

**MEMORANDUM  
POLICE DEPARTMENT**

**TO: Thomas Thomas, City Manager**

**SUBJECT: C.O.R.A. – Proposed Addition**

**NUMBER: 12-025**

**RE: Vehicle Involved in an Unlawful Attempt to  
Flee and Elude a Peace Officer**

**Date: 07/02/12**

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In an effort to address vehicles involved in an Unlawful Attempt to Flee and Elude a Police Officer, the Rock Island Police Department is requesting the addition of a new section to the Public Nuisance Ordinance, Section 9.15.1 entitled "Vehicle Involved in an Unlawful Attempt to Flee and Elude a Peace Officer".

Following is the proposed addition and amendments to the Code of Ordinances:

**New section 9-15.1 entitled**

**"Vehicle Involved In An Unlawful Attempt To Flee And Elude A Peace Officer."**

- (a) A vehicle involved in an unlawful attempt to flee and elude a peace officer in violation of sections 11-204 or 11-204.1 of the Illinois Motor Vehicle Code (625 ILCS 5/11-204; 625 ILCS 5/11-204.1) and is not immediately stopped by the police and the driver placed under arrest is declared to be a public nuisance under section 9-12 (13) and said vehicle is subject to being immediately towed by the police.
- (b) Whenever a police officer has observed a vehicle engaged in an unlawful attempt to flee and elude and believes that there exists probable cause to tow said vehicle, and locates said vehicle on a public thoroughfare or within a parking lot under city ordinance control or a parking lot open to the general public within the City of Rock Island, Illinois before the end of his or her watch then said vehicle may be seized and impounded by the Rock Island Police Department. Notice shall be given to the person in control of the vehicle and the owner of the vehicle as described in subsection (g).
- (c) Whenever a police officer has observed a vehicle engaged in an unlawful attempt to flee and elude and said vehicle is not located by the police before the end of his or her watch, said officer shall at the end of his or her watch prepare a written incident report which provides a record, if possible of the make, model, year, color, state of registration, license plate number, identification of the driver, location of the incident and the date and time of the incident. Said report shall include information sufficient to support the determination of probable cause to tow including information of the officer's attempts to stop the vehicle at the time of the occurrence and that the driver failed or refused to stop after the officer activated the squad car's emergency signal equipment and that pursuit of the vehicle was abandoned for public safety reasons.

(d) Upon completion of the report the officer shall give the report to the watch commander or his or her designee for interim seizure and impoundment authorization of said vehicle. Once authorized, said vehicle may be seized and impounded by police based upon the reporting officer's probable cause for a period of 96 hours prior to the filing of a "Notice of Intent to Impound as described in (e). If said vehicle is towed within the 96 hour period and before a "Notice of Intent To Tow" is filed as described in subsection(e), notice shall be given to the person in control of the vehicle and the owner of the vehicle as described in subsection(g). "Notice of Intent To Tow" under subsection (e) may be filed at any time after the officer prepares his or her written incident report.

(e) If said vehicle is not located within 96 hours, the police department may file a "Notice of Intent to Impound" with the Administrative Clerk of MUNICES. Once filed, said vehicle may be seized and impounded by police if located on a public thoroughfare or within a parking lot under city ordinance control, or a parking lot open the general public within the City of Rock Island, Illinois pending a plenary hearing as described in section 9-17(b) of this code. The Notice of Intent To Impound shall include the following information:

(1) A statement that the operator on the date, time, and approximate location of the incident in question failed or refused to stop operation of the vehicle when ordered to do so by the police officer;

(2) A description of the vehicle as contained in the police officer's report;

(3) Notice that a plenary hearing on the merits to contest the eligibility for impoundment of the motor vehicle shall be scheduled on a specified date at 1:00 P.M. in the City Hall Chambers of the City of Rock Island, Illinois 1528-3d Avenue Rock Island, Illinois. Said hearing date shall be scheduled as described in section 9-17(b) of this Code;

(4) Notice that if said vehicle, as described in the Notice of Intent to Impound is located on a public thoroughfare or within a parking lot under city ordinance control or a parking lot open the general public within the City of Rock Island, Illinois at any time prior to the scheduled plenary hearing as described in subparagraph (3) above, that said vehicle is subject to immediate impoundment and seizure;

(5) That the owner is entitled to have a preliminary hearing and/or post bond to retrieve the vehicle prior to the scheduled plenary hearing as described in subsection (g).

(f) Upon filing the "Notice of Intent to Impound" with the Administrative Clerk of MUNICES, notice shall be sent by regular mail to the vehicle's owner of record. The notice is presumed delivered upon it being deposited with the United States postal service with proper postage being affixed thereto.

(g) Preliminary Hearing and Posting of Bond.

1. Whenever any officer of the Rock Island Police Department has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to subsections (b), (d) or (e), and said vehicle is located on a public thoroughfare or within a parking lot under city ordinance control or a parking lot open to the general public within the City of Rock Island, Illinois, said officer shall seize said vehicle and provide for its towing and impoundment. When the vehicle is towed the officer shall notify the person in control of the vehicle and the owner of the vehicle of the owner's right to request a preliminary hearing to determine if there was probable cause to believe that a driver of said vehicle was involved in an unlawful attempt to flee and elude a police officer and of his or her right to post a cash bond as indicated in section 9-16(7) to retrieve possession of said vehicle prior to any preliminary hearings or plenary hearings on the merits. Notice shall also be given to the owner of said vehicle of the date and time of the plenary hearing on the merits as described in section 9-17(b) of this Code. All hearings on the merits will be held on the scheduled date and time in the City Hall Chambers of the City of Rock Island, Illinois
2. All requests for preliminary hearing shall be in writing and delivered to the Rock Island Police Department within twenty-four (24) hours of the seizure. All preliminary hearings shall be held within seventy-two (72) hours, excluding weekends and holidays, after the written request for hearing is delivered to the police department.
3. All preliminary hearings will be conducted by the Administrative Code Hearing Officer.

4. The vehicle so seized shall be impounded pending completion of any preliminary hearings or plenary hearings on the merits and for the minimum time of impoundment set by section 9-12(14) of this Article if a violation of this section is found.
5. If, after proceeding with a preliminary hearing, the Administrative Hearing Officer determines there was probable cause to tow, or if no timely request for preliminary hearing is filed by the owner, said matter will be scheduled for plenary hearing on the merits. Said hearing date shall proceed as described in section 9-17(b) of this Code.
6. All hearings conducted under this section shall proceed in accordance with the rules and procedures described in section 9-17 (b) through (h) of this Code.

**Amendments:**

Amend Section 9-16 "Bonding Procedure" to add new section 9-16(7) which will read "Violation of subsection 9-12(13) and 9-15.1 of this article, bond of one thousand eighty dollars(\$1,080.00)."

Insert section 9-12 (13) to read, the motor vehicle unlawfully flees or attempts to flee and elude a peace officer in violation of the Illinois Motor Vehicle Code 625 Illinois Compiled Statutes 5/11-204 or 5/11-204.1.

Amend Section 9-13 "Length of Impoundment and Fines" to included violation of section 9-15.1 with a length of impoundment of 30 days and a fine of \$580.00.

**RECOMMENDATION:** The Rock Island Police Department recommends that the City Council approve the addition of Section 9.15.1 entitled "Vehicle Involved in an Unlawful Attempt to Flee and Elude a Peace Officer" to the Code of Ordinances along with amendments or insertions as suggested.

**SUBMITTED BY:**

  
Scott D. Harris  
Chief of Police

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**APPROVED:**

Thomas Thomas  
City Manager