

120095

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

DISTRICT # All

Resolution or Ordinance (Blue) Waiver of First Requested
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *D.A.H.*

DATE : February 7, 2012 **B of T :** February 16, 2012

SUBJECT: An Ordinance Amending Title VII, Chapter 75 of the Village Code in Regard to Seizure and Impoundment of Motor Vehicles.

SUBMITTED BY: Raymond J. Byrne, Chief of Police

BACKGROUND/POLICY IMPLICATIONS: The Illinois Legislature recently passed Public Act 97-109. The Act makes certain changes to the provisions that govern local ordinances as they relate to the seizure and impoundment of motor vehicles. The Village Attorney has reviewed Public Act 97-109 and is recommending that the following changes be made to our current Village Code to bring our ordinance into compliance with the new law. A waiver of first reading is being requested as the Public Act went into effect on January 1, 2012.

Fiscal Impact/Funding Source: None.

Review (as necessary):

Finance Director _____ Date _____
Village Manager *David A. Hulseberg* _____ Date 2/8/12

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda distribution.



LOMBARD POLICE DEPARTMENT



Date: February 2, 2012

To: David A. Hulseberg, AICP, ICMA-CM

From: Ray Byrne
Chief of Police

Re: Ordinance Amending the Village Code as it Relates to Seized or Impounded Motor Vehicles

As you know, the current Village Code contains provisions that allow the police department to seize and impound vehicles that are used in the commission of certain offenses (Title VII, Chapter 75). The Illinois Legislature recently enacted Public Act 97-109. This Public Act mandates some provisions that must be included in local ordinance provisions. It also defines what offenses can subject a vehicle to seizure and impoundment. As a result of this Public Act, the Village Attorney has prepared an ordinance that amends our current Village Code to reflect the requirements of the new legislation.

The amendments do not substantially alter our current provisions, but some of the highlights include:

- The hearing officer must be an attorney licensed to practice law in the State of Illinois for a minimum of three (3) years who is not an officer or employee of the Village. We already meet this requirement.
- The legislation specifies which offenses can be utilized to subject a vehicle to seizure or impoundment.
- Lessees and any lien holders of record must be provided notice of the seizure and impoundment and provided an opportunity for a hearing.
- All orders of the hearing officer must be in writing.
- Applicable time limitations have been extended from 30 to 35 days.
- Eliminates a provision that stolen motor vehicles must have been reported within 24 hours after the theft was discovered.

Given the requirements of Public Act 97-109, as well as the recommendations of the Village Attorney, I recommend that this proposed ordinance be presented to the Village Board for approval. A waiver of first reading is being requested as Public Act 97-109 took effect on January 1st. If you should have any questions, or would like additional information, please do not hesitate to contact me.

cc: Dep. Chief Pat Rollins
Dep. Chief Tom Wirsing

U: Amendment to Vehicle Seizure Chapter.docx



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January 30, 2012

Ray Byrne
Chief of Police
Village of Lombard
255 East Wilson Avenue
Lombard, Illinois 60148

Via e-mail only

**Re: Vehicle Seizure and Impoundment Ordinance –
Amendments Required by Public Act 97-109**

Dear Ray:

Attached please find the following Ordinance, relative to the above-captioned matter, for adoption at the next available Village Board meeting:

**AN ORDINANCE AMENDING
TITLE 7, CHAPTER 75 OF THE LOMBARD VILLAGE CODE
IN REGARD TO VEHICLE SEIZURE AND IMPOUNDMENT**

The Ordinance brings Chapter 75 of the Village Code into compliance with Public Act 97-109.

If there are any questions, please feel free to contact me.

Very truly yours,

KLEIN, THORPE AND JENKINS, LTD.

Thomas P. Bayer

encl.

cc: Dave Hulseberg, Village Manager (w/ encl.; via e-mail)

ORDINANCE NO. _____

**AN ORDINANCE AMENDING
TITLE 7, CHAPTER 75 OF THE LOMBARD VILLAGE CODE
IN REGARD TO VEHICLE SEIZURE AND IMPOUNDMENT**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title 7, Chapter 75, Section 75.01, Subsection (A), of the Lombard Village Code is hereby amended, to require that a "Hearing Officer" be licensed to practice law in the State of Illinois for a minimum of three (3) years, and shall read in its entirety as follows:

"(A) HEARING OFFICER: An attorney licensed to practice law in the State of Illinois for a minimum of three (3) years, who is not an officer or employee of the Village, designated by the Village Manager, including, but not limited to, the individual designated by the Village Manager to serve as the hearing officer in regard to the Village's administrative adjudication programs."

SECTION 2: That Title 7, Chapter 75, Section 75.02 of the Lombard Village Code is hereby amended to read in its entirety as follows:

"§ 75.02 PUBLIC NUISANCE DECLARED

A motor vehicle, operated with the permission, express or implied, of the owner of record, shall be declared a public nuisance and shall be subject to seizure and impoundment under this Chapter where such motor vehicle is used in the commission of any of the violations set forth in this Section or when the commission of any of the violations set forth in this Section makes impoundment of the motor vehicle reasonably necessary as a community caretaking function so that the motor vehicle does not jeopardize public safety and the efficient movement of vehicular traffic. It shall not be necessary for criminal charges to be filed, prosecuted, and/or proven in order to demonstrate that one or more of the following violations has/have been committed:

(A) A violation of:

1. 625 ILCS 5/6-303 (Driving While Driver's License, Permit or Privilege to Operate a Motor Vehicle is Suspended or Revoked), as amended,

except where said violation is in regard to a person whose driver's license, permit or privilege to operate a motor vehicle is suspended only for a violation of the emissions inspection laws as set forth in 625 ILCS 5/13C-1, *et seq.*, as amended or for an unpaid citation (parking or moving);

2. 625 ILCS 5/11-204(c) (Fleeing or Attempting to Elude a Police Officer, Third or Subsequent Offense), as amended;
 3. 625 ILCS 5/11-204.1 (Aggravated Fleeing or Attempting to Elude a Police Officer), as amended;
 4. 625 ILCS 5/11-401 (Motor Vehicle Accidents Involving Death or Personal Injury), as amended;
 5. 625 ILCS 5/11-501 (Driving Under the Influence of Alcohol, Other Drug or Drugs, Intoxicating Compound or Compounds or any Combination Thereof), as amended;
 6. 625 ILCS 5/11-503(b-1) (Reckless Driving Causing Bodily Harm to a Child or a School Crossing Guard), as amended;
 7. 625 ILCS 5/11-503(c) (Aggravated Reckless Driving), as amended;
 8. 625 ILCS 5/11-503(d) (Reckless Driving Causing Great Bodily Harm or Permanent Disability or Disfigurement to a Child or a School Crossing Guard), as amended;
 9. 625 ILCS 5/11-506(d)(1) (Street Racing, Second or Subsequent Offense), as amended;
 10. 625 ILCS 5/11-506(d)(3) (Aggravated Street Racing), as amended;
- (B) The stopping of a person against whom a warrant has been issued by a circuit court for failing to appear to answer charges that the person was:
1. operating a motor vehicle while that person's license was suspended or revoked in violation of 625 ILCS 5/6-303, as amended;
 2. operating a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof in violation of 625 ILCS 5/11-501, as amended; or

3. operating a motor vehicle without having a valid driver's license or permit, in violation of 625 ILCS 5/6-101, as amended;

(C) A violation of:

1. 720 ILCS 5/11-6 (Indecent Solicitation of a Child), as amended;
2. 720 ILCS 5/12-2 (Aggravated Assault), as amended;
3. 720 ILCS 5/12-3.05 (Aggravated Battery), as amended;
4. 720 ILCS 5/16-1 (Theft), as amended;
5. 720 ILCS 5/16-2 (Theft of Lost or Mislaid Property), as amended;
6. 720 ILCS 5/16-3 (Theft of Labor or Services or Use of Property), as amended;
7. 720 ILCS 5/16-5 (Theft from Coin Operated Machine), as amended;
8. 720 ILCS 5/16-18 (Tampering with Communication Services; Theft of Communication Services), as amended;
9. 720 ILCS 5/16-25 (Retail Theft), as amended;
10. 720 ILCS 5/18-1 (Robbery), as amended;
11. 720 ILCS 5/18-2 (Armed Robbery), as amended;
12. 720 ILCS 5/19-1 (Burglary), as amended;
13. 720 ILCS 5/19-3 (Residential Burglary), as amended;
14. 720 ILCS 5/20-1 (Arson), as amended;
15. 720 ILCS 5/20-1.1 (Aggravated Arson), as amended;
16. 720 ILCS 5/20-2 (Possession of Explosives or Explosive or Incendiary Devices), as amended;
17. 720 ILCS 5/21-1 (Criminal Damage to Property), as amended; or
18. 720 ILCS 5/25-1 (Mob Action), as amended;

(D) The operation or use of a motor vehicle:

1. in the commission of, or in the attempt to commit, a violation of the Cannabis Control Act 720 ILCS 550/1 *et seq.*, as amended;
2. in the commission of, or in the attempt to commit, a violation of the Illinois Controlled Substance Act, 720 ILCS 570/100 *et seq.*, as amended; or
3. while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act 720 ILCS 550/1 *et seq.*, as amended, or the Illinois Controlled Substance Act, 720 ILCS 570/100 *et seq.*, as amended;

(E) A violation of:

1. 720 ILCS 5/24-1 (Unlawful Use of Weapons), as amended;
2. 720 ILCS 5/24-1.5 (Reckless Discharge of a Firearm), as amended;
3. 720 ILCS 5/24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition), as amended; or

4. 720 ILCS 5/24-3.3 (Unlawful Sale or Delivery of Firearms on the Premises of any School), as amended;

This subsection shall not apply when any of the exemptions set forth in 720 ILCS 5/24-2, as amended, are met;

(F) A violation of:

1. 720 ILCS 5/11 -14 (Prostitution), as amended;
2. 720 ILCS 5/11-14.1 (Solicitation of a Sexual Act), as amended;
3. 720 ILCS 5/11-14.3 (Promoting Prostitution), as amended;
4. 720 ILCS 5/11-14.4 (Promoting Juvenile Prostitution), as amended;
5. 720 ILCS 5/11-18 (Patronizing a Prostitute), as amended; or
6. 720 ILCS 5/11-18.1 (Patronizing a Juvenile Prostitute), as amended;

(G) The motor vehicle is otherwise subject to seizure and impoundment pursuant to 720 ILCS 5/36-1 (Seizure), as amended; or

(H) A violation of 625 ILCS 5/6-101 (Drivers Must Have Licenses or Permits), as amended, except where the violation is for a license which has been expired for twelve (12) months or less, or for a license which is invalid because of curfew (as in the case of a graduated license)."

SECTION 3: That Title 7, Chapter 75, Section 75.03, of the Lombard Village

Code is hereby amended to read in its entirety as follows:

"§ 75.03 SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES

(A) Whenever a police officer has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Chapter, the police officer shall cause the motor vehicle to be removed or towed to a facility authorized by the Village. When the vehicle is towed, the Village shall notify or make a reasonable attempt to notify the owner of record, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, if there is such a person, of the fact of the seizure and of the owner of record's or lessee's right to request a preliminary hearing and to participate in a plea/evidentiary hearing, as provided in this Chapter. The Village shall also provide notice that the motor vehicle shall be impounded pending the completion of the hearings provided for in this Chapter, unless the owner of record or lessee of the motor vehicle, or a lien holder of record of the motor vehicle, posts with the Village a cash bond and pays all towing and storage fees, as set forth in Section 75.04 below.

(B) A police officer who has probable cause to believe that a motor vehicle is subject to seizure and impoundment pursuant to this Chapter shall first ascertain whether the seizure and impoundment is necessary and reasonable under the circumstances. If in the judgment of the police officer then present,

a person authorized by the owner of record or the operator of the motor vehicle is present and capable to provide for the lawful immediate removal of the motor vehicle, and said motor vehicle is not required to be held as evidence in regard to the violation, the police officer shall allow that individual to promptly remove the motor vehicle without it being subject to seizure and impoundment if seizure and impoundment of the motor vehicle is discretionary pursuant to Section 75.02(H) above or seizure and impoundment of the motor vehicle is contemplated pursuant to Sections 75.02(A) through (G) above.”

SECTION 4: That Title 7, Chapter 75, Section 75.06, Subsection (A), of the Lombard Village Code is hereby amended, to require that, in addition to notice and an opportunity to be heard being provided to the owner of record, notice and an opportunity to be heard shall be provided to any lessee and any lien holder of record, and shall read in its entirety as follows:

“(A) Notice of Hearing. Within ten (10) days after a motor vehicle is impounded pursuant to this Chapter, the Village shall notify the owner of record, any lessee and any lien holder of record, of the date, time and location of a plea hearing that shall be conducted, pursuant to this section. Such notice shall be mailed by certified mail, return receipt requested, and First Class U.S. Mail to the owner of record, any lessee and any lien holder of record, as shown on the records of the Illinois Secretary of State. Notice by certified mail or First Class U.S. Mail need not be given when the owner of record of the motor vehicle, any lessee and any lien holder of record have been personally served with notice, in written form, of the time, date and location of the plea hearing. The plea hearing shall be conducted by a hearing officer, designated by the Village Manager. The owner of record, any lessee and any lien holder of record shall appear at a plea hearing and enter a plea of guilty or not guilty. If a plea of guilty is entered, or if the owner of record, any lessee and any lien holder of record fail to appear, the case shall be disposed of at that time, with an order/default order in favor of the Village, which order/default order shall require the payment to the Village of the five hundred dollar (\$500.00) administrative fee and towing and storage costs to the applicable tow company, and the continued impoundment of the motor vehicle until the owner of record, any lessee or lien holder of record pays to the Village the five hundred dollar (\$500.00) administrative fee and towing and storage costs to the applicable towing company. If the owner of record, any lessee or any lien holder of record pleads not guilty, an evidentiary hearing shall be scheduled and held no later than forty-five (45) days after the motor vehicle was impounded, unless continued by the hearing officer. All interested persons shall be given a reasonable opportunity to be heard at the

evidentiary hearing. At any time prior to the evidentiary hearing date, the hearing officer may, at the request of either the Village, the owner of record, any lessee or lien holder of record, direct witnesses to appear and give testimony at the evidentiary hearing. The formal rules of evidence shall not apply at the evidentiary hearing, and hearsay evidence shall be admissible.”

SECTION 5: That Title 7, Chapter 75, Section 75.06, Subsection (B), of the Lombard Village Code is hereby amended by adding a sentence to the end of said Subsection regarding the requirement that all orders entered by the hearing officer be in writing, and shall read in its entirety as follows:

“(B) If, after the evidentiary hearing, the hearing officer determines, by a preponderance of the evidence, that the motor vehicle was used in connection with a violation set forth in Section 75.02 above, the hearing officer shall enter an order finding the owner of record of the motor vehicle civilly liable to the Village for an administrative fee in the amount of five hundred dollars (\$500.00), and require the motor vehicle to continue to be impounded until the owner of record pays the administrative fee to the Village, plus applicable towing and storage costs to the applicable tow company. The five hundred dollar (\$500.00) administrative fee shall be a debt due to the Village. If a cash bond has been posted pursuant to Section 75.04 or Section 75.05(c) above, the bond shall be applied to the administrative fee. If the owner of record fails to appear at the evidentiary hearing, the hearing officer shall enter a default order in favor of the Village, which order shall require the payment to the Village of the five hundred dollar (\$500.00) administrative fee and towing and storage costs to the applicable tow company, and the continued impoundment of the motor vehicle until the owner of record pays to the Village the five hundred dollar (\$500.00) administrative fee and towing and storage costs to the applicable towing company. If the hearing officer finds no such violation occurred, the hearing officer shall order the immediate return of the owner of record’s motor vehicle without any fee or other costs, or, if a cash bond had previously been posted, the cash bond shall be returned, but the owner of record shall be responsible for any towing or storage charges to the applicable tow company. All orders entered by the hearing officer under this Subsection shall be in writing.”

SECTION 6: That Title 7, Chapter 75, Section 75.07, Subsection (A), of the Lombard Village Code, is hereby amended, to remove all references to “thirty (30) days,” and replace said references with “thirty-five (35) days,” and shall read in its entirety as follows:

“(A) If the administrative fee and other applicable fees are not paid within thirty-five (35) days after an administrative fee is imposed against an owner of record who defaults by failing to appear at the hearings provided in Section 75.06 above, or who admits guilt at the plea hearing, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provide by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100, *et seq.*, as amended. In all other cases, if the administrative fee and applicable towing and storage costs to the applicable tow company are not paid within thirty-five (35) days after the expiration of time by which administrative review of the hearing officer’s determination may be sought pursuant to Section 75.10 below, or within thirty-five (35) days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the motor vehicle shall be deemed unclaimed and shall be disposed of in the manner provide by law for the disposition of unclaimed motor vehicles pursuant to 625 ILCS 5/1-100, *et seq.*, as amended.”

SECTION 7: That Title 7, Chapter 75, Section 75.08 of the Lombard Village Code is hereby amended, by deleting a subsection that states stolen vehicles must be reported to police authorities within twenty-four (24) hours after the theft was discovered, and shall read in its entirety as follows:

“§ 75.08 APPLICABILITY OF OTHER LAWS

This Chapter is in addition to and shall not replace or otherwise abrogate any existing State or Federal laws or any ordinance that relates to the seizure or impoundment of motor vehicles, and any fee provided for in this Chapter shall be in addition to any and all penalties that may be assessed or imposed by a court for any criminal charges. This Section shall not apply:

- (A) if the motor vehicle used in the violation was stolen at the time of the violation and verifiable proof of the theft is provided to the Village;
- (B) if the motor vehicle is operated as a common carrier as defined by applicable law and the violation occurs without the knowledge of the person in control of the motor vehicle; or
- (C) if the motor vehicle is subject to successful forfeiture proceedings under 725 ILCS 150/1, *et seq.*, as amended (“Drug Asset Forfeiture Procedure Act”); 720 ILCS 5/36-1, *et seq.*, as amended (“Seizure and Forfeiture of Vessels, Vehicles and Aircraft”); or other State or Federal forfeiture laws.”

SECTION 8: That Title 7, Chapter 75, Section 75.10 of the Lombard Village Code is hereby amended, by adding a sentence to the end of said Section regarding the enforcement of any unpaid fine, penalty or administrative fee, and shall read in its entirety as follows:

"§ 75.10 ADMINISTRATIVE REVIEW

Any owner of record, lien holder or other person with a legal interest in the motor vehicle shall have the right to appeal the decision of the hearing officer to the Circuit Court for the Eighteenth Judicial Circuit, DuPage County, Illinois, pursuant to the Administrative Review Act, 735 ILCS 5/3-101, *et seq.*, as amended. Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this chapter 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."

SECTION 9: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2012.

First reading waived by action of the Board of Trustees this ____ day of _____, 2012.

Passed on second reading this _____ day of _____, 2012,
pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2012.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2012.

Brigitte O'Brien, Village Clerk

AN ACT concerning transportation.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 5. The Illinois Vehicle Code is amended by adding
Section 11-208.7 as follows:

(625 ILCS 5/11-208.7 new)

Sec. 11-208.7. Administrative fees and procedures for
impounding vehicles for specified violations.

(a) Any municipality may, consistent with this Section,
provide by ordinance procedures for the release of properly
impounded vehicles and for the imposition of a reasonable
administrative fee related to its administrative and
processing costs associated with the investigation, arrest,
and detention of an offender, or the removal, impoundment,
storage, and release of the vehicle. The administrative fee
imposed by the municipality may be in addition to any fees
charged for the towing and storage of an impounded vehicle. The
administrative fee shall be waived by the municipality upon
verifiable proof that the vehicle was stolen at the time the
vehicle was impounded.

(b) Any ordinance establishing procedures for the release
of properly impounded vehicles under this Section may impose
fees for the following violations:

(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 Criminal Code of 1961; 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
this 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 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, an offense in
violation of Section 24-1, 24-1.5, or 24-3.1 of the
Criminal Code of 1961; 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 this 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;
or

(7) operation or use of a motor vehicle while

soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act or the Illinois Controlled Substances Act; or

(8) operation or use of a motor vehicle with an expired driver's license, in violation of Section 6-101 of this Code, if the period of expiration is greater than one year; or

(9) 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 this Code, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or

(10) operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Section 6-101, 6-303, or 11-501 of this Code; or

(11) operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961; or

(12) operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961, when so provided by local ordinance.

(c) The following shall apply to any fees imposed for administrative and processing costs pursuant to subsection (b):

(1) All administrative fees and towing and storage charges shall be imposed on the registered owner of the motor vehicle or the agents of that owner.

(2) The fees shall be in addition to (i) any other penalties that may be assessed by a court of law for the underlying violations; and (ii) any towing or storage fees, or both, charged by the towing company.

(3) The fees shall be uniform for all similarly situated vehicles.

(4) The fees shall be collected by and paid to the municipality imposing the fees.

(5) The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle.

(d) Any ordinance establishing procedures for the release of properly impounded vehicles under this Section shall provide for an opportunity for a hearing, as provided in subdivision (b)(4) of Section 11-208.3 of this Code, and for the release of the vehicle to the owner of record, lessee, or a lienholder of record upon payment of all administrative fees and towing and storage fees.

(e) Any ordinance establishing procedures for the impoundment and release of vehicles under this Section shall include the following provisions concerning notice of impoundment:

(1) Whenever a police officer has cause to believe that a motor vehicle is subject to impoundment, the officer shall provide for the towing of the vehicle to a facility authorized by the municipality.

(2) At the time the vehicle is towed, the municipality 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, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing.

(3) The municipality shall also provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the municipality a bond equal to the administrative fee as provided by ordinance and pays for all towing and storage charges.

(f) Any ordinance establishing procedures for the impoundment and release of vehicles under this Section shall include a provision providing that the registered owner or lessee of the vehicle and any lienholder of record shall be provided with a notice of hearing. The notice shall:

(1) be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested party's address as registered with the Secretary of State;

(2) be served upon interested parties within 10 days after a vehicle is impounded by the municipality; and

(3) 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 the mailing of the notice of hearing.

(g) In addition to the requirements contained in subdivision (b)(4) of Section 11-208.3 of this Code relating to administrative hearings, any ordinance providing for the impoundment and release of vehicles under this Section shall include the following requirements concerning administrative hearings:

(1) administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in this State for a minimum of 3 years;

(2) at the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment;

(3) if the basis for the vehicle impoundment is sustained by the administrative hearing officer, any administrative fee posted to secure the release of the vehicle shall be forfeited to the municipality;

(4) all final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law; and

(5) unless the administrative hearing officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all administrative fees and towing and storage charges are paid.

(h) 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 this Code.

(i) Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this Section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as

a judgment entered by a court of competent jurisdiction.

Effective Date: 1/1/2012