

“A Historic Past”



“A Bright Future”

CITY OF DELAWARE CITY
407 Clinton Street – P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

ORDINANCE NO. 09-0126-01

**AN ORDINANCE TO PERMIT
SEIZURE AND IMPOUNDMENT OF
VEHICLES INVOLVED IN SERIOUS
CRIMINAL ACTIVITY AND
REQUIRING PAYMENT OF VEHICLE
TOWING AND STORAGE FEES.**

WHEREAS, police officers are empowered by state law to seize and impound vehicles used in connection with felony crimes;

WHEREAS, the seizure of vehicles results in the need to arrange for and store impounded vehicles;

WHEREAS, the Mayor and Council of the City of Delaware City have determined that the cost of such storage should be borne by the owner of the impounded vehicle;

NOW, THEREFORE, the Mayor and Council of the City of Delaware City do ordain as follows:

SECTION 1: The following amendment to Chapter 27 of the Code of the City of Delaware City is hereby adopted by the Mayor and Council of the City of Delaware City:

27-69. Storage Fees for Impounded Vehicles.

(a) Whenever any vehicle, as defined in this section, has been used in, or in connection with, the commission of any felony or in connection with the flight or escape of any person who has committed any felony, or is used or intended for use to transport or in any manner to facilitate the transportation of any controlled substance in violation of applicable local, state or federal law, it shall forthwith be seized and taken into custody by the peace officer or officers having knowledge of the facts of such use and disposed of in accordance with Title 11, Chapter 23 of the Delaware Code, or any similar state or federal statute. As used in this ordinance, the word "vehicle" shall include all motor-propelled vehicles, wagons, carts, carriages, bicycles, boats, vessels and aircraft.

(b) No vehicle so seized and impounded shall be released to the lawful owner or any party holding a valid security interest therein unless the costs of towing and storage related to the seizure and impoundment, and any administrative charges authorized by law, shall have been paid to the City of Delaware City. All such charges shall be the obligation of the registered owner of the vehicle. The City Manager shall have authority to adopt a schedule of fees, costs and administrative charges associated with the towing and storage of seized and impounded vehicles and to revise same from time to time.

(c) Notwithstanding the provisions of §27-69(b), no towing, storage or administrative charges or fees shall be assessed or collected in connection with the seizure and impoundment of vehicles under the following circumstances:

- (i) The impounded vehicle had been stolen and reported as such to law enforcement agencies by the lawful owner;
- (ii) The impounded vehicle is owned by an entity in the business of renting vehicles for profit and, at the time of seizure, the vehicle in question was under the control of a party who had rented the vehicle from such entity; or
- (iii) The criminal charges providing the grounds for seizure and impoundment of the vehicle have been dismissed.

SECTION 2. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Mayor and Council hereby declare that they would have passed this Ordinance and each section, subsection, sentence, clause or phrase irrespective of the fact that any one or more thereof is declared unconstitutional or invalid.

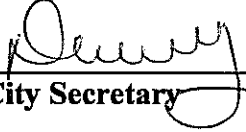
SECTION 3. Repealer. Ordinances or parts of Ordinances in conflict herewith are hereby repealed; provided that any such repeal shall not abate a right of action already accrued under any repealed Ordinance.

SECTION 4. Effective Date. This Ordinance shall become effective immediately upon passage.

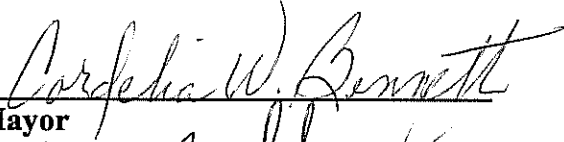
(Signature Page Follows)

ADOPTED BY THE MAYOR AND COUNCIL, this 23rd day of February 2009.

ATTEST:




City Secretary

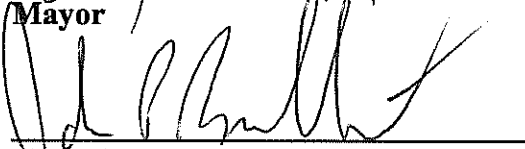


Mayor

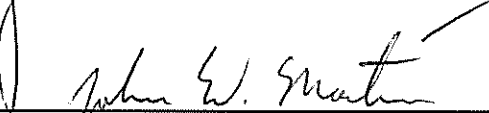
APPROVED AS TO FORM:



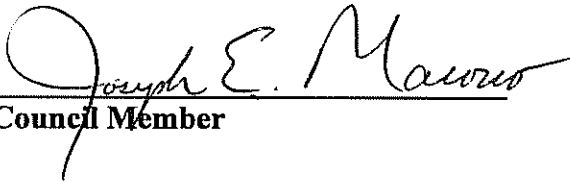
City Solicitor



Council Member



Council Member



Council Member

Council Member

Council Member

First Reading: January 26, 2009
Second Reading and Passage: February 23, 2009