

CITY OF JONESBORO, ILLINOIS
A Municipal Corporation

ORDINANCE NO. 2015 -01

Passed and Approved
February 17, 2015

An Ordinance of the Jonesboro City Council Authorizing
the Towing and Impounding of Vehicles by the Jonesboro
Police Department and Establishing the Rules and Regulations
Therefore in the City of Jonesboro, Illinois,
Effective March 1, 2015

COPY

ORDINANCE NO. 2015 - 01

**THE CITY OF JONESBORO, ILLINOIS
a MUNICIPAL CORPORATION**

**AN ORDINANCE AUTHORIZING THE TOWING and
IMPOUNDING OF VEHICLES BY THE JONESBORO POLICE
DEPARTMENT AND ESTABLISHING THE RULES AND
REGULATIONS THEREFORE IN THE CITY OF
JONESBORO, ILLINOIS**

THAT WHEREAS, the City of Jonesboro currently has no tow policy establishing or authorizing the towing of vehicles by the City Police for those vehicles involved in the commission of a crime; and

WHEREAS, the City of Jonesboro desires to establish a tow policy by Ordinance which sets forth the fees which can be charged, as well as the rules and regulations to be utilized in establishing said tow policy by the Jonesboro City Police; and

WHEREAS, numerous other state, county and local police departments have passed and adopted similar new tow policies which provide for enhanced revenue for units of local government and the orderly administration of towing, impounding and storing of vehicles which are involved in the commission of a crime; and

WHEREAS, the City Council has determined that it is in the best interests of the citizens of the City of Jonesboro to pass a new ordinance, setting forth the tow policy, rules and regulations to be used by the Jonesboro Police in their handling of vehicles which are used/involved in the commission of a crime within the City of Jonesboro.

NOW THEREFORE, BE IT HEREBY ORDAINED as follows:

ADMINISTRATIVE TOW/IMPOUNDMENT FEES

Section 1. POLICY AND PROCEDURE

Pursuant to Article II, Chapter 11 of the Illinois Vehicle Code, 625 ILCS 5/11-208.7, the City of Jonesboro (hereinafter referred to as "THE CITY") shall follow the procedures set forth herein when towing and impounding vehicles and imposing reasonable administrative fees, payable to and collected by the City, related to its administrative and processing costs associated with the investigation, arrest, and detention of the offender, or the removal, impoundment storage, and release of the vehicle. The administrative fees imposed herein by the City shall be uniform for all similarly situated vehicles and are *in addition to* any other penalties or fees that may be assessed by a Court-of-law for the underlying violations, or by a person, firm or entity that tows and stores the impounded vehicle.

Section 2. DEFINITIONS

- A. ADMINISTRATIVE HEARING OFFICER: The City Attorney or any other Attorney designated by the City who has been licensed to practice law in the State of Illinois for a minimum of three (3) years.
- B. BUSINESS DAY: Any day in which the offices of the Jonesboro City Hall are open to the public for a minimum of eight (8) hours.
- C. CANNABIS: Any substance as defined in the Cannabis Control Act, 720 ILCS 550/1 et seq.
- D. CONTROLLED SUBSTANCES: Any substance as defined and included in the schedules of Article II of the Illinois Controlled Substances Act, 720 ILCS 570/201 et seq.
- E. DRIVING A VEHICLE BY PERSON SUBJECT TO WARRANT: Operation or use of a motor vehicle by a person against whom a warrant has been issued in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303 or 11-501 of the Illinois Vehicle Code.
- F. DRIVING ON A SUSPENDED OR REVOKED LICENSE, PERMIT OR PRIVILEGE TO OPERATE A MOTOR VEHICLE: Any offenses as defined in Section 6-303 of the Illinois Vehicle Code, 625 ILCS 6/303; except that vehicles shall *not* be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing.

- G. DRIVING ON AN EXPIRED LICENSE: Operation or use of a motor vehicle with an expired license, in violation of 5/6-101 of the Illinois Vehicle Code, 625 ILCS 6/6-101, if the period of expiration is greater than one (1) year.
- H. DRIVING UNDER THE INFLUENCE OF ALCOHOL, DRUGS OR OTHER INTOXICATING COMPOUNDS: Any offense as defined in 5/11-501 of the Illinois Vehicle Code, 625 ILCS 5/11-501.
- I. DRIVING WITHOUT A LICENSE OR A PERMIT: Operation or use of a motor vehicle without ever having been issued a license or a permit, in violation of Section 6-101 of the Illinois Vehicle Code, 625 ILCS 6-101, or operating a motor vehicle without ever having been issued a license or permit due to a person's age.
- J. DRUG PARAPHERNALIA: Any equipment, products and material as defined in 720 ILCS 600/2.
- K. FLEEING OR ATTEMPTING TO ELUDE A POLICE OFFICER: Any offenses as defined in Section 5/11-204 or 11-204.1 of the Illinois Vehicle Code, 625 ILCS 5/11-204 and 204.1.
- L. LEAVING THE SCENE OF A PERSONAL INJURY OR PROPERTY DAMAGE ACCIDENT: Any offenses as defined in Sections 5/11-401, 5/11-402, and 5-1-403 of the Illinois Vehicle Code, 625 ILCS 5/11-401, 402 and 403.
- M. LEVEL 1 ADMINISTRATIVE FEE: That fee charged for Level 1 violations as defined herein.
- N. LEVEL 2 ADMINISTRATIVE FEE: That fee charged for Level 2 violations as defined herein.
- O. MISDEMEANOR: Any misdemeanor offense as defined by Illinois Statute or City Ordinance.
- P. MOTOR VEHICLE: Every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles and motor scooters.
- Q. OWNER(S) OF RECORD/INTERESTED PERSON: The record title-holder(s) of the motor vehicle as registered with the Illinois Secretary of State, or if not registered in the State of Illinois, the particular state where the motor vehicle is registered.
- R. PRELIMINARY HEARING OFFICER: The Chief of Police or his designate.

S. THEFT OFFENSE: Any offenses in violation of Article 16 of the Illinois Criminal Code, Chapter 720 ILCS.

T. WEAPONS OFFENSE: Any of the following offenses contained within Article 24 of Chapter 720 of the Illinois Compiled Statutes: 720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.25, 24-1.5, 24-1.6, 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3, 24-3.4, 24-3.5, 24-3.6 and 24-3A.

Section 3. - VIOLATIONS AUTHORIZING IMPOUNDMENT AND FEES

A. Any motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with any of the following violations shall be subject to seizure and impoundment by the City for a **Level 1 Administrative Fee of TWO HUNDRED FIFTY DOLLARS (\$250.00)**, *in addition to* any towing and/or storage fees and any other criminal penalties assessed by a Court-of-Law for the underlying offense as hereinafter provided:

1. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Illinois Criminal Code; or
2. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of Section 11-501 of the Illinois Vehicle Code; or
3. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of a felony offense in the Cannabis Control Act; or
4. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act; or
5. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of Section 24-1 (Unlawful Use of Weapons), 24-1.5 (Reckless Discharge of a Firearm), or 24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition) of the Illinois Criminal Code; or
6. Driving while a driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to Section 6-303 of the Illinois Vehicle Code; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing, fleeing or attempting to elude a police officer, or leaving the scene of a personal injury or property damage accident; or

7. Operation or use of a motor vehicle while soliciting, or attempting to solicit cannabis or a controlled substance, as defined by the Cannabis Control Act of the Illinois Controlled Substances Act; or
 8. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony offense in violation of Article 16 (theft offenses) of the Illinois Criminal Code; or
 9. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other felony offense in violation of the Illinois Criminal or Vehicle Codes.
- B. Any motor vehicle, operated with the express or implied permission of the owner-of-record, that is used in connection with the following violations, including arrest warrants, but not including those violations listed above in Sections A-1 through A-9, shall be subject to seizure and impoundment by the City, and the owner-of-record shall be liable to the City for a **Level 2 Administrative Fee of ONE HUNDRED FIFTY DOLLARS (\$150.00)**, *in addition to* any fees for the towing and storage of the vehicle and any other criminal penalties assessed by a Court-of-Law for the underlying offense as hereinafter provided:
1. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor violation of the Cannabis Control Act; or
 2. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a misdemeanor offense in violation of Article 16 (Theft Offenses) of the Illinois Criminal Code; or
 3. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor offense in violation of the Illinois Criminal Code or Title 14, Offenses and Penalties of the City Code, as Revised; or
 4. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor offense in violation of the Illinois Vehicle Code or Title 18, Traffic Regulations of the City Code, as Revised; or
 5. Operation or use of a motor vehicle with an expired driver's license, in violation of 6-101 of the Illinois Vehicle Code, if the period of expiration is greater than one (1) year.

Section 4. - SEIZURE and IMPOUNDMENT

- A. Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment, the police officer shall for the towing of

the motor vehicle to a facility controlled or approved by the City. This section shall not apply if the motor vehicle used in the violation was stolen at the time of the violation and the theft of the vehicle was reported to the appropriate police authorities within twenty-four (24) hours after the theft was discovered or reasonably should have been discovered.

Section 5. - PAYMENT OF FEES; NOTIFICATION OF OWNER and RIGHT TO PRELIMINARY HEARING

- A. The registered owner of the vehicle towed and impounded shall be responsible for the payment of the impoundment fee, regardless of who was driving at the vehicle at the time of the custodial arrest, unless the vehicle was reported stolen as heretofore-mentioned. Payment, however, can be accepted from anyone willing to satisfy the tow/impoundment fee(s) so that the vehicle may become eligible for release to the registered owner, lienholder or other interested person when accompanied by an original notarized letter from the registered owner authorizing the release to said person.
- B. The officer making the arrest which gives rise to the towing and impoundment of the vehicle shall notify the owner or person in possession of the vehicle, at the time of the alleged violation, and shall also notify he/she/them of their right to request an Administrative Hearing to be conducted as hereinafter-described.
- C. The owner must request a Preliminary Hearing in writing and deliver it to the Police Department within TWELVE (12) HOURS after the seizure, in which case, a Preliminary Hearing Officer shall then conduct a Preliminary Hearing within SEVENTY-TWO (72) HOURS after the seizure, excluding Saturdays, Sundays and City-recognized Holidays, concerning probable cause for the seizure.
- D. At the Preliminary Hearing, the owner-of-record/interested person at the time of the alleged offense/seizure shall be given a reasonable opportunity to be heard. Formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible. If, after the hearing, the Preliminary Hearing Officer determines that there is probable cause to believe that the vehicle was used in the commission of any crime as described as a Level 1 or Level 2 Administrative Fee offense, the Preliminary Hearing Officer shall order the continued impoundment of the vehicle unless the owner-of-record/interested person posts with the City a cash bond in the amount of the Level 1 or Level 2 Administrative Fee, plus towing and storage fees, in which case the vehicle may be released. If the Preliminary Hearing Officer determines that there is no such probable cause, said vehicle shall be returned without penalty or any other fees.

Section 6. - ADMINISTRATIVE HEARING

- A. Within TEN (10) DAYS after a motor vehicle is seized and impounded pursuant to this section, the City shall notify in writing, by personal service or by first class U. S. Mail, return receipt requested, the owner-of-record/interested person, of the right to a hearing before the Administrative Hearing Officer, along with the date, time and location of the hearing, to challenge whether a violation of this Ordinance has occurred. The owner-of-record/interested person shall also be notified of the continued impoundment of the vehicle as provided in this section unless the owner-of-record/interested person has posted cash bond in the amount of the Level 1 or Level 2 Administrative Fee offense, plus towing and storage fees for towing/storing the vehicle.
- B. When requested, the hearing date shall be scheduled and convened no later than FORTY-FIVE (45) DAYS after the mailing or issuance of the notice. The owner-of-record/interested person(s) shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible.
- C. If, after the hearing, the Administrative Hearing Officer determines by a preponderance of the evidence that the motor vehicle was used in violation of this Ordinance, then the Administrative Hearing Officer shall issue a written decision finding the owner-of-record/interested person(s) liable to the City for the applicable Administrative Fee, as herein set forth.
- D. If after the hearing, the Administrative Hearing Officer determines that the motor vehicle was not used in such a violation, the administrative officer shall issue a written decision finding for the owner-of-record/interested person(s) and for the return of the vehicle, or administrative fees or cash bond if already paid.
- E. If the owner-of-record fails to appear at the hearing, the owner-of-record/interested person shall be deemed to have waived his or her right to a hearing.
- F. If an Administrative Fee is imposed for a violation of this Section and/or the owner-of-record fails to appear, any posted bond will be forfeited to the City. However, if a violation is not proven by a preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this section shall be held by the City until the Administrative Hearing Officer issues a decision, or, if there is a Judicial Review, until the Court of competent jurisdiction issues its orders.
- G. All decision of the Administrative Hearing Officer shall be subject to review

under the provisions of the Illinois Administrative Review Act.

Section 7. DISPOSITION OF IMPOUNDED MOTOR VEHICLE

- A. Any Administrative Fee imposed pursuant to this Ordinance shall constitute a debt due and owing the City of Jonesboro.

- B. Any motor vehicle impounded pursuant to this Ordinance shall remain impounded until:
 - 1. All Administrative Fees are paid to the City and all applicable towing fees are paid to the towing agent, in which case the owner-of-record/interested person shall be given possession of the motor vehicle.

 - 2. A bond in an amount equal to the applicable Administrative Fee is posted with the Police Department and all applicable towing fees are paid to the towing agent, at which time the motor vehicle will be released to the owner-of-record/interested person.

 - 3. Any motor vehicle that is not reclaimed or retrieved from the facility controlled or approved by the City within THIRTY-FIVE (35) DAYS after the Administrative Hearing Officer issues a written decision shall be deemed abandoned and may be disposed of in accordance with the provisions of Article II Chapter 4 of the Illinois Vehicle Code.

 - 4. The Administrative Fees imposed by the City for impounded vehicles shall be in addition to the fees charged for the towing and storage, or both, of an impounded vehicle. The towing or storage fees, or both, shall be collected and paid to the person, firm or entity that tows and stores the impounded vehicle. The towing and/or storage person, firm or entity shall be entitled to receive a fee from the owner-of-record/interested person entitled to possession of any such vehicle prior to the release of the vehicle. The fee shall be to cover the cost of removing the vehicle, and, in addition, any fees for the cost of storage of the vehicle for each day or fraction thereof that said vehicle remained at their storage facility in compliance with their practices. Towing and storage fees shall be consistent with and not exceed the reasonable industry standards in Union County, Illinois.

 - 5. The Administrative Fees established by this Ordinance are to be paid by the owner-of-record/interested person, or the agents of the owner-of-record/interest person, for the vehicle involved in the incident leading to custodial arrest, regardless of whether that person was operating the vehicle at the time of the incident.

6. Vehicles towed by the Police Department for any reason other than those listed above shall be released to the owner-of-record/interested person with no Administrative Fees to be charged by the City.
7. Any person purporting to be the owner-of-record/interested person or the agents of the owner-of-record/interested person must present proof of ownership, current proof of insurance and possess a valid Driver's License prior to release.
8. Upon verifiable proof that the vehicle used in the violation was stolen at the time it was impounded, or, if the vehicle was operating as a common carrier, including, but not limited to taxicabs or buses and violation occurred without the knowledge of the person in control of the vehicle, the Administrative Fees shall be waived by the City.
9. Unless stayed by a Court of competent jurisdiction, any Administrative Fee imposed under this Ordinance which remains unpaid in whole or in part after the expiration of the deadline for seeking Judicial Review under the Administrative Review Act may be enforced in the same manner as a Judgment entered by a Court of competent jurisdiction. This Ordinance incorporates Section 4/201 through 4/214.1 of the Illinois Vehicle Code to the extent that they are consistent. Where any provision of this Ordinance differs from Sections 4/201 through 4/214.1 of the Illinois Vehicle Code, the provisions of this Ordinance shall be controlling. All enforcement and the administration of the various provisions of this Ordinance shall be consistent with the policies and procedures of Section 4/201 through 4/215 of the Illinois Vehicle Code to the extent that said policies and procedures do not directly conflict with the provisions of this Ordinance.

Section 8 - EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after March 1, 2015.

PASSED and ADOPTED this 17th day of
February, 2015.

KEN BLANDFORD - Mayor

RECORD OF VOTE:

YEA

NAY

ALDERMAN ABERNATHY

✓

ALDERMAN BOWEN

✓

ALDERMAN HILEMAN

✓

ALDERMAN MEISENHEIMER

✓

ALDERMAN STEGLE

✓

ALDERMAN WATKINS

✓

ATTEST:

(Corporate Seal)

Barbara Casper

BARBARA CASPER, City Clerk

FILED FOR RECORD ON 2/18, 2015.

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