

ORDINANCE 17,593

AN ORDINANCE AMENDING CHAPTER 28, ARTICLE IV OF THE CODE OF THE
CITY OF PEORIA AS TO RECKLESS DRIVING

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs including the regulation of the vehicle towing and impoundment within its city limits; and

WHEREAS, the City has police power to regulate traffic offenses; and

WHEREAS, a growing heroin and opioid epidemic has resulted in an increase of drivers suspected of operating motor vehicles while under the influence of said drugs; and

WHEREAS, operating motor vehicles while under the influence of heroin or opioids places the individual driver, passengers and the larger public in danger; and

WHEREAS, in close collaboration with the Peoria County State's Attorney's Office, a balanced response has been formulated for officers to efficiently investigate circumstances where a driver is suspected of being under the influence of heroin and opioids; and

WHEREAS, it is likely the response may involve the issuing of citations for Driving Under the Influence of Drugs and/or Reckless Driving; and

WHEREAS, the City may respond to these situations by towing and impoundment of the vehicle in question; and

WHEREAS, the existing City code allows for towing and impoundment of vehicles as a result of Reckless Driving if the motor vehicle is on any public property, but not on private property; and

WHEREAS, the City Council has deemed it is in the public's best interests to provide another tool to fight the heroin and opioid epidemic by providing for towing from private property as a result of Reckless Driving.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 28 (Traffic and Motor Vehicles), Article IV (Operation of Vehicle) of the Code of the City of Peoria is hereby amended by adding the underlined language as follows:

Sec. 28-149. - Reckless driving.

(a) Reckless Driving. It shall be unlawful for any person to operate any motor vehicle upon the streets or alleys in the city with a willful or wanton disregard for the safety of persons or property.

(b) Towing and Impoundment.

(1) A motor vehicle used in the commission of the offence of reckless driving shall be subject to seizure and impoundment under the subsection. The owner of record of such vehicle shall be liable to the city for a penalty of \$500.00 in addition to fees for the towing and storage of the vehicle.

(2) 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 controlled by the city or its agents. When the vehicle is towed, the police officer shall notify the person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under this section.

(3) Whenever the owner of a vehicle seized pursuant to this section requests a preliminary hearing within 24 hours after the seizure, a hearing officer of the City, who shall be a licensed attorney who is not an employee of the City, shall conduct such preliminary hearing within 72 hours after the seizure, excluding Saturdays, Sundays and holidays. All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines that there is probable cause to believe that the vehicle was used in the commission of the crime described in paragraph (1), the hearing officer shall order the continued impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the city a cash bond in the amount of \$500.00 plus fees for towing and storing the vehicle. If the hearing officer determines that there is no such probable cause, the vehicle will be returned without penalty or other fees.

(4) Within ten days after a vehicle is seized and impounded pursuant to this section, the city shall notify by certified mail, return receipt requested, the owner of record at his or her last known address as indicated by the vehicle's registration his or her right to request a hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for impoundment pursuant to this section. 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 impounded, and the owner acknowledges receipt of the notice in writing. The notice shall state the penalties that may be imposed if no hearing is requested, including a vehicle not released by payment of the penalty and fees and remaining towing/storage facility may be sold or disposed of by the city in accordance with applicable law. The owner of the record seeking a hearing must file a written request for a hearing with the city legal

department no later than 15 days after the notice was mailed or otherwise given under this subsection. The hearing shall be scheduled and held, unless continued by order of the hearing officer, no later than 45 days after the request for a hearing has been filed. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible. If, after the hearing, the hearing officer determines by a preponderance of evidence that the vehicle was used in the commission of the violation described in paragraph (1), the hearing officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays a penalty of \$500.00 plus fees for towing and storage of the vehicle. The penalty and fees shall be a debt due and owing the city. However, if a cash bond has been posted, the bond shall be applied to the penalty. If the hearing officer determines that the vehicle was not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond. After the expiration of the time during which the owner of record may seek judicial review of the city's action under this section and if no judicial review is pending, a person with a lien of record against a vehicle impounded under this section may obtain possession of the vehicle if he pays the penalty of \$500.00 in addition to fees for towing and storage of the vehicle imposed under this section prior to the sale of said vehicle. Said lien holder shall be given notice of impoundment pursuant to 625 ILCS 5/4-205(b), and may notify the city police department of his intent to obtain possession of the vehicle under this subsection at any time after receiving notice and prior to sale of said vehicle. Said lien holder shall make the payments called for herein on or before the date he may obtain possession.

(5) Any motor vehicle that is not reclaimed within 30 days after a final administrative decision is rendered in favor of the city upon a hearing or against an owner of record who is in default or upon the failure of the owner of record to timely request a hearing, may be disposed of as an unclaimed vehicle as provided by law. As used in this section, the "owner of record" of a vehicle means the record titleholder.

(6) Fees for towing and storage of a vehicle under this section shall be the same as those charged pursuant to [section 30-298](#) of this Code.

(7) For the purposes of the section, a vehicle is not considered to have been used in a violation that would render the vehicle eligible for towing if the vehicle used in the violation was stolen at the time and the theft was reported to the appropriate law enforcement authorities after the theft was discovered or reasonably should have been discovered.

Section 2. This ordinance shall be in full force and effect ten (10) days after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this
26th day of June, 2018.

AYES: Akesson, Cyr, Grayeb, Oyler, Riggenbach, Ruckriegel, Turner,
 Mayor Ardis - 8;

NAYS: Jensen, Montelongo, Moore - 3;

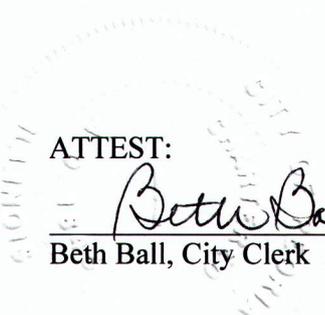
ABSENT: None.

APPROVED:



Jim Ardis, Mayor

ATTEST:




Beth Ball, City Clerk

EXAMINED AND APPROVED:



Corporation Counsel