

CHAPTER 12
POLICE DEPARTMENT

VEHICLE IMPOUNDMENT

A. In addition to any fees charged for the towing and storage of an impounded vehicle, the Village may impose an administrative fee not to exceed \$500 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 shall be waived upon verifiable proof that the vehicle was stolen at the time the vehicle was impounded.

B. The administrative fee may be imposed and a motor vehicle may be impounded upon probable cause that any of the following violations have occurred:

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 720 ILCS 5/36-1; or
2. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of 625 ILCS 5/11-501; 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 (720 ILCS 550/1 *et seq.*); 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 (720 ILCS 570/101 *et seq.*); or
5. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/24-1, Unlawful Use of Weapons, 5/24-1.5, Reckless Discharge of a Firearm, or 5/24-3.1, Unlawful Possession of Firearms and Firearm Ammunition; or
6. Driving while a driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked pursuant to 625 ILCS 5/6-303; 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 (720 ILCS 550/1 *et seq.*) or the Illinois Controlled Substances Act (720 ILCS 570/101 *et seq.*); or

8. Operation or use of a motor vehicle with an expired driver's license, in violation of 625 ILCS 5/6-101, 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 625 ILCS 5/6-101, 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 625 ILCS 5/6-101, 5/6-303, or 5/11-501; 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, Theft and Related Offenses, or Article 16A, Retail Theft, of Chapter 720 of the Illinois Compiled Statutes; 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 720 ILCS 5/1-1 *et seq.*), when so provided by this Code.
- C. The following shall apply to any fees imposed for administrative and processing costs pursuant to Title 2.
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. The registered owner shall be the record titleholder to a motor vehicle as registered with the Illinois Secretary of State or any other applicable governmental agency.
 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 Village.
 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. Costs for towing and storage of a motor vehicle shall be those approved by the Chief of Police for all tow companies authorized to tow for the Police Department.
- D. Administrative Hearing: A hearing shall be provided pursuant to 625 ILCS 5/11-208/3(b)(4). The vehicle shall be released to the owner of record, lessee or a lienholder of record upon payment of all administrative fees and towing and storage fees.
- E. Administrative Hearing Requirements:

1. Administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in the state for a minimum of 3 years and who is not an officer or employee of the Village. The hearing officer shall be designated by the Village Administrator;
 2. The hearing officer shall have the power to administer oaths and to secure the attendance and testimony of witnesses and the production of relevant books and papers via subpoena;
 3. The hearing shall be recorded and the technical/formal rules of evidence shall not apply;
 4. Individuals appearing before the hearing officer shall have the right to be represented by counsel at their own expense;
 5. At the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment;
 6. 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 Village;
 7. All final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law; and
 8. 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.
- F. Notice of Impoundment: The following provisions shall be observed 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 Village 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 Village shall 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 Village a bond equal to the administrative fee as provided by this Code and pays for all towing and storage charges.

G. Notice of Hearing: 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 Village; 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.

H. Vehicles not retrieved from the towing or storage facility within 35 days after the administrative officer issues a written decision shall be deemed abandoned and disposed of in accordance with the provisions of 625 ILCS 5/4-201 *et seq.*, Abandoned, Lost, Stolen or Unclaimed Vehicles.

I. 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 review under Section 15.21-J of this Code, may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

J. Applicability of Other Laws: This Section 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 Section 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: (1) if the motor vehicle used in the violation was stolen at the time of the violation or (2) 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 (3) other state or federal forfeiture laws.

K. 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 22nd Judicial Circuit Court, pursuant to the Administrative Review Act, 735 ILCS 5/3-101, *et seq.* as amended. Any respondent seeking review of a final decision shall be required to reimburse the Village for the costs of preparing and certifying the record of proceedings. Failure of the respondent to reimburse the Village shall be grounds for the dismissal of a complaint for administrative review pursuant to 735 ILCS 5/3-109. In the event the reviewing court reverses the findings, decision and order of the Administrative Law Judge, the Village will reimburse the respondent for the costs for preparing and certifying the record of proceedings. Any administrative fee posted with the Village to secure the release of a motor vehicle prior to a hearing shall be held by the Village until the hearing officer issues a decision or, if there is judicial review of the hearing

officer's decision, until a reviewing court issues a final decision.

L. Administrative Fee Refund: A finding of "not guilty" following a trial in the 22nd Judicial Circuit Court for the underlying violation wherein the motor vehicle was impounded, shall entitle the owner of record to a full and complete refund of any administrative fee imposed under this Section. However, the owner of record must request the refund in writing and shall include in the request a certified disposition of "not guilty" following a trial from the 22nd Circuit Court Clerk. An order of dismissal or a negotiated disposition on the underlying charge(s) shall not result in a refund of the administrative fee.