

ORDINANCE NO. 11- 24

AN ORDINANCE AMENDING TITLE VII (TRAFFIC CODE),
CHAPTER 78 (SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES),
SECTION 78.02 (PUBLIC NUISANCE DECLARED) OF THE
CODE OF ORDINANCES OF THE CITY OF OAKBROOK TERRACE

WHEREAS, the City of Oakbrook Terrace (the "City") is a home-rule unit of local government under Article VII, Section 6 of the 1970 Illinois Constitution and, except as limited by such Section, it may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, on November 10, 2009, the corporate authorities of the City of Oakbrook Terrace adopted Ordinance 09-23 and codified as Chapter 78, Title VII of the Code of Ordinances of the City of Oakbrook Terrace to provide for the seizure and impoundment of motor vehicles used in the commission of certain offenses; and

WHEREAS, it is in the best interests of the health, safety and welfare of the residents of the City to amend Section 78.02 of Chapter 78 (Seizure and Impoundment) of Title VII (Traffic Code) in the manner hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Oakbrook Terrace, DuPage County, Illinois, as follows:

SECTION 1: The above recitals are incorporated herein by reference as though fully set forth herein.

SECTION 2: Section 78.02 of Chapter 78 of Title VII of the Oakbrook Terrace City Code, as amended, is hereby further amended by adding thereto Subsections (K), (L) and (M) to read as follows:

CHAPTER 78: SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES

§78.02 PUBLIC NUISANCE DECLARED.

A motor vehicle, operated with the permission, express or implied, of the owner of record, shall be declared a public nuisance and shall be subject to seizure and impoundment under this chapter where such motor vehicle is used in the commission of any of the violations set forth in this section, or when the commission of any of the violations set forth in this section makes impoundment of the motor vehicle reasonably necessary as a community caretaking function, so that the motor vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. It shall not be necessary for criminal charges to be filed, prosecuted, or proven in order to demonstrate that one or more of the following violations has/have been committed:

(A) A violation of chapter 77 (Driving under the Influence of Alcohol; Driving While License Suspended), or chapter 138 (Weapons) of this code, as amended from time to time;

(B) A violation of 625 ILCS 5/6-303 (Driving While Driver's License, Permit or Privilege to Operate a Motor Vehicle is Suspended or Revoked), as amended, except where said violation is in regard to a person whose driver's license, permit or privilege to operate a motor vehicle is suspended only for a violation of the emissions inspection laws as set forth in 625 ILCS 5/13C-1, et seq., as amended;

(C) A violation of 625 ILCS 5/11-204 (Fleeing or Attempting to Elude a Peace Officer), as amended; 625 ILCS 5/11-401 (Motor Vehicle Accidents Involving Death or Personal Injuries), as amended; 625 ILCS 5/11-402 (Motor Vehicle Accident Involving Damage to Vehicle), as amended; 625 ILCS 5/11-403 (Duty to Give Information and Render Aid), as amended; 625 ILCS 5/11-404 (Duty Upon Damaging Unattended Vehicle or Other Property), as amended; 625 ILCS 5/11-501 (Driving Under the Influence of Alcohol, Other Drug or Drugs, Intoxicating Compound or Compounds or any Combination Thereof), as amended; 625 ILCS 5/11-503 (Reckless Driving or Aggravated Reckless Driving), as amended; or 625 ILCS 5/11-506 (Street Racing), as amended, or the stopping of a person against whom a warrant has been issued by a circuit court for failing to appear to answer charges that the person was (a) operating a motor vehicle while that person's license was suspended or revoked or (b) operating a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof;

(D) A violation of 720 ILCS 5/11-6 (Indecent Solicitation of a Child), as amended; 720 ILCS 5/12-2 (Aggravated Assault), as amended; 720 ILCS 5/12-4 (Aggravated Battery), as amended; 720 ILCS 5/12-4.2 (Aggravated Battery with a Firearm), as amended; 720 ILCS 5/12-4.3 (Aggravated Battery of a Child), as amended; 720 ILCS 5/12-4.6 (Aggravated Battery of a Senior Citizen), as amended; 720 ILCS 5/16A-3 (Retail Theft), as amended, when the value of the merchandise exceeds one hundred fifty and no/1 00 dollars (\$150.00); 720 ILCS 5/18-1 (Robbery), as amended; 720 ILCS 5/18-2 (Armed Robbery), as amended; 720 ILCS 5/19-1 (Burglary), as amended; 720 ILCS 5/19-3 (Residential Burglary), as amended; 720 ILCS 5/20-1 (Arson), as amended; 720 ILCS 5/20-1.1 (Aggravated Arson), as amended; 720 ILCS 5/20-2 (Possession of Explosives or Explosive or Incendiary Devices), as amended; 720 ILCS 5/21-1 (Criminal Damage to Property), as amended; or 720 ILCS 5/25-1 (Mob Action), as amended;

(E) A violation of 720 ILCS 570/401 (Manufacture or Delivery of a Controlled Substance), as amended; 720 ILCS 570/401.1 (Controlled Substance Trafficking), as amended; or 720 ILCS 570/402 (Possession of a Controlled Substance), as amended;

(F) A violation of 720 ILCS 550/4(d) (Possession of More than 30 Grams of Any Substance Containing Cannabis), as amended; 720 ILCS 550/5 (Manufacture or Delivery of Cannabis), as amended; 720 ILCS 550/5.1 (Cannabis Trafficking), as amended; 720 ILCS 550/5.2 (Delivery of Cannabis on School Grounds), as amended; or 720 ILCS 550/8 (Unauthorized Production or Possession of Cannabis Sativa Plant), as amended;

(G) A violation of 720 ILCS 5/24-1 (Unlawful Use of Weapons), as amended; 720 ILCS 5/24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition), as amended; or 720 ILCS 5/24-3.3 (Unlawful Sale or Delivery of Firearms on the Premises of any School), as amended; however, this subsection shall not apply when any of the exemptions set forth in 720 ILCS 5/24-2, as amended, are met;

(H) A violation of 720 ILCS 5/11-14 (Prostitution), as amended; 720 5/11-14.1 (Solicitation of a Sexual Act), as amended; 720 ILCS 5/11-15 (Soliciting for a Prostitute), as amended; 720 ILCS 5/11-15.1 (Soliciting for a Juvenile Prostitute), as amended; 720 ILCS 5/11-18 (Patronizing a Prostitute), as amended; or 720 ILCS 5/11-18.1 (Patronizing a Juvenile Prostitute), as amended;

(I) The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1 (Seizure), as amended; or

(J) A violation of 625 ILCS 5/6-101 (Drivers Must Have Licenses or Permits), as amended, except where the violation is for a license which has been expired for less than twelve (12) months or for a license which is invalid because of curfew (as in the case of a graduated license).

(K) A violation of 625 ILCS 5/6-501 (commercial drivers – permitted only driver's license).

(L) A violation of 625 ILCS 5/6-507(a) (operating a commercial motor vehicle on a highway without: (1) a CDL in the driver's possession; (2) having obtained a CDL; or (3) the proper class of CDL classification or endorsement).

(M) A violation of 625 ILCS 5/6-507(b) (driving a commercial vehicle on a highway while the driver's driving privileges are: suspended, revoked, cancelled, subject to disqualification, or subject to or in violation of an "out-of-service-order").

SECTION 3: If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance.

SECTION 4: All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

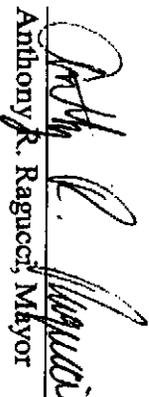
SECTION 5: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED AND APPROVED this 11th day of October 2011.

AYES: Durham, Sarallo, Sayyed, Shadley, Thomas, and Vlach.

NAYS: None

ABSENT: None



Anthony R. Ragucci, Mayor

ATTEST:



Judith Leslie, City Clerk