



ORDINANCE NO. 1020

**AN ORDINANCE AMENDING SECTION 80.06 OF THE VILLAGE
OF MACKINAW MUNICIPAL CODE SAID MUNICIPAL CODE
BEING ORDINANCE NO. 513 OF THE VILLAGE OF MACKINAW
TO PROVIDE AMENDMENTS RELATING TO VEHICLE
IMPOUNDMENTS**

Published in pamphlet form by authority of the Village President and
Board of Trustees of the Village of Mackinaw.

March 29, 2022

STATE OF ILLINOIS)
COUNTY OF TAZEWELL) SS
VILLAGE OF MACKINAW)

CERTIFICATE OF ORDINANCE

I, the undersigned, do hereby certify that I am the duly appointed, qualified and acting Village Clerk of the Village of Mackinaw, Tazewell County, Illinois (the "Issuer"), and as such official I am the keeper of the records and files of its President and Board of Trustees (the "Corporate Authorities").

I do further certify the foregoing constitutes a full, true and complete excerpt from the proceedings of the regular meeting of the Corporate Authorities held on the **28TH day of March 2022**, insofar as same relates to the adoption of **Ordinance No. 1020**, entitled:

**AN ORDINANCE AMENDING SECTION 80.06 OF THE VILLAGE OF MACKINAW
MUNICIPAL CODE SAID MUNICIPAL CODE BEING ORDINANCE NO. 513 OF THE
VILLAGE OF MACKINAW TO PROVIDE AMENDMENTS RELATING TO VEHICLE
IMPOUNDMENTS**

A true, correct and complete copy of which ordinance (the "Preliminary Ordinance" or "Ordinance") as adopted at such meeting appears in the transcript of the minutes of such meeting. The Preliminary Ordinance was adopted and approved by the vote and on the date therein set forth.

I do further certify the deliberations of the Corporate Authorities on the adoption of such Preliminary Ordinance were taken openly and was on the agenda at least 48 hours before the meeting at which it was adopted, that the adoption of such ordinance was duly moved and seconded, that the vote on the adoption of such ordinance was taken openly and was preceded by a public recital of the nature of the matter being considered and such other information as would inform the public of the business being conducted, that such meeting was held at a specified time and place convenient to the public, that notice of such meeting was duly given to all of the news media requesting such notice, that such meeting was called and held in strict compliance with the provisions of the Open Meetings Act of the State of Illinois, as amended, and the Illinois Municipal Code, as amended, and that the Corporate Authorities have complied with all of the applicable provisions of such Act and such Code and their procedural rules in the adoption of such ordinance.

The pamphlet form of **Ordinance No. 1020**, including the ordinance and a cover sheet thereof, was prepared and a copy of such Ordinance was posted for public inspection in the municipal building, the Mackinaw United States Post Office, and the Mackinaw Library commencing on **March 29, 2022** and continuing for at least ten days thereafter. The original ordinance was adopted by the Board of Trustees of the Village of Mackinaw at a regular meeting, attended by **five** members of the Board, and approved by the President, as said Ordinance appears on file in my office and as the same is recorded in the Book of Ordinances of said Village.

IN TESTIMONY WHEREOF, I have hereunto set my hand and the official seal of said Village of Mackinaw, Illinois, this **29th day of March 2022**.



[Redacted Signature]
Village Deputy Clerk

ORDINANCE NO. 1020

AN ORDINANCE AMENDING SECTION 80.06 OF THE VILLAGE OF MACKINAW MUNICIPAL CODE SAID MUNICIPAL CODE BEING ORDINANCE NO. 513 OF THE VILLAGE OF MACKINAW TO PROVIDE AMENDMENTS RELATING TO VEHICLE IMPOUNDMENTS

WHEREAS, on August 22, 2013, the State of Illinois adopted Section 5/11-208.7 of the Illinois Vehicle Code; and

WHEREAS, Section 5/11-208.7 of the Illinois Vehicle Code permits the charging of administrative fees for the release of properly impounded vehicles for certain offenses;

WHEREAS, the Corporate authorities of the Village of Mackinaw on August 24, 2020 adopted ordinance 998 establishing procedures for the impoundment and release of properly impounded vehicles and the charging of administrative fees for their release; and

WHEREAS, the Corporate authorities of the Village of Mackinaw in exercise of the power reserved to them under Section 5/11-208.7 of the Illinois Vehicle Code desire to amend the ordinance establishing procedures for the impoundment and release of properly impounded vehicles and the charging of administrative fees that complies with the terms of Section 5/11-208.7 of the Illinois Vehicle Code.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MACKINAW:

Section I: Section 80.06 of the Village Code of the Village of Mackinaw is hereby amended as follows, with additions shown in underlined font and deletions in strike through font:

§ 80.06 ADMINISTRATIVE HEARING.

When a vehicle is impounded by the Village of Mackinaw, the owner or lessee shall have the opportunity for an administrative hearing~~shall be held~~, as required by 625 ILCS 5/11-208.7(d), subject to the limitations of this Section. The administrative hearing shall be

conducted by a hearing officer, who is an attorney licensed to practice law in Illinois with a minimum of 3 years' experience.

(A) When a vehicle is impounded by the Village of Mackinaw, the owner or lessee, or ~~lienholder of record~~ shall be given notice of their right to request an administrative hearing. The notice shall:

- (1) Be served upon the owner or lessee, or ~~lienholder of record~~ by personal service or by first class mail to the interested parties address as registered with the Secretary of State.
- (2) Notify the owner or lessee that they may request a hearing in writing at any time within 48 hours if notice was served personally on the owner or lessee.
- (3) Notify the owner or lessee that they may request a hearing in writing at any time within 7 days after mailing if the notice is served by first class mail.
- (4) Notify the owner or lessee that failure to request a hearing in writing within the specified time period will result in an absolute waiver of their right to have a hearing.
- ~~(2) Be served within 10 days after the vehicle is impounded by the Village of Mackinaw.~~
- ~~(3) Contain the date, time, and location of the administrative hearing.~~

(B) The administrative hearing shall be held within 21 days of the ~~seizure or impoundment of the vehicle~~ Village's actual receipt of a proper and timely written request for a hearing, after satisfactory notice has been served. Not less than 10 days prior to the hearing, the hearing officer shall notify the owner, lessee, or lienholder of record of the date, time, and location of the administrative hearing by first class mail to the interested parties address as registered with the Secretary of State.

(C) The following procedures shall be observed in the administrative hearings held pursuant to this Chapter.

- (1) All interested parties shall be given a reasonable opportunity to be heard at the hearing. All testimonies shall be given under oath.
- (2) All hearings shall be recorded. The record shall be maintained until the deadline for judicial review of the hearing officer's final decision has passed. The record of the hearing shall contain:
 - (a) A record of the testimony presented at the hearing.
 - (b) All documents presented at the hearing.

- (c) A copy of the notice of hearing.
- (d) A copy of the findings and final decision of the hearing officer.
- (3) The hearing officer has authority under 65 ILCS 5/11-208.3(b)4 to administer oaths, and to secure by subpoena both the attendance and testimony of witnesses and the production of relevant books and papers. The hearing officer shall not present the Village's case; however, documentary evidence that has been prepared by a department or agency of the Village may be presented at the hearing by the hearing officer.
- (4) The owner of record has the right to be represented by counsel at the hearing, at their own expense.
- (5) Formal and technical rules of evidence will not apply at the hearing; hearsay testimony will be allowed and will be admissible.
- (6) The hearing officer is statutorily empowered to administer oaths, and to secure by subpoena both the attendance and testimony of witnesses and the production of relevant books and papers, as specified in 65 ILCS 5/11-208.3(b)4.
- (7) If the owner of record fails to appear at the hearing, the hearing officer shall enter a decision of default in favor of the Village of Mackinaw, which decision shall require the forfeit of posted bond, or if bond was not posted, the payment of a penalty of ~~\$250.00~~ \$300.00 plus towing and storage costs.
- (D) At the conclusion of the administrative hearing, the hearing officer shall issue a written decision letter sustaining or overruling the vehicle impoundment.
- (E) If the basis for the vehicle impoundment is sustained by the hearing officer upon a preponderance of the evidence, any bond posted to secure the release of the vehicle shall be forfeited to the Village of Mackinaw. If bond was not posted, the hearing officer shall order the continued impoundment of the vehicle until the owner of the vehicle pays to the Village a penalty in the amount of ~~\$250.00~~ \$300.00, plus towing and storage costs. This penalty shall be a debt owed to the Village.
- (F) If the hearing officer finds on a preponderance of the evidence that there is not reason to believe the vehicle was used as specified above in subsection B, the vehicle shall be released to the owner, lessee, or lienholder of record without any administrative fees, penalties, or towing and storage charges. The Village of Mackinaw shall be liable for the payment to the towing and storage company or for the restitution to the

owner, lessee, or lienholder of record, whichever may apply, for the towing and storage charges of a vehicle improperly seized or impounded under this Section.

(G) All final decisions of the hearing officer shall be subject to review by the Tazewell County Circuit Court.

(H) Post-Hearing Notice:

- (1) A notice of the final decision of the hearing officer shall be delivered to the owner, lessee, or lienholder of record after the administrative hearing.
- (2) The post-hearing notice shall inform the owner, lessee, or lienholder of record of their right to appeal the hearing officer's final decision to the Tazewell County Circuit Court.
- (3) If the final decision was in favor of the Village and the penalty remains unpaid, the notice shall contain a warning that failure to pay the penalty due the Village may result in the Village enforcing the decisions in the same manner as a judgement entered in the Tazewell County Circuit Court to collect the unpaid penalty.

Section II: If any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this ordinance.

Section III: This Ordinance shall take effect 10 days after publication thereof as provided by law.

PASSED AND APPROVED at a regular meeting of the President and Board of Trustees of the Village of Mackinaw this 28th day of March, 2020; and upon roll call the vote was as follows:

AYES: 6

NAYS: 0

ABSENT: 0

ABSTAINING: 0

APPROVED this 28th day of March, 2022.

Attest:


Village Deputy Clerk


President