

**ORDINANCE 2014-040 PASSED: DECEMBER 8, 2014**

**AMENDING THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS, CHAPTER 35 "TOWING POLICY", SECTION 35.07 "VEHICLE IMPOUNDMENT OR IMMOBILIZATION: TOW FOR SPECIFIED VIOLATIONS.**

**WHEREAS**, the City of DeKalb, DeKalb County, Illinois is a home rule community with those powers granted under the provisions of the Illinois Constitution and the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et. seq.*; and,

**WHEREAS**, the City of DeKalb has the authority pursuant to the Illinois Municipal Code and its home rule powers to define and provide for the abatement of nuisances within the City of DeKalb; and,

**WHEREAS**, the City Council finds that the use of motor vehicles in the commission of certain specified offenses constitutes a public nuisance, and hereby authorizes the certain updates to Section 35.07 of the City Code to provide for the abatement of such nuisances through the towing and impounding of vehicles used in the commission of the specified offenses, and further finds that such action is required to properly promote the public health, safety, welfare and morals; and,

**THEREFORE BE IT ORDAINED** by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

**Section 1.** Ordinance Amended.

Subsection (a) of Section 35.07 of the City Code of Ordinances shall be revised as follows:

(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:

Section 35.07 of the City Code of Ordinances shall be amended with the addition of subsections (e) and (f) in the form as provided below:

(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 ILCS 5/11-208.7.

(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.


**Section 2.** All ordinances or portions thereof in conflict with this ordinance are hereby repealed.

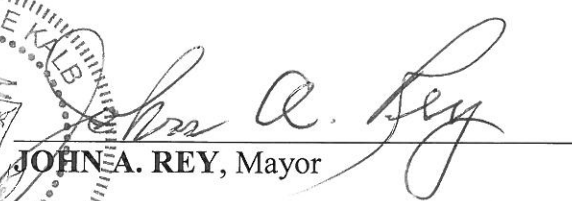
**Section 3.** Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

**Section 4.** This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: December 9, 2014. Effective date: December 19, 2014.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a regular meeting thereof held on the 8<sup>th</sup> day of December, 2014 and approved by me as Mayor on the same day. First reading November 24, 2014. Second reading on December 8, 2014. Passed by Omnibus roll call vote of 7-0-1 on the Consent Agenda. Aye: Jacobson, Finucane, Lash, Snow, Baker, O'Leary, Rey. Absent: Naylor.

**ATTEST:**

  
**RUTH A. SCOTT**, Deputy City Clerk

  
**JOHN A. REY**, Mayor

