

#23-40

**ORDINANCE NO. 23-030****AN ORDINANCE ESTABLISHING ADMINISTRATIVE FEES ON TOWED VEHICLES IN THE COUNTY OF MARSHALL, ILLINOIS**

WHEREAS, in order to protect persons who operate motor vehicles within Marshall County, to ensure that the roadways of the county of Marshall remain open and free of hazard to the public and to further effectuate the efficient enforcement of the County's traffic, parking, snow removed and other regulatory ordinances, it is necessary to register and regulate businesses engaged in vehicle wrecker or towing services when said services are performed for the County of Marshall.

WHEREAS, it has been determined that the County of Marshall has an interest in reducing and deferring illegal drug activity, illegal weapon activity, illegal operation of motor vehicles and other significant driving and vehicle-related offences within the County of Marshall, while promoting the safety and welfare of person and their property within the County of Marshall.

WHEREAS, the County of Marshall Board Members have determined that establishing administrative fees on towed vehicles would serve as a penalty and deterrent in reducing illegal drugs and firearm activity, illegal driving while under the influence, illegal operation of motor vehicles and other significant driving and vehicle-related offenses by both vehicle owners and borrowers.

WHEREAS, the following regulations are promulgated to Section 2-3-S, Section, 11-80-2 and Section 11-1-1 of the Illinois Municipal Code.

**THEREFORE, BE IT ORDAINED BY THE CHAIRMAN AND MARSHALL COUNTY BOARD****Section 1. IMMEDIATE SEIZURE AND IMPOUNDMENT OF VEHICLES****A. Offenses Leading to Motor Vehicle Seizure and Impoundment**

A motor vehicle used in violation of the statutes hereinafter set forth shall be subject to Seizure and impoundment under this section:

1. Any violation of Article IV of the Illinois Controlled Substances Act (720 ILCS 750)
2. Driving under the influence (625 ILCS 5/11-501 *et seq*)
3. Any violation of Article 24 (Deadly Weapons) of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/24-1 *et seq*)
4. Driving with no valid license, expired more than (1) year but not in cases where the driver has a valid driver's license but does not have the license on his or her person (625 ICLS 5/6-101)
5. Fleeing or attempting to elude a police officer (625 ILCS 5/11-204)
6. Aggravated fleeing or attempting to elude to a police officer (625 ILCS 5/11-204.1)
7. Reckless driving (625 ILCS 5/11-503)
8. Any felony for which seizures is authorized under the Illinois Criminal Code of 1961 (720 ILCS 5/36-1)
9. Leaving the scene of or failing to report an accident with death or injury (625 ILCS 5/11-401)
10. Leaving the scene of an accident with vehicle damage (625 ILCS 5/11-402)
11. Failure to give aid or information (625 ILCS 5/11-403)
12. Failure to give information after striking unattended vehicle or other property (625 ILCS 5/11-404)
13. Driving with suspended/revoked driver's license. (625 ILCS 5/6-303)

**B. Deputies to Impound Vehicles**

When a deputy has probable cause to believe that a motor vehicle is subject to seizure and impound as listed in Section 1(A) of this Ordinance, the deputy shall:

1. Notify the on-duty supervisor, or if no supervisor is on duty, notify the next supervisor that is on duty of the seizure and impoundment and the nature of the offense.
2. Inventory and provide for the towing of the vehicle to a facility listed on the Towing List as provided in Section II of this Ordinance. If the vehicle is towed to a location not on the County's Towing List, the Deputy shall notify the person taking possession of the vehicle that it is to be held until the Marshall County Sheriff's Office authorizes its release.
3. When practical, the Deputy shall allow the removal of personal property from the vehicle prior to towing if the property is not needed for evidence, subject to forfeiture or otherwise needed to be maintained by the police. Deputies generally will not wait at the scene of any seizure to allow the removal of personal property or the summoning of persons to remove property. Persons under arrest will generally not be allowed to remove property prior to their release.
4. Prepare a written police report, notice of seizure (when immediately deliverable) and tow report, when practical, prior to ending his or her shift. The preparation of the police report allows for the conduct of a preliminary hearing, supervisory review and review by the evidence custodian for possible release of personal property. The report shall state whether the vehicle or property contained therein is subject to forfeiture or is to be held for any other reason.

**C. Notice**

1. Immediately upon seizure of the vehicle pursuant to this Ordinance, the Deputy shall notify the person who if found to be in control of the vehicle at the time of the violation, if there is such a person, of the fact that vehicle's seizure and of the vehicle owner's right to request a Preliminary Hearing as provided by this Ordinance. When no person is present to receive said notification, Deputies shall make a reasonable attempt to notify the Owner of Record.
2. Within ten (10) days after a vehicle is seized and impounded pursuant to this Ordinance, the County shall notify by certified mail, receipt requested, the Owner of Record at his or her last known address, as indicated by the vehicle's registration, of his or her right to request a final hearing before the hearing officer that will be conducted to determine whether the subject vehicle is eligible for the impoundment pursuant to the section. However, no such notice need to be sent to the Owner of Record if the owner is personally served within ten (10) days after the vehicle is impounded and the owner acknowledges receipt of the notice in writing.
3. The written notice as required in Section I(C)(2) above shall state the penalties that may be imposed if no hearing is required, including that a vehicle not released by a payment of the penalty, fees, and remaining towing/storage fees may be sold or disposed of by the County accordance with applicable law.

#### **D. Administrative Fee, Release and Disposal**

1. (a) A vehicle impounded under the Ordinance shall be released prior to hearing to a person entitled to lawful possession of said vehicle upon payment to the Marshall County Sheriff's Office of a fee of \$250.00. This is to be deposited in the **Sheriff's Seized and Impounded Fund**. Vehicle owner shall be responsible for any and all storage charges.

(b) The penalty set forth in section I(D)(1)(a) above will be refunded by the County in the event that, upon Final Hearing, as provided in section 1(F) herein, the Hearing Officer determines that the vehicle was not used in the commission of a violation as set forth in Section 1(A) of this Ordinance. Under such circumstances, the vehicle shall be released from impoundment to the owner.

2. Notwithstanding any other provision of the section, whenever a person, corporation, or business entity with a valid lien or valid security interest against a vehicle impounded under this Ordinance had commenced foreclosure proceedings, possession of the vehicle shall be given to the person or agent for said entity with a valid lien, to refund the County the net proceeds of any foreclosure sale, less an amount necessary to pay all lien holders of record, up to the total amount of penalties and fees imposed under this Ordinance.

3. If a person entitled to lawful possession does not redeem the impounded vehicle within thirty (30) days after the vehicle is impounded or after the Hearing Officer's written determination, whichever is later, then such vehicle shall be disposed of in accordance with the procedure set forth for disposal of any unclaimed or abandoned vehicles as provided by law.

#### **E. Preliminary Hearing**

1. Whenever the owner of a vehicle seized pursuant to this Ordinance requests in writing within twelve (12) hours after the seizure, and hand-deliver to the Marshall County Sheriff's Office (520 6<sup>th</sup> St. Lacon, IL 61540), a preliminary hearing on probable cause, a Hearing Officer appointed by the County shall conduct at the County Board Room, such a preliminary hearing within seventy-two (72) hours of the seizure, excluding Saturdays, Sundays, and holidays

2. All interested persons shall be given a reasonable opportunity to be heard at the preliminary hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence, shall be admissible.

3. If, after the hearing, the Hearing Officer determines that there is probably cause to believe that the vehicle was used in the commission of any crime or violation described in Section 1(A) of this Ordinance, the Hearing Officer shall order the continuous impoundment of the vehicle as provided in this section unless the owner of the vehicle posts with the County of Marshall a cash of bond \$250.00 plus fees for towing and storing of the vehicle as provided in Section I (D)(1) herein. If the Hearing Officer determines that there is no such probably cause, the vehicle will be returned without penalty or other fees.

4. For purposes of this section, the Hearing Officer shall not be an employee of the County of Marshall.

## **F. Final Hearing**

1. The Owner of Record seeking a hearing must file a written request for a hearing with the Sheriff of Marshall County at the Sheriff's Office (520 6<sup>th</sup> St. Lacon, IL 61540) no later than fifteen (15) days after the notice was mailed or otherwise given under Section 1(C) herein.
2. The hearing shall be scheduled and held, unless continued for good cause by order of the Hearing Officer, no later than forty-five (45) days after the request for a hearing has been filed.
3. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal Rules of Evidence will not apply at the hearing and hearsay evidence shall be admissible.
4. If after the hearing, the Hearing Officer determines by a preponderance of the evidence that the vehicle was used in the commission of any of the violation described in Section 1(A) of this Ordinance, the Hearing Officer shall enter an order requiring the vehicle to continue to be impounded until the owner pays a penalty of \$250.00 plus fees for towing and storage of the vehicle as provided in Section 1(D)(1)(a) herein. That penalty and fees shall be a debt due and owing the County. However, if a cash bond has been posted the bond shall be applied to the penalty. If the Hearing Officer determines that the vehicle as not used in commission of such a violation, he or she shall order the return of the vehicle or cash bond as provided in Section 1(D)(1)(b) herein.
5. For purposes of this section, the Hearing Officer shall be a licensed attorney who is not an employee of the County.

## **SECTION II: TOWING OF VEHICLES AS REQUESTED OR ORDERED BY THE COUNTY OF MARSHALL, ILLINOIS**

### **A. Towing List**


1. The Sheriff shall maintain a "Towing List" of qualified towing companies as determined by the Sheriff to respond to requests for the towing of vehicles made by the Marshall County Sheriff's Office.
2. Those towing companies wishing to be considered for placement of the Towing List shall submit an application to the Marshall County Sheriff's Office within thirty (30) days of the adoption of this Ordinance. Those towing companies who previously submitted an application pursuant to Ordinance shall be considered for placement on the Towing List without the re-filing of an application.
3. The Sheriff shall consider the applications of all towing companies submitted and shall select the towing companies, which in his judgement, are most qualified for inclusion on the Towing List. The applications of those companies not placed on the Towing List shall be placed on file and held by the Sheriff's Office. The decision of the Sheriff regarding selection for the Towing List shall be final.
4. The name and phone number of each of the four (4) selected towing companies shall be placed on the Towing List, which shall be utilized in all cases in which a vehicle is to be towed from a public way or public property or from any private property at the request or direction of the

Marshall County Sheriff's office. Towing companies not on the Towing List shall not be used unless all companies on the Towing List are unavailable.


Passed and Adopted at Lacon, Illinois, Marshall County, Illinois on this 13<sup>th</sup> day of April 2023 by a vote of:

- 10 ayes
- 0 nays
- 2 absent
- 0 abstain

Attest:



Jill M. Kenyon  
Marshall County Clerk & Recorder



Travis McGlasson  
Vice Chairman  
Marshall County Board

**Amendment to Marshall Co. Ordinance #23-030**

**Amend: Section 1. Item #4**

Current: Driving with no valid license, expired more than (90) days but NOT in cases where the driver has a valid driver's license but does not have the license on his or her person (625 ICLS 5/6-101)

Amend to: Driving with no valid license, expired more than one (1) year, but NOT in cases where the driver has a valid driver's license but does not have the license on his or her person (625 ICLS 5/6-101)

**Addition: Section 1. Item #13**

Driving with suspended/revoked driver's license. (625 ILCS 5/6-303)

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**F. Final Hearing**

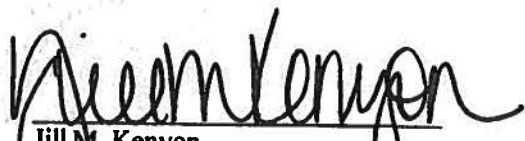
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Approved and passed this day 9th of March 2023.

  
Jill M. Kenyon  
Marshall County Clerk & Recorder

  
Gary Kroeschen  
Chairman