

CALENDAR
for
REGULAR MEETING OF THE COUNCIL
of the
CITY OF LONG BEACH
held
NOVEMBER 21, 2023

PUBLIC HEARING: Resolution Granting Waiver of Off-Street Parking Requirements for Premises:

Re: 136 East Park Avenue (second floor), Long Beach, New York.

PUBLIC HEARING: Resolution Granting Waiver of Off-Street Parking Requirements for Premises:

Re: 806 West Beech Street (street floor), Long Beach, New York.

1. Resolution Granting Waiver of Off-Street Parking Requirements for Premises:
Re: 136 East Park Avenue (second floor), Long Beach, New York.
2. Resolution Granting Waiver of Off-Street Parking Requirements for Premises:
Re: 806 West Beech Street (street floor), Long Beach, New York.
3. Resolution Authorizing Transfer of Funds for the 2023-2024 Fiscal Year.
4. Resolution Authorizing Transfer of Funds for the 2023-2024 Fiscal Year.
5. Resolution Authorizing Budget Amendment to the Capital Projects Fund Budget.
6. Resolution Authorizing the Acting City Manager to Merge the Youth and Family Services Department into the Recreation Department and Authorizing the City Comptroller to Transfer Funds for the 2023-2024 Fiscal Year to Effectuate Said Merger.
7. Resolution Authorizing the Acting City Manager to Purchase a 2023 Chevrolet Trailblazer Sport Utility Vehicle for the Sewer Maintenance Department.

8. Resolution Authorizing Publication for Hearing of an Ordinance to Amend the Code of Ordinances of the City of Long Beach Re: Automatic Alarm Systems.
9. Resolution Authorizing Publication for Hearing of an Ordinance to Amend the Code of Ordinances of the City of Long Beach Re: Motor Vehicles and Traffic.
10. Approval of Minutes of Prior Meeting of November 8, 2023.

November 21, 2023

Item No. 1
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Granting Waiver of Off-Street Parking Requirements
Re: Premises 136 East Park Avenue (second floor)
Long Beach, New York.

WHEREAS, there has been presented to this Council an application pursuant to Section 9-112(18)(c) of Appendix A (Zoning Law) of the Long Beach Code of Ordinances, for waiver of off-street parking requirements for the premises located at 136 East Park Avenue (second floor) Long Beach, New York (Section 59, Block 110, Lot 16), between Riverside Boulevard and Long Beach Boulevard, having frontage 20 feet or less, on behalf of the owner 136 E Park Ave LLC, 935 Jewel Drive, Valley Stream, New York 11581 to be used as a pharmacy;

WHEREAS, a Public Hearing was held on this date;

NOW, THEREFORE, after due deliberation, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the application of owner 136 E Park Ave LLC, 935 Jewel Drive, Valley Stream, New York 11581 for exemption with respect to the requirements for off-street parking at premises 136 East Park Avenue (second floor) Long Beach, New York, having frontage of less than 20 feet, be and the same hereby is granted, only and during the time that such premises shall be used as a pharmacy.

November 21, 2023

Item No. 2
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Granting Waiver of Off-Street Parking Requirements
Re: Premises 806 West Beech Street (street floor)
Long Beach, New York.

WHEREAS, there has been presented to this Council an application pursuant to Section 9-112(18)(c) of Appendix A (Zoning Law) of the Long Beach Code of Ordinances, for waiver of off-street parking requirements for the premises located at 806 West Beech Street (street floor) Long Beach, New York (Section 59, Block 265, Lot 17), between California Street and New York Avenue, having frontage 20 feet or less, on behalf of the owner Cosmo Palmieri, 70 California Street, Long Beach, New York 11561 to be used as a medical staffing and tutoring agency;

WHEREAS, a Public Hearing was held on this date;

NOW, THEREFORE, after due deliberation, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the application of owner Cosmo Palmieri, 70 California Street, Long Beach, New York 11561 for exemption with respect to the requirements for off-street parking at premises 806 West Beech Street (street floor) Long Beach, New York, having frontage of less than 20 feet, be and the same hereby is granted, only and during the time that such premises shall be used as a medical staffing and tutoring agency.

November 21, 2023

Item No. 3
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing Transfer of Funds for the
2023-2024 Fiscal Year.

WHEREAS, a transfer of funds is needed to cover the salary of an employee who
is transferring from the City Comptroller's Office to the Central Garage;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the
following transfer of funds be and are hereby authorized:

<u>Budget Code</u>	<u>Description</u>	<u>Transfer From:</u>	<u>Transfer To:</u>
A1315.51101	City Comptroller-Regular Salaries	\$85,401.00	
A1640.51101	Central Garage-Regular Salaries		\$85,401.00

November 21, 2023

Item No. 4
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing Transfer of Funds for the
2023-2024 Fiscal Year.

WHEREAS, a transfer of funds is needed to cover the salary of a full time Sewer
Maintenance employee;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the
following transfer of funds be and are hereby authorized:

<u>Budget Code</u>	<u>Description</u>	<u>Transfer From:</u>	<u>Transfer To:</u>
G8540.51102	Sewer Maintenance-Temporary Salaries	\$80,000.00	
G8540.51101	Sewer Maintenance-Regular Salaries		\$80,000.00

November 21, 2023

Item No. 5
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing Budget Amendment to the
Capital Projects Fund Budget.

WHEREAS, on December 20, 2022 the City was awarded \$39,139,237.81 under
the FEMA 404 Hazard Mitigation Program for the work required under the North Shore Critical
Infrastructure Protection Project; and

WHEREAS, work has commenced and the City requested and received remittance in the
amount of \$279,554.68 from New York Division of Homeland Security and Emergency Services
("NYSDHSES"); and

WHEREAS, the Capital Projects Fund Budget must be amended to increase
budgeted revenue and expense amounts in the Capital Projects Fund pertaining to the North
Shore Critical Infrastructure Protection Project;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the
following amendment to the fiscal year 2023-2024 Capital Projects Fund Budget be and is
hereby authorized:

CAPITAL PROJECTS FUND

Increase Estimated Revenues:	H10510		\$279,554.68
H0030.43097 State Aid, Capital Projects		\$279,554.68	
Increase Appropriations:	H20960		\$279,554.68
H1021.52298 Flood Protection Infrastructure		\$279,554.68	

November 21, 2023

Item No. 6
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing the Acting City Manager to Merge
the Youth and Family Services Department into the Recreation
Department and Authorizing the City Comptroller to Transfer
Funds for the 2023-2024 Fiscal Year to Effectuate Said Merger.

WHEREAS, the Acting City Manager desires to merge the Youth and Family
Services Department into the Recreation Department; and

WHEREAS, transfers of funds are needed to effectuate the abovementioned
departmental merger;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York that the
Acting City Manager is authorized to merge the Youth and Family Services Department into the
Recreation Department of the City of Long Beach and amend the Personnel Roster of the City of
Long Beach to effectuate same; and be it further

RESOLVED, that the City Comptroller is authorized to transfer all remaining
2023-2024 fiscal year budgeted Youth and Family Services Department General Funds to the
Recreation Department General Funds as is necessary to effectuate said departmental merger.

November 21, 2023

Item No. 7
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing the Acting City Manager to Purchase a 2023
Chevrolet Trailblazer Sport Utility Vehicle for the Sewer Maintenance
Department.

WHEREAS, the Sewer Maintenance Department desires to purchase one (1) 2023
Chevrolet Trailblazer Sport Utility Vehicle to replace a current Sewer Maintenance Department
vehicle that has outlived its useful life; and

WHEREAS, pursuant to New York’s “piggybacking” law, Section 103(16) of the
New York General Municipal Law, the City “may contract for such services related to the
installation, maintenance or repair of apparatus, materials, equipment, and supplies, as may
required by such political subdivision or district therein through the use of a contract let by the
United States of America or any agency thereof, any state or any other political subdivision or
district therein if such contract was let to the lowest responsible bidder or on the basis of best
value in a manner consistent with this section and made available for use by other governmental
entities”; and

WHEREAS, the City determined that the agreement between DeNooyer
Chevrolet, Inc., 127 Wolf Road, Albany, New York 12205 and Monroe County, 39 West Main
Street, Rochester, New York 14614, dated June 15, 2023, (“Monroe Agreement”) is for the same
or similar services as the City desires from DeNooyer Chevrolet, Inc., is for the same or better
pricing, and otherwise meets the criteria under Section 103(16) and the City’s Purchasing
Guidelines; and

WHEREAS, DeNooyer Chevrolet, Inc. agrees to enter into an agreement with the
City under the terms and conditions that are the same or better than those set forth in the Monroe
Agreement, except as expressly modified herein;

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, that the Acting City
Manager be and hereby is authorized to enter into an agreement to purchase one (1) 2023
Chevrolet Trailblazer Sport Utility Vehicle through DeNooyer Chevrolet, Inc., 127 Wolf Road,
Albany, New York 12205, at a cost of \$30,700.00. Funds are available in Account No.
H3017.52279 (Acquisition of Sewer Equipment & Vehicles).

November 21, 2023

Item No. 8
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing Publication for Hearing of an
Ordinance to Amend the Code of Ordinances of the City
of Long Beach Re: Automatic Alarm Systems.

WHEREAS, there has been presented to this Council the following proposed
Ordinance:

“ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE
CITY OF LONG BEACH RE: AUTOMATIC ALARM SYSTEMS.”
(See Ordinance Attached)

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the
City Clerk shall cause to be published in the official newspaper of the City of Long Beach the
title, and a summary or the full text of said Ordinance; and be it further

RESOLVED, that said Ordinance shall be on the calendar for public hearing at a
meeting of the City Council to be held at City Hall, 1 West Chester Street, Long Beach, New
York, on December 5, 2023 at 7:00 p.m. on that day.

ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF LONG BEACH RE: AUTOMATIC ALARM SYSTEMS.

BE IT ENACTED, by the City Council of the City of Long Beach, New York, as follows:

Sec. 1. Chapter 22, Article III, Sections 22-30, 22-31, 22-39, and 22-40 of the Code of Ordinances of the City of Long Beach, as heretofore amended, shall be and the same is hereby amended to read as follows and Sections 22-43 of the Code of Ordinances of the City of Long Beach, as heretofore amended, shall be and the same is hereby repealed, revoked and rescinded and the following Section 22-43 is hereby adopted and enacted in place and stead of said section, and is to read as follows:

“Sec. 22-30. Legislative Intent.

(a) It is the intent of the city council in enacting this article to safeguard and protect the residents of Long Beach and the facilities of the police and **fire departments** by regulating transmissions from alarm systems to **City emergency numbers**. This article seeks to ensure that City emergency switchboards will be available to dispatch first responders, equipment and personnel for actual emergencies and reduce false alarms. In addition, this article is intended to alleviate the nuisance of audible alarms to the surrounding community by identifying and locating responsible persons to silence alarm systems which have been activated.

(b) **The fire alarm portions of this Article apply to buildings, establishments, entities, and/or structures that are not required to be connected to the municipal alarm board pursuant to Chapter 7, Article XV, Section 7-267, of this Code of Ordinances. The fire prevention/fire alarm requirements for buildings, establishments, entities, and/or structures that fall within the meaning of Chapter 7, Article XV, Section 7-267, of this Code of Ordinances, shall be controlled exclusively by that section.**

...

Sec. 22-31. Definitions.
As used in this article, the term:

(a) Alarm system shall mean any alarm device or central station/alarm company that dials a **City emergency number** to alert the City that an emergency exists or that the services of that department are needed. "Alarm system" shall also mean any alarm device which automatically emits an audible, visual, or other similar response upon the occurrence of any hazard or emergency, and is intended to alert persons outside the building to the existence of said hazard or emergency. An alarm system as defined in this section shall include alarm signals transmitted to privately operated central stations.

(b) **City emergency number** shall mean any telephone number designated by the **City Manager under the guidance of the Police and Fire Commissioners** as a telephone number through which members of the public may report a **fire, medical or police emergency**, or request **emergency** assistance.

- (c) *False alarm* shall mean an alarm which signals the police, **fire department, or EMS** needlessly or erroneously and is not cancelled by the resident before a **first responder is dispatched to the subject location**. The owner and/or occupant of premises having an alarm system shall be responsible for any and all false alarms to **the City** which are caused by either the willful or negligent act or acts of such owner or occupant, or his employees or agents. Negligent acts shall include improper maintenance and insufficient instructions to tenants, employees, agents, children, or others concerned with the operation of the system and all inadvertent alarm signals by individuals or animals.

...

Sec. 22-38. Fees.

...

- (b) Each new applicant for a permit to install and maintain an automatic alarm system for a residential property shall pay to the city a fee of seventy-five dollars (\$75.00) **each for either a residential fire alarm permit or a residential burglar alarm permit, or a fee of one hundred twenty-five dollars for both (\$125.00), valid for one (1) year.**
- (c) Each new applicant for a permit to install and maintain an automatic alarm system for a commercial property shall pay to the city a fee of one hundred fifty dollars (\$150.00) **each for either a commercial fire alarm permit or a commercial burglar alarm permit, or a fee of two hundred fifty dollars (\$250.00) for both**, valid for one (1) year. Permits are to be renewed every year at said rate.
- (d) Residential properties with existing permits shall pay to the city a fee of fifty dollars (\$50.00) **each for a residential fire alarm permit or a residential burglar alarm permit**, valid for one (1) year. Commercial properties with existing permits shall pay to the City a fee of one hundred dollars (\$100.00) **each for a commercial fire alarm permit or a commercial burglar alarm permit**, valid for one (1) year. Permits are to be renewed every year at said rate.

Sec. 22-39. False Alarm Notifications and Penalties.

...

- (b) Newly installed alarm systems shall not be subject to false alarm notifications during the first ninety (90) days immediately following the completion of installation, subject to a maximum of three (3) false alarm notifications and provided that an alarm permit has been issued by the **City**.
- (c) All residential alarm notifications must include an attempted telephone notification with two (2) calls back to the residence or secondary number by the privately-operated central station before the **City** is notified;
- (d) Any location/premises that fails to pay any fee or fine set forth in this chapter shall be issued a letter of warning prescribing a date certain that any outstanding fees or fines must be paid by the permit holder. Any location/premises that fails to pay such fees and/or fines timely, as prescribed in the letter of warning, may be subject to permit

revocation, pursuant to Section 22-40, at the discretion of the Police Commissioner and/or Fire Commissioner.

- (e) **In determining the number of false alarms for a specific location, false fire alarms shall be separate and distinct from false burglar alarms, and vice versa, and each shall not be considered in the calculation/determination of the other.**

...

Sec. 22-40. Revocation and reissuance of permit.

- (a) **The Police Commissioner may revoke a Burglar Alarm Permit and the Fire Commissioner may revoke a Fire Alarm Permit if he/she determines that:**

...

- (d) **In the event an alarm permit is revoked, the Fire Department shall still respond to automatic fire alarms. The City reserves all legal remedies to collect payment of any such unpaid fees.**

...

Sec. 22-43 Notice and Appeals.

(a) An alarm permit holder alleged to have violated this Article, that receives a notice of false alarm fees or any other fines or fees due under this article, shall be issued a notice of the alleged violation. Said notice shall inform the permit holder of his/her right to appeal such fines or fees by filing a notice of appeal in such form as provided by the City.

- i. **Notices of Appeal of an alleged violation related to a false burglar alarm shall be filed with the Police Commissioner, within 30 days of receipt said notice.**
- ii. **Notices of Appeal of an alleged violation related to a false fire alarm shall be filed with Fire Commissioner, within 30 days of receipt said notice.**
- iii. **Final determinations regarding Appeals related to false burglar alarms shall be rendered by the Police Commissioner within 60 days of the conclusion of the appeal process outlined in the Notice of Violation.**
- iv. **Final determinations regarding Appeals related to false fire alarms shall be rendered by the Fire Commissioner within 60 days of the conclusion of the appeal process outlined in the Notice of Violation.**

(b) All final written determinations of the respective Commissioner shall be appealable in accordance with Article 78 of the New York Civil Practice Law and Rules.

Sec. 2. This Ordinance shall take effect immediately.

November 21, 2023

Item No. 9
Resolution No.

The following Resolution was moved by
and seconded by :

Resolution Authorizing Publication for Hearing of an
Ordinance to Amend the Code of Ordinances of the City
of Long Beach Re: Motor Vehicles and Traffic.

WHEREAS, there has been presented to this Council the following proposed
Ordinance:

“ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE
CITY OF LONG BEACH RE: MOTOR VEHICLES AND TRAFFIC.”
(See Ordinance Attached)

NOW, THEREFORE, be it

RESOLVED, by the City Council of the City of Long Beach, New York, that the
City Clerk shall cause to be published in the official newspaper of the City of Long Beach the
title, and a summary or the full text of said Ordinance; and be it further

RESOLVED, that said Ordinance shall be on the calendar for public hearing at a
meeting of the City Council to be held at City Hall, 1 West Chester Street, Long Beach, New
York, on December 5, 2023 at 7:00 p.m. on that day.

The following Ordinance was moved by
and seconded by :

ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF LONG BEACH RE: MOTOR VEHICLES
AND TRAFFIC.

BE IT ENACTED, by the City Council of the City of Long Beach, New York, as
follows:

Sec.1. Chapter 15, Article VI, Division 2, of the Code of Ordinances of the City
of Long Beach, shall be and the same is hereby amended to read as follows:

“DIVISION 2. Immobilization and Removal of Illegally Parked Vehicles

...

Sec. 15-210. Grounds For Removal and/or Immobilization; General Provisions.

(a) Grounds for Immobilization/Removal. The following vehicles shall be subject to
removal and/or immobilization:

...

- (5) Vehicles which have three (3) or more outstanding and/or unpaid parking violations issued against them and which, after mailing to the registered owner a final notice, at the address provided by the Department of Motor Vehicles records, are found operated or parked on any public street, public highway, roadway, any portion of the entire width between the boundary lines of any way publicly maintained or on any property owned, leased by, or in the possession and control of, the City of Long Beach. A parking violation is deemed outstanding when said violation has not been answered by the required appearance date. **A parking violation is deemed unpaid when said violation has not been paid by the date set by the City Court. Prior to immobilization, the City or its designee, shall send a notice to the registered owner, at the address on file with the New York State Department of Motor Vehicles, advising that the registered owner has three (3) or more outstanding and/or unpaid parking violations; that if the judgments are not paid or otherwise vacated within thirty (30) days of the date of the notice, the registered owner’s vehicle shall be subject to removal and/or immobilization without further notice; that the registered owner has the right to a hearing before a neutral hearing officer to determine whether grounds for removal and/or immobilization exist and how the registered owner can request the hearing within thirty (30) days of the date of the notice and that the hearing shall be scheduled within fifteen (15) business days of the receipt of the request for a hearing. If**

the registered owner requests a hearing, the registered owner's vehicle shall not be removed and/or immobilized under this section until after a decision is rendered.

...

- (b) Removal following immobilization. Where a vehicle is immobilized and the owner or other person entitled to possession of the vehicle **does not pay all fees, or request a hearing pursuant to Section 15-211 of this division within seventy-two (72) hours of the vehicle being immobilized**, the vehicle may be removed and conveyed, by or under the direction of a member of the police department or the fire department, by means of towing, or otherwise, to the city yard or to such other place as the commissioner of police may direct and there stored; and such removal, conveyance and storage shall be at the risk of the owner of the vehicle.

...

Sec. 15-211. Immobilization and/or Removal; Notice and Penalties.

- (a) Within **seventy-two hours (72)** after towing **if the vehicle is not recovered by the owner**, the Police Department shall notify **all titled owners, lienholders and registrants, if different, on file with the New York State Department of Motor Vehicles**, of such vehicle by **certified mail, return receipt requested**, of the fact of its towing or immobilization, the place where it may be recovered and the conditions under which it will be released. **The notice shall also inform all titled owners, lienholders and registrants of the right to a hearing before a neutral hearing officer to determine whether grounds for removal existed pursuant to Section 15-210, how the titled owners, lienholders and registrants can request the hearing within thirty (30) days of the notice and that the hearing shall be scheduled within three (3) business days of the request for a hearing if the vehicle has not been recovered or within thirty (30) business days if the vehicle has been recovered. The notice shall also inform all titled owners, lienholders and registrants that if the vehicle is not redeemed or claimed within thirty (30) days of the notice, the Commissioner of Police may sell the vehicle pursuant to Section 15-213 of this division. If the vehicle is subject to forfeiture pursuant to Section 56 of the City Charter, the notice shall inform all titled owners, lienholders and registrants that the vehicle is subject to forfeiture and that a hearing will be held before a neutral hearing officer on the issues of whether probable cause existed that the vehicle was used in the commission of a crime, whether the City is likely to succeed on the merits of the forfeiture action and whether retention of the vehicle is necessary to preserve the vehicle from destruction during the pendency of the forfeiture proceeding and whether any other measures would better protect the City's interests during the proceedings, including but not limited to: (a) issuance of restraining order prohibiting the sale, transfer or loss of the vehicle with the imposition of appropriate penalties for violation of said restraining order; and/or (b) taking of a bond.**

(b) Additionally, when a vehicle is immobilized, the Police Department shall cause to be attached to the immobilized vehicle a notice containing the following information, in such form as directed by the Commissioner of Police:

...

(6) The right to request a hearing before a neutral hearing officer on whether grounds for immobilization pursuant to Section 15-210 existed at the time of immobilization, how the owner can request a hearing and that a hearing will be scheduled within three (3) business days of the request for the hearing if the owner has not recovered the vehicle and within thirty (30) business days if the vehicle has been recovered; and

(7) Such other information, statements, notices and/or warnings as the Police Department may from time to time determine.

...

Sec. 15-212. Procedure for Redemption; Release; Charges; Hearings.

...

(a) Before the owner or any other person entitled to possession of a vehicle removed or immobilized pursuant to this division shall be permitted to repossession thereof, that person or authorized agent shall furnish satisfactory evidence of his or her identity and ownership or authorization from the owner to obtain the release of such motor vehicle, and shall make payment to the City of Long Beach for charges incurred in the immobilization or removal of such vehicle, as well as applicable administrative charges under this division, **except where a hearing officer determines that there were no grounds for the removal.** No such vehicle shall be released until the owner or authorized agent has established his or her identity and right to possession and has signed a proper receipt therefor.

(b) Charges for Removal. **Except as otherwise provided in this division,** the owner or other person entitled to possession of a vehicle removed pursuant to this division shall pay to the City of Long Beach a fee of one hundred twenty dollars (\$120.00) to cover administrative costs, as well as towing and storage charges in accordance with the following schedule:

- (1) For the pickup with standard equipment and towing, two hundred **forty-five** dollars (**\$245.00**), and five dollars (\$5.00) for each additional mile or part thereof towed.
- (2) For the pickup with required flatbed towing, and towing, two hundred **ninety-five** dollars (**\$295.00**), and five dollars (\$5.00) for each additional mile or part thereof towed.

...

(c) Charges for Immobilization.

- (1) **Except as otherwise provided in this division, an owner or other person entitled to possession of an immobilized vehicle pursuant to this division shall pay to the City of Long Beach a fee of two hundred and seventy dollars (\$270.00) immobilization charge to the City of Long Beach.**

...

(e) Release of Vehicle.

- (1) **Except where a neutral hearing office has determined that there were no grounds for the immobilization or removal of the vehicle under this division or the City fails to schedule a requested hearing within three (3) business days of a request pursuant to Section 15-211(a) or (b), before the owner or person in charge of any vehicle taken into custody, or immobilized as above provided, shall be allowed to repossess or to secure the release of said vehicle, the owner or his/her agent shall:**

- a) Pay any and all sums legally due for any city parking violations issued and outstanding against such vehicle, including fines and penalties;
- b) **Appear on all overdue** parking summonses issued in the city against any motor vehicles registered in the name of the registered owner of the impounded motor vehicle.
- c) Comply with all procedures for redemption as provided in section 15-212; and
- d) Pay all charges as provided in section 15-212.

- (2) Inability to comply with subsection (1)(a) - If after paying applicable charges for removal and/or immobilization of a vehicle, the owner or person in charge of any such vehicle is unable to comply with subsection (1)(a), that individual shall be entitled to post a bond in an amount sufficient to cover such fines and/or penalties. Such bond may be posted in cash, or by credit card via the Police Department payment kiosk. A three percent (3%) non-refundable processing cost shall be applied to credit card payments. As soon as practicable thereafter, such individual must comply with subsections (1)(a) and (b) in order to be eligible to receive a return of the posted bond.

(f) **Hearings.**

- (1) A neutral hearing officer shall preside over any hearing requested pursuant to this division.**
- (2) All neutral hearing officers shall be attorneys that have been admitted to practice law in the State of New York for at least five (5) years. The neutral hearing officers shall be selected through Request for Qualifications, after which qualified applicants shall be approved by the City Council.**
- (3) The City shall have the burden of proving that there were sufficient grounds for the immobilization and/or removal of the vehicle pursuant to Section 15-210 by a preponderance of the evidence.**
- (4) Where the vehicle is subject to forfeiture pursuant to Section 56 of the City Charter, the City shall have the burden of proving that probable cause existed that the vehicle was used in the commission of a crime, that the City is likely to succeed on the merits of the forfeiture action and that retention of the vehicle is necessary to preserve the vehicle from destruction during the pendency of the forfeiture proceeding and or whether any other measures would better protect the City's interests during the proceedings, including but not limited to: (a) issuance of restraining order prohibiting the sale, transfer or loss of the vehicle with the imposition of appropriate penalties for violation of said restraining order; and/or (b) taking of a bond.**
- (5) Any interested party may appear in person and/or with an attorney duly admitted to practice law in the State of New York. Should more than one interested party request a hearing pursuant to this division, said hearings shall be scheduled jointly with any other requested hearing regarding the same immobilization or tow of a vehicle.**

Sec. 2. This Ordinance shall take effect immediately.