**ORDINANCE NO. \_\_\_\_\_\_\_**

**ORDINANCE AMENDING THE CITY OF LEBANON MUNICIPAL CODE, REPEALING ARTICLE III – NUISANCES, DIVISION 1 – GENERALLY, SECTION 24-63 – INOPERABLE MOTOR VEHICLES, AND REPLACING WITH ARTICLE III – NUISANCES, DIVISION 1 – GENERALLY, SECTIONS 24-67 THROUGH 24-81 ABANDONED VEHICLES, INOPERABLE VEHICLES, HAZARDOUS TRAILERS, HAZARDOUS VEHICLES, AND STOLEN VEHICLES DECLARED NUISANCE**

**WHEREAS,** the City of Lebanon, St. Clair County, Illinois (hereinafter "City"), is a non-home rule municipality duly established, existing and operating in accordance with the provisions of the Illinois Municipal Code (Section 5/1-1-1 *et seq.* of Chapter 65 of the Illinois Compiled Statutes); and

**WHEREAS,** City has determined the current City Code regarding nuisances and inoperable motor vehicles needs to be repealed and replaced; and

**WHEREAS**, City has determined abandoned vehicles, inoperable vehicles, hazardous trailers, hazardous vehicles, and stolen vehicles are nuisances and need to be eradicated; and

**WHEREAS**, City has determined it would be in the best interests of public health, safety, general welfare, and economic welfare to amend the City Code to repeal and replace Section 24-63 Inoperable Motor Vehicles, and replace with Section 24-67 through Section 24 - 81, Abandoned Vehicles, Inoperable Vehicles, Hazardous Trailers, Hazardous Vehicles, and Stolen Vehicles Declared Nuisance; and

**WHEREAS**, City authorizes and directs the Mayor to execute any documents necessary to amend the City Code as stated herein.

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

*Section 1.* The foregoing recitals are incorporated herein as findings of the City Council of the City of Lebanon, Illinois.

*Section 2.* City Code shall be amended as follows:

Section 24-67 - Abandoned Vehicles, Inoperable Vehicles, Hazardous Trailers, Hazardous Vehicles, and Stolen Vehicles Declared Nuisance.

Definitions.

*Abandoned vehicle* means any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any vehicle that has not been moved or used for seven (7) consecutive days or more and is apparently deserted. However, a vehicle located either on the real property of its owner or on the real property of its owner's bailee shall not be considered to be abandoned for purposes of this division.

*Alley* means a public way within a block generally giving access to the rear of lots or buildings and not used for general traffic circulation.

*Mayor’s Designee* refers to an officer or employee of the City of Lebanon, Illinois ("City") (who shall not be a member of the City's police department) whom the Mayor designates to conduct the pre-tow administrative hearings and post-tow administrative hearings required by the sections in this division.

*Hazardous vehicle* means an unattended vehicle which, by its position in relation to any highway, street, alley, or other public property, creates or constitutes a hazard which impedes the safe or efficient movement of vehicular or pedestrian traffic; blocks the use of a fire hydrant, standpipe or fire escape; poses an immediate fire hazard; blocks the use of a private road or driveway or that obstructs the movement of any emergency vehicle, public safety vehicle, public works vehicle; or which otherwise causes a clear and immediate threat of bodily harm or damage to property.

*Highway or street* means the entire width of public right-of-way of every way publicly maintained and open to the use of the public for vehicular traffic. This includes the traveled roadway, any on-street parking area, the parkway and sidewalk.

*Inoperable vehicle* means any vehicle from which, for a period of at least seven (7) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven. "Inoperable vehicle" shall not include:

(1)A vehicle which has been rendered temporarily incapable of being driven or moved under its own motor power in order to perform ordinary service or repair operations. Any vehicle that has been rendered temporarily incapable of being driven or moved under its own motor power in order to perform ordinary service or repair operations shall be serviced or repaired within seven (7) days. If a vehicle has not been serviced or repaired within (7) seven days, that vehicle shall be deemed an "inoperable vehicle."

(2)Any vehicle that is kept within a structure permitted under City Code that encloses the vehicle on all sides.

*Just cause* shall mean a reasonable basis to believe that a vehicle is (or, at the relevant time, was) abandoned, inoperable, hazardous, or stolen.

*Law enforcement officer* means a sworn officer of the City police department, a parking enforcement officer or any other person authorized by the Mayor or Chief of Police to enforce this division.

*Owner* means the registered owner of a vehicle according to the Illinois Secretary of State. The registered owner shall be presumed to be the titleholder unless the actual titleholder or other party with a superior right to possession provides adequate proof to the contrary.

*Post-tow administrative hearing* refers to the administrative hearing to be conducted by the Mayor or the Mayor's designee after a vehicle has been towed, to determine whether just cause existed for towing the vehicle. Any appeal or review of an administrative hearing by the Circuit Court, any administrative agency, and/or administrative law judge (“ALJ”) will be “on the record” and not “de novo.”

*Pre-tow administrative hearing* refers to the administrative hearing to be conducted by the Mayor or the Mayor's designee before a vehicle is towed, to determine whether just cause exists for towing the vehicle. Any appeal or review of an administrative hearing by the Circuit Court, any administrative agency, and/or ALJ will be “on the record” and not “de novo.”

*Private property* means real property that is not owned by a unit of government.

*Public parking facility* means:

(1)Any area or structure designed or used for the parking of vehicles that is owned by a unit of government and which is typically available for use or entry by the general public, and

(2)Any area in which the City is authorized to enforce one or more provisions of the state motor vehicle code or ordinance of the City pertaining to traffic regulation or the parking, stopping or standing of vehicles.

*Public property* means a highway, street, alley, public parking facility or other real property owned by a unit of government.

*Unregistered vehicle* means a vehicle that does not have and/or is not displaying a current and valid license plate or registration sticker as required by law.

*Vehicle* means a machine propelled or pulled by power, other than human power, designed to travel along the ground or on water by use of wheels, treads, runners, slides, propellers, or jets and to transport persons or property or to pull machinery or trailers, and shall include, without limitation, automobiles, trucks, buses, recreational vehicles, A.T.V.s, boats, Jet-Skis, wave runners, tractors, garden-tractors, motorcycles, snowmobiles, buggies, wagons, etc. In addition, the term "vehicle" shall include devices used or designed to be towed behind a vehicle, such as any and all trailers.

*Warrant* means receipt of authorization from a court of competent jurisdiction (by means of a duly issued warrant or judgment in a civil case) to seize any vehicle and authorize the tow.

Sec. 24-68. - Storage of abandoned vehicles and inoperable vehicles prohibited.

No person shall store an abandoned vehicle or an inoperable vehicle: (1) on any public property, or (2) within view of the general public on any private property, located within the City unless the storage thereof is specifically permitted by the zoning ordinance and is otherwise in compliance with applicable laws and ordinances. A law enforcement officer is authorized to issue an ordinance violation complaint to the real property owner, the vehicle owner, and any other person having control of the vehicle or the real property (including tenants and lessees of the real property), in order to enforce the provisions of this section.

Sec. 24-69. - Abandoned vehicles declared to be public nuisances; inoperable vehicles on a highway, street, or other public property declared to be public nuisances; inoperable vehicles on private property but in view of the general public declared to be public nuisances; hazardous vehicles declared to be public nuisances; other remedies.

(a)An abandoned vehicle located on a highway, street, alley, public parking facility or other public property is hereby declared to be a nuisance and shall be subject to removal in accordance with the provisions of the City Code.

(b)An abandoned vehicle located on private property other than the vehicle owner's real property or the vehicle owner's bailee's real property is hereby declared to be a nuisance and shall be subject to removal in accordance with the provisions of the City Code. An abandoned vehicle located on the premises of a business lawfully engaged in the wrecking or junking of vehicles shall not be deemed to be a nuisance so long as the business operates in accordance with all applicable statutes and ordinances.

(c)An inoperable vehicle located on a highway, street, alley, public parking facility or other public property is hereby declared to be a nuisance and shall be subject to removal in accordance with the provisions of the City Code.

(d)An inoperable vehicle located on private property and within view of the general public is hereby declared to be a nuisance and shall be subject to removal in accordance with the provisions of the City Code. An inoperable vehicle located on the premises of a business lawfully engaged in the wrecking or junking of vehicles shall not be deemed to be a nuisance so long as the business operates in accordance with all applicable statutes and ordinances.

(e)A hazardous vehicle located on a highway, street, alley, public parking facility or other public property is hereby declared to be a nuisance and shall be subject to removal in accordance with the provisions of the City Code.

(f)Nothing herein shall be construed as a limitation upon the authority of any law enforcement officer to issue a traffic or parking citation or for the City to pursue other legal remedies for the removal of any vehicle subject to removal under this section.

Sec. 24-70. - Penalty for nuisance violations for abandoned vehicles, inoperable vehicles on a highway, street, or other public property, inoperable vehicles on private property, but in view of the general public, and hazardous vehicles.

(a)The person(s) in charge of, or in control of, the property where the abandoned vehicles, inoperable vehicles on private property, but in view of the general public, and hazardous vehicles are located who fails to comply with any notice or order to abate the nuisance shall be guilty of an ordinance violation, punishable as set forth in City Code, Section 1-14.

(b)The person(s) who owns, rents, leases, or has some other ownership interest in the abandoned vehicles, inoperable vehicles on a highway, street, or other public property, inoperable vehicles on private property, but in view of the general public, and hazardous vehicles who fails to comply with any notice or order to abate the nuisance shall be guilty of an ordinance violation, punishable as set forth in City Code, Section 1-14.

(c)If any such person(s) has been previously convicted of a violation within the previous six months, said person shall be fined not less than $250.00 per day, and not more than as provided in City Code, Section 1-14.

Sec. 24-71. - Removal of abandoned vehicles or inoperable vehicles from highway, street, alley, public parking facility, or other public property; notice to owner of opportunity to be heard by demanding pre-tow hearing.

(a)General. In addition to the penalties described in the City Code, a law enforcement officer is authorized to impound, tow, and/or have towed, by an authorized commercial towing service to either the City impound lot or to a storage lot operated by the authorized towing service, any abandoned vehicle or inoperable vehicle parked or located on a highway, street, alley, public parking facility, or other public property, after providing the owner notice and an opportunity to be heard as set forth herein.

(b)First notice. The law enforcement officer shall give a first notice to the owner of the vehicle by affixing an adhesive sticker, or by some other method, to the vehicle, in a conspicuous location, that:

(1)States the make, model, and year of the vehicle; the location of the vehicle when the adhesive sticker is attached; and the date on which the adhesive sticker is attached;

(2)Notifies the owner of the ordinance section which the vehicle violates and why the vehicle violates that ordinance section;

(3)Notifies the owner that he/she has seven (7) days (from the date on which the adhesive sticker was affixed) in which to remove the vehicle;

(4)Notifies the owner that he/she may demand a pre-tow administrative hearing before the Mayor or the Mayor's designee to determine whether there is just cause to impound and to tow the vehicle by filing a written demand for such a hearing with the police department within five (5) days after the date on which the adhesive sticker was affixed to the vehicle;

(5)Notifies the owner that, if he/she demands a pre-tow administrative hearing and the designated hearing officer determines that "no just cause" exists, the tow will not occur;

(6)States the police department's physical address, email address, and fax telephone number (to facilitate the owner's making the written demand for a pre-tow administrative hearing); and

(7)Notifies the owner that, if he/she should neither demand in writing a pre- tow administrative hearing within five (5) days nor remove the vehicle within seven (7) days on which the adhesive sticker was attached to the vehicle, the City will, on the eighth day or as soon thereafter as possible, cause the vehicle to be towed and impounded, in which case the owner will be responsible for the expenses of towing and storage.

(c)Second notice. If the vehicle displays a registration number, or if a vehicle identification number ("VIN") is visible on the vehicle, the law enforcement officer shall communicate that number (or those numbers) to the Illinois Secretary of State in an effort to determine the name and address of the owner of record of the vehicle. If the law enforcement officer is able to determine the name and address of the owner of record of the vehicle, he/she shall send by certified mail, to the owner of record at his/her address of record, with a return receipt requested, a notice which communicates to owner the registration number and state of registration of the vehicle (if known), the VIN of the vehicle (if known), and, in addition, the same information described in subsections (b)(1) through (b)(7). If the certified letter is deposited in the United States mail on a day after the adhesive sticker is affixed to the vehicle, then the five-day period for the owner's demanding a pre-tow administrative hearing and the seven-day period for the owner's removal of the vehicle shall begin to run on the date that the certified letter is deposited in the United States mail, and the text of the letter shall communicate to the owner the fact that the five-day period and the seven- day period shall begin to run on the date of mailing of the certified letter, rather than the date on which the adhesive sticker was affixed to the vehicle.

(d)Pre-tow administrative hearing. The owner of the vehicle may demand a pre-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there is just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the adhesive sticker was affixed to the vehicle. If the law enforcement officer was able to determine the name and address of the owner of record of the vehicle, and sent by certified letter, to the owner of record at his/her address of record, the notice described in subsection (c) on a date after that on which the adhesive sticker was affixed to the vehicle, the five-day period for the owner's demanding a pre-tow administrative hearing shall begin to run on the date that the certified letter was deposited in the United States mail.

It is the vehicle owner's responsibility to notify the police department of vehicle owner's demand for a pre-tow administrative hearing by filing a written demand. If the vehicle owner does not notify the police department by filing a written demand for the pre-tow administrative hearing, vehicle owner has waived the right to a pre- tow administrative hearing.

(e)Where possible, the law enforcement officer may obtain an administrative warrant prior to towing any vehicle under this Section. However, it is not necessary where due process is otherwise satisfied under this Section.

Sec. 24-72. - Removal of abandoned vehicles or inoperable vehicles from private property; notice to owner of opportunity to be heard by demanding pre-tow hearing.

(a)General. In addition to the penalties described in the City Code, a law enforcement officer is authorized to impound and tow, or have towed by a commercial towing service, to a place of safe storage:

(1)Any inoperable vehicle located on private property and

(2)Any abandoned vehicle located on private property other than the vehicle's owner's real estate and other than the vehicle owner's bailee's real estate, after:

a. Providing the owner notice and an opportunity to be heard as set forth herein; and

b.Receiving the authorization for the tow from:

1.The owner of the private property on which the vehicle is located; or,

2.From a court of competent jurisdiction (by means of a duly issued warrant or a judgment in a civil case) to seize the vehicle and to make the tow.

(b)First notice. If the owner of the private property on which the vehicle is located consents to the law enforcement officer's entry on to the private property so that he/she can reach the vehicle for the purpose of affixing an adhesive sticker thereto, the law enforcement officer shall give a first notice to the owner of the vehicle by affixing an adhesive sticker to the vehicle.

If the owner of the private property on which the vehicle is located does not consent to the law enforcement officer's entry on to the private property so that he can reach the vehicle for the purpose of affixing an adhesive sticker thereto, the law enforcement officer shall obtain a warrant permitting entry onto the private property to affix an adhesive sticker to the vehicle in violation. The adhesive sticker providing first notice will be affixed in a conspicuous location, and state:

(1)States the make, model, and year of the vehicle; the location of the vehicle when the adhesive sticker is attached; and the date on which the adhesive sticker is attached;

(2)Notifies the owner of the ordinance section which the vehicle violates and why the vehicle violates that ordinance section;

(3)Notifies the owner that he/she has seven (7) days (from the date on which the adhesive sticker was affixed) in which to remove the vehicle;

(4)Notifies the owner that he/she may demand a pre-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there is just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the adhesive sticker was affixed to the vehicle;

(5)Notifies the owner that, if he/she demands a pre-tow administrative hearing and the designated hearing officer determines that "no just cause" exists, the tow will not occur;

(6)States the police department's physical address, email address, and fax telephone number (to facilitate the owner's making the written demand for a pre-tow administrative hearing; and

(7)Notifies the owner that, if he/she should neither demand in writing a pre- tow administrative hearing within five (5) days nor remove the vehicle within seven (7) days on which the adhesive sticker was attached to the vehicle, the City will, on the eighth day or as soon thereafter as possible, cause the vehicle to be towed and impounded, in which case the owner will be responsible for the expenses of towing and storage.

(c)Second notice. If the vehicle displays a registration number, or if a VIN is visible on the vehicle (from a place where the law enforcement officer legally may be), the law enforcement officer shall communicate that number (or those numbers) to the Illinois Secretary of State in an effort to determine the name and address of the owner of record of the vehicle. If the law enforcement officer is able to determine the name and address of the owner of record of the vehicle, he/she shall send by certified mail, to the owner of record at his/her address of record, with a return receipt requested, a notice which communicates to owner the registration number and state of registration of the vehicle (if known), the VIN of the vehicle (if known), and, in addition, the same information described in subsections (b)(1)—(7). If the certified letter is deposited in the United States mail on a day after the adhesive sticker is affixed to the vehicle, then the five-day period for the owner's demanding a pre-tow administrative hearing and the seven-day period for the owner's removal of the vehicle shall begin to run on the date that the certified letter is deposited in the United States mail, and the text of the letter shall communicate to the owner the fact that the five-day period and the seven-day period shall begin to run on the date of mailing of the certified letter, rather than the date on which the adhesive sticker was affixed to the vehicle.

(d)Third notice. The law enforcement officer shall also determine the name of the owner of record of the private property on which the inoperable vehicle or abandoned vehicle is located and the tax mailing address of that owner of record. If that owner of record of the private property does not authorize the towing of the vehicle from his/her private property, the law enforcement officer shall also send by certified mail, to that owner of record of the private property at his tax mailing address, with a return receipt requested, a notice which communicates to that owner of record of the private property the registration number and state of registration of the vehicle (if known), the VIN of the vehicle (if known), and, in addition, the same information described in subsections (b)(1)—(7). If the certified letter is deposited in the United States mail on a day after the adhesive sticker is affixed to the vehicle, then the five-day period for that owner's demanding a pre-tow administrative hearing and the seven-day period for that owner's removal of the vehicle shall begin to run on the date that the certified letter is deposited in the United States mail, and the text of the letter shall communicate to that owner the fact that the five-day period and the seven-day period shall begin to run on the date of mailing of the certified letter, rather than the date on which the adhesive sticker was affixed to the vehicle.

If:

(1)The owner of record of the private property, on which an inoperable vehicle is located, is identical to the owner of record of the inoperable vehicle, and

(2)The tax mailing address of the owner of record of the private property is identical to the address of record of the owner of record of the inoperable vehicle, and

(3)The law enforcement officer has sent the second notice required by subsection (c) above, in the manner required by subsection (c) above, the law enforcement officer may dispense with sending the third notice described in this subsection (d).

(e)Pre-tow administrative hearing:

(1)Pre-tow administrative hearing demanded by owner of vehicle. The owner of the vehicle may demand a pre-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there is just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the adhesive sticker was affixed to the vehicle. If the law enforcement officer was able to determine the name and address of the owner of record of the vehicle, and sent by certified letter, to the owner of record at his address of record, the notice described in subsection (c) on a date after that on which the adhesive sticker was affixed to the vehicle, the five-day period for the owner's demanding a pre-tow administrative hearing shall begin to run on the date that the certified letter was deposited in the United States mail.

It is the vehicle owner's responsibility to notify the police department of vehicle owner's demand for a pre-tow administrative hearing by filing a written demand. If the vehicle owner does not notify the police department by filing a written demand for the pre-tow administrative hearing, vehicle owner has waived the right to a pre-tow administrative hearing.

(2)Pre-tow administrative hearing demanded by owner of the private property on which the vehicle is located. The owner of the private property on which the vehicle is located may demand a pre-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there is just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the adhesive sticker was affixed to the vehicle. If the law enforcement officer sent the notice by certified letter, to the owner of the private property on which the vehicle is located on a date after that on which the adhesive sticker was affixed to the vehicle, the five-day period for the owner of the private property's demanding a pre-tow administrative hearing shall begin to run on the date that the certified letter (to the owner of the private property) was deposited in the United States mail. It is the private property owner's responsibility to notify the police department of private property owner's demand for a pre-tow administrative hearing by filing a written demand. If the private property owner does not notify the police department by filing a written demand for the pre-tow administrative hearing, private property owner has waived the right to a pre-tow administrative hearing.

Sec. 24-73. - Removal of vehicles posing traffic or safety hazard; post-tow hearing.

(a)General. In addition to the penalties described in the City Code, a law enforcement officer is authorized to impound and tow, or have towed by a commercial towing service, immediately any hazardous vehicle (that is, an unattended vehicle which, by its position in relation to any highway, street, alley, or other public property, creates or constitutes a hazard which impedes the safe or efficient movement of vehicular or pedestrian traffic; blocks the use of a fire hydrant, standpipe or fire escape; poses an immediate fire hazard; blocks the use of a private road or driveway or that obstructs the movement of any emergency vehicle, public safety vehicle, public works vehicle; or that causes a clear and immediate threat of bodily harm or damage to property).

(b)Notice. If the hazardous vehicle displays a registration number, or if a VIN is visible on the vehicle, the law enforcement officer shall communicate that number (or those numbers) to the Illinois Secretary of State in an effort to determine the name and address of the owner of record of the vehicle. If the law enforcement officer is able to determine the name and address of the owner of record of the vehicle, he/she shall send by certified mail, to the owner of record at his address of record, with a return receipt requested, a notice that:

(1)States the make, model, and year of the vehicle; the registration number displayed on the vehicle and the state of registration; and (if known) the VIN of the vehicle;

(2)The date on which, and the location from which, the vehicle was towed;

(3)The place where the vehicle is stored and (if applicable) the name of the towing company or automobile storage company that owns that place;

(4)Notifies the owner of the ordinance section which the vehicle violated and why the vehicle violated that ordinance section;

(5)Notifies the owner that he may demand a post-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there was just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the certified letter to him was deposited in the United States mail;

(6)Notifies the owner that, if he demands a post-tow administrative hearing and the designated hearing officer determines that "no just cause" existed for the tow, the owner will not be liable for the expenses of towing and storage;

(7)States the police department's physical address, email address, and fax telephone number (to facilitate the owner's making the written demand for a post-tow administrative hearing); and

(8)Notifies the owner that, if he/she should not demand in writing a post-tow administrative hearing within five (5) days, the owner will be responsible for the expenses of towing and storage.

(c)Post-tow administrative hearing. The owner of the vehicle may demand a post-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there was just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the certified letter to him was deposited in the United States mail.

It is the vehicle owner's responsibility to notify the police department of vehicle owner's demand for a post-tow administrative hearing by filing a written demand. If the vehicle owner does not notify the police department by filing a written demand for the post-tow administrative hearing, vehicle owner has waived the right to a post- tow administrative hearing.

Sec. 24-74. - Removal of stolen vehicles; post-tow hearing.

(a)General. In addition to the penalties described in the City Code, a law enforcement officer is authorized to tow and impound, or have towed by a commercial towing service, immediately any vehicle reported to a law enforcement agency to be stolen to a place of safe storage.

(b)Notice. If the allegedly stolen vehicle displays a registration number, or if a VIN is visible on the vehicle, the law enforcement officer shall communicate that number (or those numbers) to the Illinois Secretary of State in an effort to determine the name and address of the owner of record of the vehicle. If the law enforcement officer is able to determine the name and address of the owner of record of the vehicle, he/she shall send by certified mail, to the owner of record at his address of record, with a return receipt requested, a notice that:

(1)States the make, model, and year of the vehicle; the registration number displayed on the vehicle and the state of registration; and (if known) the VIN of the vehicle;

(2)The date on which, and the location from which, the vehicle was towed;

(3)The place where the vehicle is stored and (if applicable) the name of the towing company or automobile storage company that owns that place;

(4)Notifies the owner of the reason why the law enforcement officer believed the vehicle to have been stolen;

(5)Notifies the owner that he/she may demand a post-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there was just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the certified letter to him/her was deposited in the United States mail;

(6)Notifies the owner that, if he/she demands a post-tow administrative hearing and the designated hearing officer determines that "no just cause" existed for the tow, the owner will not be liable for the expenses of towing and storage;

(7)States the police department's physical address, email address, and fax telephone number (to facilitate the owner's making the written demand for a post-tow administrative hearing); and

(8)Notifies the owner that, if he/she should not demand in writing a post-tow administrative hearing within five (5) days, the owner will be responsible for the expenses of towing and storage.

(c)Post-tow administrative hearing. The owner of the vehicle may demand a post-tow administrative hearing, before the Mayor or the Mayor's designee to determine whether there was just cause to impound and to tow the vehicle, by filing a written demand for such a hearing with the police department within five (5) days after the date on which the certified letter to him was deposited in the United States mail. It is the vehicle owner's responsibility to notify the police department of vehicle owner's demand for a post-tow administrative hearing by filing a written demand. If the vehicle owner does not notify the police department by filing a written demand for the post-tow administrative hearing, vehicle owner has waived the right to a post-tow administrative hearing.

Sec. 24-75. - Conduct of pre-tow and post-tow hearings.

(a)A pre-tow hearing or a post-tow hearing required by this division shall be conducted before the Mayor or the Mayor’s designee within 48 hours of receipt of a written demand from the person seeking the hearing, or as soon thereafter is feasible for the Mayor or the Mayor's designee, unless such person waives the right to a speedy hearing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the 48-hour period. Failure to conduct a pre-tow or post-tow hearing withing 48 hours, or within any reasonable amount of time, shall not have any adverse effect on the City’s rights under this Section.

(b)The hearing officer designated by the Mayor (if the Mayor does not conduct the hearing) shall be an officer, appointee, or employee of the City who is not a member of the City's police department.

(c)The sole issue before the hearing officer shall be whether there is or was just cause to impound and tow the vehicle in question.

(d)The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence.

(e)The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle.

(f)The police department shall carry the burden of establishing that there is or was just cause to impound and tow the vehicle in question.

(g)At the conclusion of the hearing, the hearing officer shall prepare a written decision.

(h)A copy of that written decision shall be provided:

(1)To the person who demanded the hearing,

(2)To the registered owner of the vehicle if the person who demanded the hearing was not the registered owner of the vehicle,

(3)To the commercial towing service which towed (or which is scheduled to tow) the vehicle, and

(4)To the police department.

(i)The hearing officer's decision shall not affect any criminal proceeding or any ordinance violation proceeding.

(j)The decision of the hearing officer is final.

(k)Failure of the registered owner of the vehicle or of the person who is legally entitled to possession of the vehicle either to demand or to attend a scheduled pre- tow administrative hearing or post-tow administrative hearing shall be deemed a waiver of the right to such a hearing.

(l)The hearings shall be recorded, the hearings shall be “on the record”, and any appeal or review shall be on the record and not de novo.

Sec. 24-76. - Decisions of the hearing officers and their effect.

(a)In a pre-tow administrative hearing required by this division, the hearing officer shall only determine that, as to the vehicle in question, either:

(1) there is just cause to impound and tow the vehicle; or

(2) there is no just cause.

(1)Just cause to impound and tow the vehicle:

If the hearing officer determines that there is just cause to impound and tow the vehicle, the hearing officer shall prepare and date a certificate of just cause which will authorize the police department to impound and tow the vehicle. Copies of the certificate of just cause shall be given:

a. To the person who demanded the hearing;

b. To the registered owner of the vehicle if the person who demanded the hearing was not the registered owner of the vehicle;

c. To the commercial towing service which is scheduled to tow the vehicle; and

d. To the police department.

(2)No just cause to impound and tow the vehicle:

If the hearing officer determines that there is no just cause to impound and tow the vehicle, the hearing officer shall prepare and date a certificate of no just cause which will prohibit the police department from impounding and towing the vehicle. Copies of the certificate of no just cause shall be given:

a. To the person who demanded the hearing;

b. To the registered owner of the vehicle if the person who demanded the hearing was not the registered owner of the vehicle;

c. To the commercial towing service which is scheduled to tow the vehicle; and

d. To the police department.

(b)In a post-tow administrative hearing required by this division the hearing officer shall only determine that, as to the vehicle in question, either:

(1) there was just cause to impound and tow the vehicle; or

(2) there was no just cause.

(1)Just cause to impound and tow the vehicle:

If the hearing officer determines that there was just cause to impound and tow the vehicle, the hearing officer shall prepare and date a certificate of just cause, copies of which shall be given:

(1) to the person who demanded the hearing;

(2) to the registered owner of the vehicle if the person who demanded the hearing was not the registered owner of the vehicle;

(3) to the commercial towing service which towed the vehicle;

(4) to the commercial storage service that has possession of the vehicle; and

(5) to the police department.

Upon receipt of a certificate of just cause, the commercial towing service that towed the vehicle and the commercial storage service having possession of the vehicle shall look to the owner of the vehicle, rather than the City, for payment of the expenses of towing and storage.

(2)No just cause to impound and tow the vehicle:

If the hearing officer determines that there was no just cause to impound and tow the vehicle, the hearing officer shall prepare and date a certificate of no just cause, copies of which shall be given:

(1) to the person who demanded the hearing;

(2) to the registered owner of the vehicle if the person who demanded the hearing was not the registered owner of the vehicle;

(3) to the commercial towing service which towed the vehicle;

(4) to the commercial storage service that has possession of the vehicle; and

(5) to the police department.

Upon receipt of a certificate of no just cause, the commercial storage service having possession of the vehicle shall release the vehicle to the registered owner thereof. Upon a finding of no just cause, the City shall pay the expenses of towing and storage in accordance with the agreement made between the City and the commercial towing service. If the owner of the vehicle or the person who demanded the hearing (if that person was not the registered owner of the vehicle) fails to present the certificate of no just cause to the commercial storage service having possession of the vehicle within 24 hours of his/her receipt thereof (excluding such days when the commercial storage service is not open for business), the registered owner of the vehicle shall assume liability for all additional storage charges made by the commercial storage service after the expiration of that 24-hour period.

Sec. 24-77. - Record searches.

When the identity of the owner of a vehicle is not known by the police officer authorizing the impoundment and towing of the vehicle, the police department will cause:

(1)The vehicle registration records of the state to be searched by the Illinois Secretary of State for the purpose of obtaining the required ownership information; and

(2)The stolen motor vehicle files of the state police and the National Crime Information Center (NCIC) files to be searched by a directed communication to the state police for stolen or wanted information on the vehicle.

Sec. 24-78. - Reports on towed vehicles.

When a vehicle is impounded and towed, the police department shall maintain a record of the vehicle impounded and towed. The record shall list the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, license plate year and number, registration sticker year and number displayed on the vehicle, the date and hour of the towing, location towed from, location towed to, reason for towing, and the name of the police officer authorizing the tow.

Sec. 24-79. - Reclaimed vehicles; disposal of unclaimed vehicles.

(a)Any time before a vehicle is sold or disposed of as provided in this section, the owner of the vehicle may reclaim the vehicle by presenting to the police department and the commercial towing service having custody of the vehicle proof of ownership or proof of right to possession of the vehicle. No vehicle shall be released until all towing and storage charges have been paid unless prohibited by law which requires the release of the vehicle without payment of such charges.

(b)Disposal of unclaimed vehicles shall be governed by the Illinois Vehicle Code (625 ILCS 5/), as amended.

Sec. 24-80. - Penalty.

Any person violating this chapter shall be punishable as set forth in section 1-14, or through any remedy available to city as stated in this chapter or otherwise stated in this Code.

Sec. 24-81. - Authority.

See 65 ILCS Sec. 5/11-60-2; 65 ILCS Sec. 5/11-40-3.

*Section 3*. The Mayor is directed and authorized, on behalf of the City of Lebanon, to execute any documents necessary to give effect to this Ordinance.

*Section 4*. Should any provision of any resolution or ordinance passed prior to this ordinance be in conflict with this ordinance, this ordinance shall control and supersede all previous resolutions and ordinances.

*Section 5.* This Ordinance shall be known as Ordinance No. \_\_\_\_\_and shall be effective upon its passage and approval in accordance with Illinois law.

Passed by the City Council of the City of Lebanon, Illinois, and deposited and filed in the Office of the City Clerk, on the \_\_\_\_day of \_\_\_\_\_\_\_\_ 2023, the vote being taken by ayes and noes, and entered upon the legislative records, as follows:

AYES:

NOES:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Cheri Wright

Mayor

City of Lebanon

St. Clair County, Illinois

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Luanne Holper

City Clerk

City of Lebanon

St. Clair County, Illinois