

FILED
COUNTY CLERK AND RECORDER

APR 22 2013

Elizabeth Wargal
GALLATIN COUNTY

ORDINANCE NO. 3112013-1

CITY OF SHAWNEETOWN

AN ORDINANCE OF SEIZURE AND IMPOUNDMENT

WHEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SHAWNEETOWN, ILLINOIS: SEIZURE AND IMPOUNDMENT OF VEHICLES OF SHAWNEETOWN IS AS FOLLOWS:

VEHICLE IMPOUNDMENT

SECTIONS:

- 6-8-1 Definitions
- 6-8-2 Conduct Prohibited
- 6-8-3 Seizure and Impoundment
- 6-8-4 Initial Notice
- 6-8-5 Follow-Up Notice
- 6-8-6 Fees for Release of Vehicle
- 6-8-7 Hearings
- 6-8-8 Abandonment of Vehicles
- 6-8-9 Monies

6-8-1 DEFINITIONS (for the purpose of this Chapter):

- KNOWINGLY:** A person engages in conduct “knowingly” if, when a person engages in conduct, the person is aware of a high probability that he or she is doing so.
- MOTOR VEHICLE:** Every vehicle, which is self-propelled, including but not limiting to, all automobiles, trucks, motorcycles, and motor scooters.
- OWNERS OF RECORD:** The record title holder of the vehicle

6-8-2 CONDUCT PROHIBITED:

- (A) Operation or use of motor vehicle in the commission of, or in attempt to commit, any misdemeanor or felony offense in violation of the Criminal Code of the State of Illinois.
- (B) Operation or use of a motor vehicle in the commission of, or attempt to commit a felony.
- (C) Operation or use of motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substance Act.
- (D) Operation or use of a motor vehicle while soliciting, possessing or attempting to solicit or possess a controlled substance, as defined by the Illinois Controlled Substances Act.
- (E) Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or otherwise violate the Cannabis Control Act.
- (F) Driving under the influence of alcohol, another drug or drugs, and intoxicating compound or compounds, or any combination thereof, in violation of the Illinois Motor Vehicle Code

- (G) Driving while a driver's license, permit, or privilege to operate vehicle is suspended or revoked pursuant to Section 6-303 of the Illinois Motor 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.
- (H) Operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of the Illinois Motor Vehicle Code.
- (I) Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of Section 6-101 of the Illinois Motor Vehicle Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age.
- (J) Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failure to answer charges that the driver violated Section 6-1014, 6-303, and or 11-501 of the Illinois Motor Vehicle Code.
- (K) Operation or use of a motor vehicle in the commission of, or in 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.

6-8-3 SEIZURE AND IMPOUNDMENT

Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this chapter, the police officer shall provide the towing of the vehicle to a facility controlled by the city or its agents. This section shall not apply if the vehicle used in the violation of 6-8-2 of this Ordinance was stolen at the time of the alleged violation and the theft was reported to the appropriate police authorities within seventy two (72) hours after the theft was discovered or reasonably should have been discovered. For any towing company or storage facility to become approved by the City, such

must provide proof of insurance coverage to cover loss by fire, theft, or other risks and be open or available for business as required by the Police Department.

6-8-4 INITIAL NOTICE:

At the time that the vehicle is towed, the police department shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense as follows:

- The fact of the seizure of the vehicle
- The vehicle owner's or lessee's right to an administrative hearing
- The vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or lien holder posts with the municipality a bond equal to the administrative fee as provided by ordinance and pays for all towing and storage charges.

6-8-5 FOLLOW-UP NOTICE:

Within 10 days after a vehicle is impounded, the police department shall provide further notice by personal service or by first class mail to interested parties (including the registered owner or lessee of the vehicle and any lien holder of record) to the address(es) of the interested parties as registered with the Secretary of State. Such further notice shall contain the date, time, and location of the administrative hearing. An initial hearing shall be scheduled and convened no later than 45 days after the date of mailing of the notice of hearing.

6-8-6 FEES FOR RELEASE OF VEHICLE:

The following fees or bond (being additional to any other penalties that be assessed by a court of law for the underlying violations) are imposed on the registered owner of the motor vehicle or the agents of that owner and shall be paid to the Shawneetown Police Department for the release of an impounded

vehicle: The sum of \$100.00 for City administrative fee plus towing and storage fees as established by the City or an approved towing and storage contractor of the City.

If the owner or agents of the owner does not seek a hearing, they shall pay the required fee and sign a waiver of hearing. If the owner or agent of the owner seeks a hearing, they shall pay the required fee and costs which the City Treasurer shall hold as bond pending the results of the administrative hearing as initially scheduled by the police department.

6-8-7 HEARINGS:

Administrative hearings shall be conducted by an administrative hearing officer being the City Attorney or other attorney as time by time appointed by the City who is an attorney licensed to practice law in the State of Illinois for a minimum of 3 years.

The date and time of initial hearing shall be scheduled by the Police Department and a notice of such shall be provided by the above mentioned follow-up notice. An interested party may request a change to the date and time of the initial hearing by contacting the City Clerk. The initial hearing shall be conducted no later than 45 days after the date of the follow-up notice.

At the hearing, the administrative hearing officer shall determine by a preponderance of evidence whether or not the police officer directing the impoundment of the vehicle had cause to believe that the vehicle was subject to impoundment under this ordinance. The party seeking return of the vehicle shall bear the burden of proof. Formal rules of evidence shall not be applicable to the hearing. The party seeking return of the vehicle fails to appear at the hearing, the hearing officer shall enter a default order sustaining the impoundment.

At the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment. If the administrative hearing officer overrules the impoundment, the vehicle shall be released (if not already released) and any bond posted shall be refunded to the party posting the bond. If the administrative hearing officer sustains the vehicle impoundment, any bond posted to secure the release of the

vehicle shall be forfeited to the municipality. If no bond was posted, the vehicle shall remain impounded until all fees are paid or the vehicle is deemed abandoned. Fees owed to the City may be collected and enforced in the same manner as a judgment entered by a court of competent jurisdiction unless such collection action is stayed by a court of competent jurisdiction. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law.

6-8-8 ABANDONED VEHICLES:

Vehicles not retrieved from the towing facility or storage facility within 35 days after the administrative hearing officer issues a written decision shall be deemed abandoned and disposed of in accordance with the provisions of Article II of Chapter 4 of the Illinois Vehicle Code.

6-8-9 MONIES DEPOSITED:

All fees collected and retained by the city for violation of this ordinance, after payment of towing and storage charges, shall be deposited with the City Treasurer. The funds will be directed for the Police Department.

The ordinance shall become effective herein after its approval. This ordinance may be published in pamphlet form as provided by law.

Passed and approved this 11th day of March, 2013



CITY OF SHAWNEETOWN

By: *Terry W. Williams*
Terry W. Williams, Mayor

ATTEST:

By: *Nancy Larkin*
City Clerk