall be an additional Two Hundred Dollars (\$200.00). The owner of the vehicle shall also be charged reasonable storage and towing costs, provided that no costs shall be assessed for any immobilization or tow which has been determined to be erroneous. All fines, penalties and costs must be paid in full before the vehicle will be released to the owner.

h) For vehicles with fewer than ten parking tickets, the Chief of Police may create a policy allowing for their towing or immobilization, consistent with any applicable state law, provided that there exists a hearing process similar to the one contemplated in this Section 35.06 for the purpose of permitting a person whose car

has been immobilized or towed to have the opportunity to contest the validity or appropriateness of the immobilization, towing or impoundment.

35.07 VEHICLE IMPOUNDMENT OR IMMOBILATION: TOW FOR SPECIFIED VIOLATIONS:

a) Tow for Specified Violations. Pursuant to the City's Home Rule Authority and in addition to the foregoing authority, the City may order the towing of any vehicle where a police officer has probable cause to believe that a vehicle has allegedly been involved in or been present for any offense enumerated in the then-current version of 625 ILCS 5/11-208.7 (or any successor statute). At the time of approval of this Ordinance, the list of eligible offenses includes: (2014-40)

1. Operation or use of a motor vehicle in the commission of, or the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to 720 ILCS 36-1;
2. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of 625 ILCS 5/11-501;
3. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Cannabis Control Act;
4. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act;
5. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Section 24-1 (Unlawful Use of Weapons), 24-1.5 (Reckless Discharge of a Firearm), or 24-3.1 (Unlawful Possession of Firearms/Ammunition) of the Criminal Code of 1961;
6. Driving while a driver's license, permit or privilege is suspended or revoked pursuant to 625 ILCS 5/6-303 (unless suspended for an unpaid parking or moving violation or failure to emissions test);
7. Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act;
8. Operation or use of a motor vehicle with an expired driver's license, in violation of 625 ILCS 5/6-101, provided that said license is one year or more past expiration;
9. Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of 625 ILCS 5/6-101, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age;
10. Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated 625 ILCS 5/6-101 (license or permit), 5/6-303 (driving while license suspended or revoked) or 5/11-501 (driving under the influence);
11. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Illinois Criminal Code of 1961; or,

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12. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Illinois Criminal Code of 1961.

b) Procedures for Impoundment: (13-06)

1. Notice at time of Impoundment: When an officer has cause to believe that a vehicle is subject to impoundment under this Section 35.07, the officer shall utilize the process for dispatching a tow vehicle under the City's tow rotation list, as provided in this Chapter 35. At such time, the officer shall notify or make a reasonable attempt to notify the owner, lessee or person identifying himself or herself as the owner or lessee, or any person found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing as provided below. The officer shall also notify the person in control that the vehicle shall remain impounded pending completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the City a bond of \$500.00, and pays for all towing and storage charges.

2. Written Notice: After impounding a vehicle under this Section 35.07, the City shall issue a written notice to the owner, lessee and any lienholders of record by personal service or by first class mail to such parties at the address registered with the Illinois Secretary of State. Said notice shall be mailed to such parties within forty-five (45) days after the date of impound, and shall contain the date, time and location of an administrative hearing, which hearing shall be convened within ninety (90) days of the date of mailing the notice.

At the time of posting the above-required bond, the party posting the bond shall have the option of either proceeding with a hearing (and potentially being subject to the imposition of costs for such hearing, if the City prevails at such hearing), or of waiving the right to a hearing and avoiding the potential for such costs. The City shall provide a form for the party posting the bond to execute, to indicate accordingly. In the event that the party posting the bond waives hearing, the bond shall be forfeit to the City automatically, without hearing.

3. Administrative Hearing: An administrative hearing shall be conducted by a hearing officer qualified under 625 ILCS 5/11-208.7(g), and the decision of the hearing officer shall be subject to review under the Administrative Review Law. If the impoundment is upheld by the hearing officer, the administrative fee shall be due and payable (or if previously posted to secure the release of the vehicle, shall be forfeited). If the impoundment is overturned by the hearing officer, the administrative fee shall not be payable. The hearing officer shall issue a written decision at the conclusion of the administrative hearing. Any fine, penalty or administrative fee approved by the hearing officer which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review of the decision may be enforced in the same manner as a judgment entered in a court of competent jurisdiction. Said hearing shall not be subject to formal or technical rules of evidence, but shall be recorded and the hearing officer shall be empowered to administer oaths and to secure by subpoena both testimony of witnesses and production of books and papers. The burden of proof at such hearing shall be a preponderance of the evidence. If the City submits a signed complaint for a violation that renders a vehicle eligible for impoundment under this Section 35.07 or order for impoundment of a vehicle under this section, the City shall be deemed to have satisfied its prima facie case for impoundment, and said prima facie case may only be overcome by clear and convincing evidence.

c) Fee: Any vehicle towed under this Section 35.07 shall be subject to payment of all applicable towing charges, fees and fines otherwise imposed under applicable Illinois law or City Ordinance, and shall also be subject to the payment of an administrative fee of \$500.00. Upon payment of the administrative fee and all other applicable charges to the tow company in possession of a vehicle, the vehicle shall be released to the

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owner of record, lessee or a lienholder of record upon payment of all administrative fees and towing and storage fees. Said administrative fee shall be paid directly to the City, prior to the time at which the party responsible for said vehicle claims said vehicle from the towing company.

d) **Unclaimed Vehicles:** Any vehicle which is not retrieved, with full payment of fines, costs and the administrative fee, within 35 days after an administrative hearing officer issues a written decision shall be deemed abandoned (unless an action for administrative review has been filed in the Circuit Court). Said vehicles may then be disposed of pursuant to the provisions of the City's Towing Policy for abandoned motor vehicles.

e) The eligible offenses as enumerated above are herein defined by the City of DeKalb to be public nuisances, meriting immediate abatement. The City Council hereby finds such nuisances to require immediate abatement to protect the public health, safety and welfare. Accordingly, the City may tow any vehicle allegedly involved in or present for the commission of one of the enumerated offenses, as a form of nuisance abatement. Any vehicle so towed shall be impounded and shall be subject to the payment of an administrative fee as contemplated above. Any vehicle impounded pursuant to this Ordinance shall be considered a "properly impounded vehicle" pursuant to 625 ILC 5/11-208.7. (2014-40)

f) **Presumption of Consent:** In any instance where the operator of a motor vehicle is not the owner of the motor vehicle, the owner of the motor vehicle shall be presumed to consent to the operator's use of the motor vehicle unless: a) the owner has previously reported the vehicle having been stolen or reports the vehicle stolen at the time of being notified of the vehicle having been impounded; or, b) the owner demonstrates, by a preponderance of the evidence that the vehicle was utilized without permission. Consent may be inferred based upon permitted past use of a motor vehicle, granting access to a vehicle or keys to a vehicle, the relationship between the owner or operator, the purpose for which the vehicle was being operated, the presence of the owner in the vehicle at the time it was being operated, or other similar facts or circumstances giving rise to a reasonable inference of consent. (2014-40)

35.08 ADDITIONAL BASIS FOR CITATION/TOWING: TEMPORARY PARKING RESTRICTIONS.

The Chief of Police, Fire Chief, and their designees shall be authorized to impose temporary parking restrictions (limited hours, limited types of vehicles, etc.) or parking prohibitions (no parking permitted) within the City, under the provisions of this Section 35.08.

a) **Duration of Restrictions:** Said temporary restrictions may be imposed for a period of no more than sixty days at a time.

b) **Method of Posting / Notice:** No such temporary parking restrictions shall be enforced until at least 48 hours have passed since the posting of temporary signs in the affected area, indicating the applicable restrictions. Said temporary signs shall be enforceable for the time that they remain posted. In the event of an emergency that requires less notice, the temporary restrictions may be imposed and enforced upon the provision of personal notice to any vehicles parked in the area of the temporary signs at the time of their posting, and the temporary signs shall indicate the time at which the temporary restrictions shall take effect.

c) **Enforcement:** Once 48 hours have passed after the posting of temporary signs, the temporary parking restrictions may be enforced in the same fashion as any other City parking restriction, and shall have the effect of City Ordinance. Because such temporary restrictions are intended to be utilized in circumstances where the City determines that parking presents a public safety threat, any vehicle parked in violation of the

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temporary parking restrictions shall be subject to a minimum fine of \$100, and shall be subject to immediate towing.

d) Removal or Tampering with Temporary Parking Restriction Signs: It shall unlawful to move, remove, alter or tamper with any temporary parking restriction signs posted by the City. Any such violation shall be subject to a fine of not less than Five Hundred Dollars (\$500).

35.09 UNLAWFUL PRACTICES – RELOCATOR.

It shall be unlawful for any commercial vehicle relocater:

- a) To operate in the City of DeKalb without first obtaining a license therein.
- b) To remove any vehicle from private property if the relocater knows, or should know, that the vehicle is parked in a space in which it is authorized to park.
- c) To deny the owner or operator of any relocated vehicle the opportunity to inspect the interior and exterior of such vehicle prior to the payment of fees for the release of such vehicle.
- d) To operate on the streets contained within the city limits of DeKalb any vehicle used in connection with any vehicle relocation service unless:
 - 1. There is painted or firmly affixed to such vehicle on both sides thereof in a color or colors vividly contrasting to the color of the vehicle the name, address and telephone number of the operator thereof. Said insignia to be painted or firmly affixed to such vehicles shall be easily legible.
 - 2. There is carried in the power unit of such vehicle a certified copy of the currently effective City Relocator license. Copies may be photographed, photocopied or reproduced or printed by any other legible and durable process.
 - 3. The tow vehicle is listed on the relocater's license application or as amended thereto and is properly equipped as specified in 35.09 1).
- e) To remove any vehicle from private property without having first obtained the written authorization of the property owner or other person in lawful control or possession of the property, his authorized agent, or any authorized law enforcement officer. Such authorization may be on a contractual basis covering a period of time or limited to a specific removal.
- f) To charge the private property owner, who requested that an unauthorized vehicle be removed from his property, with the costs of removing such vehicle contrary to any terms which may be a part of the contract between the property owner and the commercial relocater.
- g) To remove a vehicle when the owner or operator of such vehicle is present or arrives at the vehicle location at any time prior to the completion of removal, is willing and able to remove the vehicle immediately and is willing and able to pay a fee of Seventy-Five Dollars (\$75.00).

For purposes of this Section, the relocater shall only be entitled to a fee of Seventy-Five Dollars (\$75.00) after the tow vehicle has made physical contact with the vehicle and before the tow vehicle has removed the vehicle to the public street. The relocater may not charge any other fee in addition to the Seventy-Five Dollar

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(\$75.00) fee unless and until such vehicle is removed by the relocator to a public street. Before a tow vehicle has made physical contact with the vehicle, the relocator shall not be entitled to any fee from the vehicle owner or operator. After the vehicle is removed to a public street, the relocator shall be entitled to the full normal relocation rate.

For purposes of this Section, the relocator shall not be required to accept personal checks, but shall keep sufficient United States currency to make change for denominations up to Twenty (\$20.00) Dollars. It is within the discretion of the relocator to wait for the owner or operator of a vehicle to present proper payment of relocation fees if the owner or operator does not have sufficient payment on his person.

h) To fail to notify the City of DeKalb Police Department within one hour of the removal of a trespassing vehicle except that for vehicle relocations occurring between 9:00 p.m. and 2:00 a.m. on Friday and Saturday, the relocator may notify the Police Department by 3:00 a.m. rather than the normal one hour notification time period. Notification shall include a complete description of the vehicle, registration numbers if possible, the location from which and to which the vehicle was removed, and the time of removal.

i) To impose any charge for service or storage in excess of the maximum rates as set forth herein.

j) To remove any vehicle located within the corporate limits of the City of DeKalb, otherwise in accordance with this Chapter, to a location outside the corporate limits of the City of DeKalb.

k) To fail to make a telephone number available to the City of DeKalb Police Department, at which the relocator or an employee of the relocator may be contacted at any time, during the hours in which the relocator is engaged in the relocation of vehicles, the storage of relocated vehicles or is advertised as engaged in the relocation of vehicles, for the purpose of effectuating the release of a towed vehicle; or to fail to include such telephone number in any advertisement of the relocator's services published or otherwise appearing on or after the effective date of this Chapter.

l) To fail to notify the City of any change of the location or locations of the impound lot owned or in the lawful possession or control of the relocator at which the relocator will relocate and store any and all trespassing vehicles which he has removed from private property; or to relocate a trespassing vehicle to any place or property other than the place or property listed on the relocator's license application or amendment thereto as being the properly zoned impound lot at which the relocator will relocate and store any and all trespassing vehicles which he has removed from private property; or to relocate a trespassing vehicle to any place where such vehicle will be in violation of any statute or ordinance or other regulation; or to relocate a trespassing vehicle to any public street or public parking facility.

m) To deny the immediate release of a relocated vehicle to its owner or operator when said owner or operator is demanding the release and has proper payment of all charges for such relocated vehicle. Immediate release under this Section shall mean within three (3) hours of the time demand is made, provided that a lesser period of time may reasonably be expected if the relocator is open for business and/or on the premises at the time the demand is made. Immediate release shall be required 24 hours a day, 365 days a year.

n) To remove any vehicle from private property unless clearly visible written notice is provided in the form of a posted tow risk sign in accordance with the provisions of this Chapter.

o) To fail to provide and maintain a current listing with the Community Development Department of the addresses of all properties on which it has a contract with the owner(s) of such properties to perform

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commercial relocation services or to notify the Community Development Department of the addresses of any properties added to or removed from such listing.

p) To fail to accept a credit card for the payment of fees and charges under this Chapter if, the relocater accepts credit cards for payment of other services and if the payment is made at the business office of the relocater. The relocater shall be under no obligation to accept credit cards for payment of services under subsection g) of this Section.

q) To deny the owner or operator of any relocated vehicle the immediate release, upon demand of such owner or operator, of any personal property within such vehicle prior to the payment of all fees and charges for such relocation unless otherwise directed by the Police Department. For purposes of this Section, "personal property" shall not include any vehicle part, equipment, or installed audio system.

35.10 UNLAWFUL PRACTICE - PROPERTY OWNER.

It shall be unlawful for any property owner or his agent to relocate or authorize the relocation of any vehicle if it is legally parked in a space in which it is authorized to park. Property Owners are authorized to use any reasonable means to restrict the usage of parking on their property, including but not limited to designating specific parking spots for specific units or tenants, use of parking passes or stickers, prohibiting the parking of unlicensed or inoperable vehicles, establishing protocols for revoking parking permits, or other reasonable measures.

35.11 SECURITY REQUIREMENTS.

Every commercial vehicle relocater shall file with the City upon license application or renewal documentation that the relocater has an effective Garage Keeper's Legal Liability insurance policy and shall file with the City and have in effect an indemnity bond or insurance policy or certificates of bonds or insurance in lieu thereof which shall indemnify or insure the relocater for its liability:

- a) for injury to person, in an amount not less than \$1,000,000 per person/per occurrence; and,
- b) in case of damage to property other than a vehicle being removed, damage to vehicles being moved, or damage to vehicles relocated or stored by the relocater, in an amount not less than \$500,000 for any one occurrence.

Any such bond or policy shall be issued by a bonding or insurance firm qualified to do business as such in the State of Illinois. All certificates or indemnity bonds or insurance filed with the City must show the coverage effective continuously until canceled, and the City may require such evidence of continued validity annually or as it deems necessary.

35.12 PROPERTY OWNER'S RIGHT TO EMPLOY RELOCATION SERVICE TOW RISK SIGNS.

a) It shall be unlawful for an owner or other person in lawful possession or control of private property to remove or employ a commercial relocater to remove an unauthorized vehicle from such property unless clearly visible written notice is provided, in the form of a posted tow risk sign in accordance with the provisions of this Chapter.

- b) A tow risk sign shall be lawful for purposes of permitting the commercial relocation of unauthorized

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vehicles provided that said sign meets the following requirements:

1. Is inspected and approved in writing by the Director of Community Development or his designee, prior to the commencement of relocation activity;
2. Is clearly visible at all times, free from interference from any natural or manmade objects and is clearly visible at night;
3. Includes a general statement indicating who is allowed to park in the area and a warning that unauthorized vehicles will be towed;
4. Is located in such area or areas as to reasonably insure visibility by vehicle operators;
5. All signs shall be erected and maintained in accordance with the approved locations designated in the site plan application as permitted by the Director of Community Development or his designee.
6. Is in compliance with the following specifications, provided that the Director of Community Development or his designee, may allow variances to these specifications as necessary or appropriate to further the intent of this Section 35.05;
 - (a) Approximately twenty-four (24) inches in height and thirty-six (36) inches in width;
 - (b) Securely affixed to an upright support or an exterior wall surface at the entrances to a parking area and any additional conspicuous locations deemed appropriate by the Community Development Director, or his designee;
 - (c) Installed so that the bottom of the sign is no lower than four (4) feet from the ground and no higher than eight (8) feet from the ground;
 - (d) Contains letters not less than three (3) inches in height for all warnings and parking authorizations or prohibitions;
 - (e) Provides vivid contrast of letters and sign background color;
 - (f) Contains the name and 24-hour telephone number of the relocater;
 - (g) Contains the maximum fee allowed to be charged for vehicle relocation and release.
 - (h) Is located in conformance with the yard setback requirements and other applicable requirements of the property's specific zoning district.

c) Signs shall not be required to authorize or permit relocation of unauthorized vehicles parked on private property in the following instances:

1. Parking in fire lanes designated in Schedule 0, Chapter 51 of DeKalb Municipal Code.
2. Parking in approved handicap spaces;
3. Double-parking;

4. Parking in other unapproved areas such as yards;
5. Parking in private drives of property located in "SFR," Single Family Residential or "TFR," Two Family Residential zoning districts; and,
6. Parking so as to block entrance or exit drives of property in the City.

35.13 CIVIL AND CRIMINAL LIABILITY.

Nothing in this Chapter shall be construed to limit or alter the vehicle owner's or operator's civil or criminal liability for trespass.

35.14 RELOCATION RATES.

Effective with commercial relocation licenses issued effective on or after the effective date of this Ordinance:

a) It shall be unlawful for a commercial vehicle relocator to impose a charge for the relocation or storage of a vehicle in excess of the maximum rate established by the Illinois Commerce Commission under 625 ILCS 5/18a-200(5) for relocator towing within Kane County or in excess of the storage fees permitted under ICC regulations for relocator towing within Kane County;

b) It shall be unlawful for a commercial vehicle relocator to impose an additional charge for the immediate release of a vehicle between 7:00 a.m. and 9:00 p.m. on Mondays through Fridays and between 7:00 a.m. and 6:00 p.m. on Saturdays;

c) It shall be unlawful for a commercial vehicle relocator to impose an additional charge in excess of Thirty Dollars (\$30.00) for the immediate release of a vehicle between 10:01 p.m. and 6:59 a.m. on Mondays through Fridays, Saturdays between 12:01 a.m. and 6:59 a.m. and after 6:00 p.m. on Sundays and on legal holidays recognized by the State of Illinois;

d) It shall be unlawful for a commercial vehicle relocator to impose a charge for storage of a relocated vehicle in excess of the maximum rate established by the Illinois Commerce Commission under 625 ILCS 5/18a-200(5) for relocator towing within Kane County;

e) It shall be unlawful for a commercial vehicle Relocator to impose any fee or charge except as authorized in this Chapter 35. Fees and charges authorized in this Chapter 35 shall be periodically reviewed by the City Council.

f) It shall be unlawful for a commercial vehicle relocator to impose any fee or charge under this Chapter 35 unless the relocator gives a written receipt acknowledging and listing the payment of each fee or charge imposed by the relocator. The receipt shall also include the date and time of the vehicle's release, the location of the tow, reason for the tow, the name of the tow truck operator and the date and time of the tow. Such receipts shall also be given for all quick release tows.

g) It shall be unlawful for a commercial vehicle relocator to fail to notify the Police Department if any vehicle relocated under the provisions of this Chapter remains unclaimed seven (7) days after such vehicle was relocated.

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h) It shall be unlawful for a commercial relocater to fail to disclose to a person inquiring about a vehicle the relocater has towed the amount of all fees and charges that may be assessed for such relocation, including information as to when the vehicle can be claimed to avoid additional charges under this Chapter.

i) Unauthorized vehicles removed and stored by a commercial vehicle relocater in compliance with this Chapter 35, shall be subject to a possessory lien for services pursuant to 770 ILCS 50/1 et seq. In no event shall such lien be greater than the rate or rates established in accordance with this Chapter 35. In no event shall such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by this Chapter. Every such lien, unless otherwise specifically accepted, shall be payable by the use of any major credit card, in addition to being payable in cash.

j) In the event that the Illinois Commerce Commission discontinues imposing towing fees for Kane County, the last-set fees shall be the maximum fee possible to impose under this Ordinance. In no event shall a towing company impose a fee in excess of the amount listed on the relocation notice sign posted at the premises from which a vehicle is removed.

35.15 LICENSES.

Relocator's license.

a) Each application for a license to operate as a commercial vehicle relocater shall be made in writing to the Chief of Police, shall be verified under oath; shall be in such form and contain such information as may be required by the Chief of Police, including but not limited to a listing of all vehicles which will be used in the relocation of trespassing vehicles and the addresses of any and all impound lots owned by or in the lawful possession or control of the relocater at which trespassing vehicles will be relocated or stored. Said application shall be accompanied by the required application fee and proof of security. In order to be eligible for a relocater's license, the relocater further must equip all tow vehicles with an apparatus designed to protect automobile bodies from damage, and with a set of dollies to transport front wheel drive vehicles and vehicles with locked wheels.

Such tow vehicles may be subject to inspection by the Chief of Police, or his designee, at the time of license application and renewal and as the Chief of Police deems it necessary. The Chief of Police may issue a relocater's license to any qualified applicant pursuant to an application filed, and to the inspection of tow vehicles, if it appears that the applicant is fit, willing and able to properly perform the service proposed and to conform to provisions of this Chapter 35. In the event that the Chief of Police refuses such a license, said refusal may be appealed to the City Manager, in writing, within ten business days of the date of the Chief of Police's decision, and the City Manager shall then hold an administrative hearing to consider denial of the license. Applicants shall also submit a completed copy of their most current Illinois Commerce Commission Relocator's License application or renewal, and a copy of their issued Illinois Commerce Commission Relocator's License.

b) The required annual fee for a relocater's license shall be One Hundred Twenty-five Dollars (\$125.00).

c) All relocater's licenses shall expire on April 30 of each year. The license fee for any relocater's license which is issued, shall be pro-rated by month and made to expire on the next April 30.

d) A relocater may renew his license by submitting to the Chief of Police a written application for

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renewal, verified under oath, in such form and containing such information that may be required by the Chief of Police and accompanied by the required application fee and proof of security. The City may renew said license to any qualified applicant pursuant to an application for renewal filed, if it appears that the applicant is fit, willing and able properly to perform the service proposed and to conform to provisions of this Chapter.

In the event that the Chief of Police refuses such a license, said refusal may be appealed to the City Manager, in writing, within ten business days of the date of the Chief of Police's decision, and the City Manager shall then hold an administrative hearing to consider denial of the license.

e) If a licensed commercial vehicle relocater engages in more than one violation of this Ordinance within the term of any license, or for other good cause shown, the City Manager may, following an administrative hearing, suspend the license of a commercial vehicle relocater for thirty (30) days. If violations of the provisions of this Chapter thereafter continue, the City Manager may, following an administrative hearing, revoke the license of a commercial vehicle relocater for a period not to exceed one (1) year. The commercial vehicle relocater may apply for a new license pursuant to the procedures set forth in this section. The Chief of Police may temporarily suspend the license of a commercial vehicle relocater, without a hearing, for a period not to exceed ten days, in the event that he determines that such temporary suspension is required.

f) Relocator companies shall not have any property rights or expectation of continuation of their licenses. The City reserves the right to revoke, suspend or terminate any relocater license issued hereunder at any time, with or without cause, through action of the City Council.

35.16 PENALTIES.

a) Penalties. The penalty imposed under this Chapter shall not exceed One Thousand Dollars (\$1,000.00) for each violation. Each day during which the violation continues is a separate violation. The City Attorney shall bring such action in the name of the people of the City of DeKalb. Penalties recovered under the provisions of this Section shall be paid into the City treasury. By judgment, the City Manager shall have the authority to suspend or revoke the licenses of relocaters who are found to have committed substantial or repeated violations of this Chapter.

b) Restitution. The court may, at the sentence hearing, determine whether restitution is an appropriate sentence, in addition to any penalties which may be imposed under Subsection a) of this Section 35.16, on a defendant who is convicted of violating any provision of this Chapter 35. If the court determines that an order directing the defendant to make restitution is appropriate, the defendant may be sentenced to make restitution in the amount of all towing fees and costs paid to the defendant by the person whose motor vehicle was towed.

If restitution is so ordered to be made hereunder, the court shall determine whether said restitution shall be paid in a single payment or in installments and shall fix a period of time in which payment of restitution shall be paid in full.

c) Nothing contained in this Section 35.16 shall preclude the right of any party to proceed in a civil action to recover for any damages incurred due to the violation of any provision of this Chapter 35 by the defendant.

d) If a vehicle owner or operator believes his/her vehicle was improperly towed under the provisions of this Chapter, he/she may file a report with the Police Department setting forth the basis for such belief. The Police Department shall forward the report to the City Attorney for review. If the City Attorney believes a

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violation of this Chapter occurred, he/she may contact the relocater to resolve the matter without filing a complaint. If the matter is not resolved in that manner, the City Attorney may elect to file a complaint against the relocater. Nothing in this Section shall prohibit the City Attorney from filing a complaint whether the relocater is contacted or not.