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VILLAGE OF LOMBARD POLICE DEPARTMENT



Raymond Byrne
Chief of Police

Thomas Wirsing
Deputy Chief of Operations

Roy Newton
Deputy Chief of Administrative Services

TO: Chief Byrne

FROM: Sgt. Joe Grage

CC: DC Wirsing, DC Newton, Lisa Lullo

DATE: 10/21/2015

SUBJECT: Relaunch of LPD Vehicle Immobilization/Parking Ticket Scofflaw Measures

Chief,

While dealing with a parking issue in the North Ave. industrial area I recently became aware that LPD does not currently employ any of the measures at its disposal to address parking ticket scofflaws. There are two measures at our disposal: vehicle immobilization and reporting scofflaws to IL SOS to have their driver's licenses suspended (10 or more unpaid violations).

It would seem that at some point during the past several years the CSO's stopped immobilizing vehicles that appear on the boot list. From what I have been able to ascertain from Lisa Lullo, the reason was that they "didn't like to do it". As a result, the boot list is now eighteen pages long and represents over \$114,000 in unpaid parking violations.

I propose relaunching the vehicle immobilization for two reasons. The first reason is that it is a good mechanism for holding parking violation scofflaws accountable. The second reason is that vehicle immobilizations also deter future parking violators and scofflaws because they want to avoid having their car booted and/or towed. I also believe that is fiscally responsible for the Village to attempt to collect these fines in lieu of increasing fees for services should the municipal share of the IL State income tax be reduced or eliminated.

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There is very little cost to relaunching the vehicle immobilization program. All applicable ordinances are in effect, the Department owns six operational vehicle boots, and a master boot list is already compiled. The only things that would need to be purchased are window stickers and some spray paint to freshen up the appearance of the vehicle boots.

The second measure that I believe we should take advantage of is the suspension of Illinois driver's licenses for persons have ten or more outstanding violations. The authority to do this is granted to the vehicle pursuant to 625 ILCS 5/6-306.5. This section allows the Village to send a certified report to the Illinois Secretary of State stating that the registered owner of a vehicle as failed to pay any fine or penalty due as a result of ten or more violations of the Village's standing, parking, or compliance regulations. The Secretary of State would then notify the owner that their license would be suspended. The owner's driver's license suspension would be rescinded after they paid their outstanding fines (or a negotiated amount) and the Village notifies the Secretary of State.

According to Lisa Lullo, there are only a few people who have ten or more outstanding violations. These people also seem to be some of the biggest violators. Use of this second measure would go far to have them pay their fines as well as comply with parking ordinances in the future.

Given the fact that the use of these measures would constitute a significant change in operating policy, I believe that those persons who would be affected by these two measures should be given a one month amnesty prior to the use of the measures. Persons on the boot and/or suspension list could be notified of the amnesty via US Mail and/or press release so that they would have time to come into compliance and avoid having their vehicle immobilized or driver's license suspended.

I have attached the VOL ordinance and applicable section from the Illinois Vehicle Code for your reference. Please let me know if you have any questions or concerns.

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CHAPTER 72: IMMOBILIZATION OF MOTOR VEHICLES

Section	
72.01	The Program
72.02	Notice of Eligibility for Immobilization
72.03	Challenging Validity of Immobilization Notice
72.04	Notice After Challenge Period
72.05	Notice of Impoundment
72.06	Immobilization Fees and Deposits

owner of the motor vehicle, at the address to which the motor vehicle is registered, at least twenty one (21) days prior to placing the registration plate number on the eligibility list. Notice shall be sent as follows:

(A) The address of the registered owner shall be determined from records of the Illinois Secretary of State, or in the case of a vehicle bearing a registration number of a state other than Illinois, from the records of that state's registry of motor vehicles;

(B) The notice shall state the name and address of the registered owner, the state registration number of the motor vehicle, the nature of the ordinances violated and the serial numbers and issue dates of the complaints referred to in Section 72.01(A) above; and

(C) The notice shall advise that a person may challenge the validity of the notice of eligibility for immobilization as set forth in Section 72.03 below.

§ 72.01 THE PROGRAM.

(A) A program of vehicle immobilization shall be instituted and implemented through the office of the Chief of Police of the Village, whereby eligible vehicles shall be immobilized by the placement of a restraint in a manner such as to prevent their operation.

(B) A vehicle shall be eligible for immobilization under the following criteria:

(1) The registered owner of the motor vehicle has accumulated three (3) or more complaints pursuant to Article XIII of the Lombard Traffic Code (Ordinance No. 1186, as amended) which are not adjudicated, for which no payment has been made, or for which no appearance has been filed within the time specified by the parking violation complaints; or

(2) The registered owner of the motor vehicle has accumulated three (3) or more unpaid final determinations of vehicular regulation violation liability pursuant to Chapter 73 of this Code.

(C) Notwithstanding subsections (B)(1) or (B)(2) above, ~~a vehicle shall be eligible for immobilization only if the registered owner of said motor vehicle has received notice of eligibility for immobilization under the procedures listed in Section 72.02 below.~~
(Ord. 5143, passed 6/6/02; Ord. 6202, passed 6/19/08)

§ 72.02 NOTICE OF ELIGIBILITY FOR IMMOBILIZATION.

Written notice of eligibility for immobilization shall be sent by certified mail, return receipt requested, and by first class mail, postage prepaid, to the registered

§ 72.03 CHALLENGING VALIDITY OF IMMOBILIZATION NOTICE.

A challenge of the validity of the notice of eligibility for immobilization must be made in person to the Chief of Police, or his/her designee, only based upon grounds which would conclusively disapprove liability, such as:

(A) The person was not the owner or lessee of the motor vehicle on the date or dates the complaints /administrative adjudication citations were issued; or

(B) The fines or penalties for the violations cited were paid; or

(C) The registered owner has not accumulated three (3) or more parking violation complaints which are unpaid, not adjudicated, or for which no appearance has been filed; or

(D) The registered owner has not accumulated three (3) more more unpaid final determinations of vehicular regulation violation liability pursuant to Chapter 73 of this Code.
(Ord. 6202, passed 6/19/08)

§ 72.04 NOTICE AFTER CHALLENGE PERIOD.

Should no determination be made that eligibility of the motor vehicle for immobilization be invalid within the twenty-one (21) day period, the state registration number of said vehicle shall be placed on the immobilization list and immobilization shall proceed as follows:

(A) A notice shall be placed in a conspicuous place on the motor vehicle warning that any attempt to move the vehicle while the immobilization device is attached may result in damage to the vehicle;

(B) The notice shall set forth the following procedure for release of the immobilization device; the owner of the immobilized vehicle, or another authorized person, may within twenty-four (24) hours:

(1) Pay all fees for immobilization and penalties due on the outstanding complaints/unpaid final determinations of vehicular regulation violation liability, relative to vehicular parking violations, listed in the notice of eligibility for immobilization, or may pay a deposit prior to a hearing as provided in Section 72.06 below; or

(2) Except in the case of unpaid final determinations of vehicular regulation violation liability, present copies of the appearances filed with the Clerk of the Circuit Court of DuPage County on all outstanding complaints specified in the notice of eligibility; or

(3) Except in the case of unpaid final determinations of vehicular regulation violation liability, deposit collateral in the amount of the number of outstanding complaints listed in the notice of eligibility for immobilization times fifteen dollars (\$15.00), but not to exceed five hundred dollars (\$500.00), and execute an agreement to present copies of appearances filed with the Clerk of the Circuit Court of DuPage County on all outstanding complaints specified in the notice of eligibility for immobilization within twenty-one (21) days from the date of the agreement. Such collateral shall be returned upon receipt of copies of the appearances, but shall be forfeited if the owner does not present such copies and the forfeited collateral may not be used to satisfy any unpaid fees or penalties. Upon forfeiture of collateral, the motor vehicle involved shall again be subject to immediate immobilization and no further deposit of collateral as described in this subsection shall again be allowed as a method of release; or

(4) Pay fifteen dollars (\$15.00) per outstanding complaint/unpaid final determinations of vehicular regulation violation liability, and sign an installment agreement to pay the remainder of the amount owed over a period of time. Each payment made under the installment agreement will be applied to the total amount due and no one (1) or more outstanding complaint(s)/unpaid final determination(s) of vehicular regulation violation liability, shall be considered paid until the entire amount due for all outstanding complaints/unpaid final determinations of vehicular regulation violation liability, is paid. If payments are not made as required in the installment agreement, the agreement shall become void, the motor vehicle shall be subject to reimmobilization and the original amount due (less any amount paid) plus additional charges for re-immobilization shall become due. No further option under this subsection (B)(4) shall be available; and

(C) The notice shall warn the owner that the immobilized vehicle will be towed and impounded if release is not obtained under Section 72.04(B)(1)(2) or (3) hereof within twenty-four (24) hours after the vehicle has been immobilized and that the costs of immobilization, towing and impoundment must be paid in addition to the penalties due on the outstanding complaints listed on the notice of eligibility for immobilization, or the deposit for a hearing as provided in Section 72.06 hereof must be paid, before the vehicle will be released from impoundment.

(Ord. 4979, passed 6-7-01; Ord. 6202, passed 6/19/08)

§ 72.05 NOTICE OF IMPOUNDMENT.

Within fifteen (15) days after a vehicle has been towed and impounded, notice of impoundment shall be sent by certified mail, return receipt requested, and by first class mail, postage prepaid to the registered owner of the motor vehicle at the address to which the motor vehicle is registered. The notice shall state that the owner has a right to a hearing as specified in Section 72.06 hereof, and that if release is not obtained under the procedures in Section 72.04 (C) hereof within thirty (30) days, the vehicle will be considered an abandoned vehicle as provided in Sections 94.20 through 94.25 of the Village Code and subject to disposal as provided.

§ 72.06 IMMOBILIZATION FEES AND DEPOSITS

The fee for immobilization and the fee for towing shall each be an amount equal to the Village's actual costs incurred relative to the performance of said immobilization and towing, respectively. In regard to said fees, the Police Department shall maintain a written fee schedule relative to the current costs being incurred by the Village for the immobilization and towing of vehicles under this Chapter. Notwithstanding the foregoing, no fees shall be assessed for any immobilization or tow which has been determined to be in error pursuant to a hearing which shall be held under the following procedure:

(A) A deposit of twenty-five dollars (\$25.00) on the immobilization fee and twenty-five dollars (\$25.00) on the towing fee must be submitted within twenty-one (21) days of the receipt of a notice pursuant to Section 72.05, or twenty-one (21) days after immobilization, whichever is later, with a written demand to the Chief of Police for a hearing on whether the motor vehicle was properly included on the immobilization list;

(B) The hearing shall be held before a hearing officer designated by the Chief of Police within forty-eight (48) hours of the receipt of the demand and the deposit required, unless an extension of time is agreed to by the parties;

(C) Failure to demand or to attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of a failure to attend the scheduled hearing, the deposit shall be forfeited and applied to towing or immobilization fees specified in this Section 72.06; and

(D) A hearing as provided in this subsection shall not determine the validity of or otherwise adjudicate any citation or parking violation relative to the immobilized vehicle, but only shall determine the validity of assessment of the fees for immobilization and/or towing.

(Ord. 3970, passed 2/16/95, Ord. 4103, passed 12/7/95)

CHAPTER 73: ADMINISTRATIVE ADJUDICATION OF VEHICULAR REGULATION VIOLATIONS

(625 ILCS 5/6-306.5) (from Ch. 95 1/2, par. 6-306.5)

Sec. 6-306.5. Failure to pay fine or penalty for standing, parking, compliance, automated speed enforcement system, or automated traffic law violations; suspension of driving privileges.

(a) Upon receipt of a certified report, as prescribed by subsection (c) of this Section, from any municipality or county stating that the owner of a registered vehicle: (1) has failed to pay any fine or penalty due and owing as a result of 10 or more violations of a municipality's or county's vehicular standing, parking, or compliance regulations established by ordinance pursuant to Section 11-208.3 of this Code, (2) has failed to pay any fine or penalty due and owing as a result of 5 offenses for automated speed enforcement system violations or automated traffic violations as defined in Sections 11-208.6, 11-208.8, 11-208.9, or 11-1201.1, or combination thereof, or (3) is more than 14 days in default of a payment plan pursuant to which a suspension had been terminated under subsection (c) of this Section, the Secretary of State shall suspend the driving privileges of such person in accordance with the procedures set forth in this Section. The Secretary shall also suspend the driving privileges of an owner of a registered vehicle upon receipt of a certified report, as prescribed by subsection (f) of this Section, from any municipality or county stating that such person has failed to satisfy any fines or penalties imposed by final judgments for 5 or more automated speed enforcement system or automated traffic law violations, or combination thereof, or 10 or more violations of local standing, parking, or compliance regulations after exhaustion of judicial review procedures.

(b) Following receipt of the certified report of the municipality or county as specified in this Section, the Secretary of State shall notify the person whose name appears on the certified report that the person's drivers license will be suspended at the end of a specified period of time unless the Secretary of State is presented with a notice from the municipality or county certifying that the fine or penalty due and owing the municipality or county has been paid or that inclusion of that person's name on the certified report was in error. The Secretary's notice shall state in substance the information contained in the municipality's or county's certified report to the Secretary, and shall be effective as specified by subsection (c) of Section 6-211 of this Code.

(c) The report of the appropriate municipal or county official notifying the Secretary of State of unpaid fines or penalties pursuant to this Section shall be certified and shall contain the following:

(1) The name, last known address as recorded with the Secretary of State, as provided by the lessor of the cited vehicle at the time of lease, or as recorded in a United States Post Office approved database if any notice sent under Section 11-208.3 of this Code is returned as undeliverable, and drivers license number of the person who failed to pay the fine or penalty or who has defaulted in a payment plan and the registration number of any vehicle known to be registered to such person in this

State.

(2) The name of the municipality or county making the report pursuant to this Section.

(3) A statement that the municipality or county sent a notice of impending drivers license suspension as prescribed by ordinance enacted pursuant to Section 11-208.3 of this Code or a notice of default in a payment plan, to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of lease or, if any notice sent under Section 11-208.3 of this Code is returned as undeliverable, at the last known address recorded in a United States Post Office approved database; the date on which such notice was sent; and the address to which such notice was sent. In a municipality or county with a population of 1,000,000 or more, the report shall also include a statement that the alleged violator's State vehicle registration number and vehicle make, if specified on the automated speed enforcement system violation or automated traffic law violation notice, are correct as they appear on the citations.

(4) A unique identifying reference number for each request of suspension sent whenever a person has failed to pay the fine or penalty or has defaulted on a payment plan.

(d) Any municipality or county making a certified report to the Secretary of State pursuant to this Section shall notify the Secretary of State, in a form prescribed by the Secretary, whenever a person named in the certified report has paid the previously reported fine or penalty, whenever a person named in the certified report has entered into a payment plan pursuant to which the municipality or county has agreed to terminate the suspension, or whenever the municipality or county determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein. Upon receipt of the municipality's or county's notification or presentation of a certified copy of such notification, the Secretary of State shall terminate the suspension.

(e) Any municipality or county making a certified report to the Secretary of State pursuant to this Section shall also by ordinance establish procedures for persons to challenge the accuracy of the certified report. The ordinance shall also state the grounds for such a challenge, which may be limited to (1) the person not having been the owner or lessee of the vehicle or vehicles receiving 10 or more standing, parking, or compliance violation notices or a combination of 5 or more automated speed enforcement system or automated traffic law violations on the date or dates such notices were issued; and (2) the person having already paid the fine or penalty for the 10 or more standing, parking, or compliance violations or combination of 5 or more automated speed enforcement system or automated traffic law violations indicated on the certified report.

(f) Any municipality or county, other than a municipality

or county establishing vehicular standing, parking, and compliance regulations pursuant to Section 11-208.3, automated speed enforcement system regulations under Section 11-208.8, or automated traffic law regulations under Section 11-208.6, 11-208.9, or 11-1201.1, may also cause a suspension of a person's drivers license pursuant to this Section. Such municipality or county may invoke this sanction by making a certified report to the Secretary of State upon a person's failure to satisfy any fine or penalty imposed by final judgment for 10 or more violations of local standing, parking, or compliance regulations or a combination of 5 or more automated speed enforcement system or automated traffic law violations after exhaustion of judicial review procedures, but only if:

(1) the municipality or county complies with the provisions of this Section in all respects except in regard to enacting an ordinance pursuant to Section 11-208.3;

(2) the municipality or county has sent a notice of impending drivers license suspension as prescribed by an ordinance enacted pursuant to subsection (g) of this Section; and

(3) in municipalities or counties with a population of 1,000,000 or more, the municipality or county has verified that the alleged violator's State vehicle registration number and vehicle make are correct as they appear on the citations.

(g) Any municipality or county, other than a municipality or county establishing standing, parking, and compliance regulations pursuant to Section 11-208.3, automated speed enforcement system regulations under Section 11-208.8, or automated traffic law regulations under Section 11-208.6, 11-208.9, or 11-1201.1, may provide by ordinance for the sending of a notice of impending drivers license suspension to the person who has failed to satisfy any fine or penalty imposed by final judgment for 10 or more violations of local standing, parking, or compliance regulations or a combination of 5 or more automated speed enforcement system or automated traffic law violations after exhaustion of judicial review procedures. An ordinance so providing shall specify that the notice sent to the person liable for any fine or penalty shall state that failure to pay the fine or penalty owing within 45 days of the notice's date will result in the municipality or county notifying the Secretary of State that the person's drivers license is eligible for suspension pursuant to this Section. The notice of impending drivers license suspension shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of lease or, if any notice sent under Section 11-208.3 of this Code is returned as undeliverable, to the last known address recorded in a United States Post Office approved database.

(h) An administrative hearing to contest an impending suspension or a suspension made pursuant to this Section may be had upon filing a written request with the Secretary of State. The filing fee for this hearing shall be \$20, to be

paid at the time the request is made. A municipality or county which files a certified report with the Secretary of State pursuant to this Section shall reimburse the Secretary for all reasonable costs incurred by the Secretary as a result of the filing of the report, including but not limited to the costs of providing the notice required pursuant to subsection (b) and the costs incurred by the Secretary in any hearing conducted with respect to the report pursuant to this subsection and any appeal from such a hearing.

(i) The provisions of this Section shall apply on and after January 1, 1988.

(j) For purposes of this Section, the term "compliance violation" is defined as in Section 11-208.3.

(Source: P.A. 97-333, eff. 8-12-11; 97-672, eff. 7-1-12; 98-556, eff. 1-1-14.)