

# All  
*T60440*

**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:** Raymond J. Byrne, Chief of Police

**DATE :** October 12, 2016                                      **B of T :** November 3, 2016

**SUBJECT:** An Ordinance Amending Title VII, Chapter 75, Section 75.06 of the Lombard Village Code In Regard to the Seizure and Impoundment of Motor Vehicles.

**SUBMITTED BY:** Raymond J. Byrne, Chief of Police

**BACKGROUND/POLICY IMPLICATIONS:** Public Act 99-0848 has been passed by the Illinois Legislature and requires non-home rule municipalities to add a provision as it relates to the seizure and impoundment of motor vehicles used in crimes. Specifically, the Public Act requires municipalities who are found to have exceeded their authority in seizing a vehicle to reimburse owners and lessees for the cost of storage fees and reasonable attorney's fees. The required ordinance to comply with the Public Act has been prepared by the Village Attorney. A waiver of first reading is being requested so that the municipal code is in compliance with the new state law.

**Fiscal Impact/Funding Source:** None

Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ Date \_\_\_\_\_

**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.**



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**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT MEMORANDUM**

**TO: Scott Niehaus, Village Manager**  
**FROM: Thomas P. Bayer and Jason A. Guisinger**  
**DATE: October 11, 2016**  
**RE: Vehicle Seizure and Impoundment**

We are writing to inform the Village of a recent amendment to the Illinois Vehicle Code ("Vehicle Code") that allows a respondent to recover storage fees and attorney's fees against a municipality in the event a municipality exceeds its authority when seizing and impounding a motor vehicle used in connection with a crime. As discussed below, the amendment to the Vehicle Code requires a corresponding amendment to the Village Code. We have enclosed the necessary ordinance with this correspondence.

Section 11-208.7 of the Vehicle Code authorizes municipalities to establish administrative procedures and fees for impounding and releasing vehicles that are used in connection with specifically delineated crimes. 625 ILCS 5/11-208.7. Pursuant to this authority, the Village has provided for the impoundment and release of motor vehicles under Title VII, Chapter 75 of the Village Code.

Section 11-208.7(g) of the Vehicle Code provides that any municipal ordinance authorizing the impoundment and release of vehicles shall contain certain requirements, such as hearings must be conducted by a qualified hearing officer, and decisions must be reduced to writing and subject to administrative review in the circuit court. 65 ILCS 5/11-208.7(g).

Public Act 099-0848 ("Act"), which went into effect on August 19, 2016, amended Section 11-208.7(g) of the Vehicle Code establishing a new requirement for municipal vehicle impoundment ordinances. Specifically, the Act requires any municipal ordinance providing for the impoundment and release of vehicles to contain the requirement that:

"[I]f the administrative hearing officer finds that a county or municipality that impounds a vehicle exceeded its authority under this Code, the county or municipality shall be liable to the registered owner or lessee of the vehicle for the cost of storage fees and reasonable attorney's fees." 625 ILCS 5/11-208.7(g)(6).

As a non-home rule municipality, the Village is required to add this provision to the Village Code if it desires to continue its vehicle impoundment program. The enclosed ordinance adds this requirement to the Village Code.

Please contact us with any questions.

cc: Ray Byrne, Chief of Police

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE VII,  
CHAPTER 75, SECTION 75.06 OF THE LOMBARD VILLAGE CODE  
IN REGARD TO THE SEIZURE AND IMPOUNDMENT OF MOTOR VEHICLES**

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

**SECTION 1:** That Title VII, Chapter 75, Section 75.06 of the Lombard Village Code is amended by adding new subsection (D) thereto, which shall read in its entirety as follows:

“(D) If the hearing officer finds that the Village exceeded its authority under this Chapter in the seizure and impoundment of a motor vehicle, the Village shall be liable to the owner of record or lessee of the motor vehicle for the cost of storage fees and reasonable attorney’s fees.”

**SECTION 2:** 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 \_\_\_\_\_, 2016.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016, pursuant to a roll call vote as follows:

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** by me this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published by me in pamphlet form this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk