

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: July 22nd, 2022 (COW) (B of T) **Date:** August 18th, 2022

TITLE: Immobilization Ordinance Amendment

SUBMITTED BY: Deputy Chief Joseph Grage, Police Department

BACKGROUND/POLICY IMPLICATIONS:

Modification of Vehicle Immobilization Ordinance Sections 72.04 and 72.06

The amendment to the sections of ordinance would change the deposit required to remove a immobilization device from \$15 per unpaid citation to 25% of the unpaid citation balance. It would also bring post immobilization hearing deposit fees up to the police department's current costs. Additionally, post immobilization hearings would be conducted at the next administrative hearing date instead of with 48 hours.

All of the above changes will increase the operational efficiency of the vehicle immobilization program.

FISCAL IMPACT/FUNDING SOURCE:

Time and Materials:

Signage and Village Installation

Review (as necessary):

Village Attorney X _____ Date _____

Finance Director X _____ Date _____

Village Manager X _____ 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.



To: Scott Niehaus, Village Manager
From: Deputy Chief Joseph Grage, Police Department
Through: Roy Newton, Chief of Police
Date: June 24th, 2022
Subject: Amendment of Village of Lombard Vehicle Immobilization Ordinance

Amendment of Vehicle Immobilization Ordinance Sections 72.04 and 72.06

The police department is seeking an amendment to the above listed ordinance sections in order to update them to meet current costs and ease some of the administrative burden of the immobilization program. The police department is actively engaged in an immobilization program in order to recover some of the 1.3 million dollars in fines that are currently unpaid.

Section 72.04 allows for persons with unpaid fines to deposit \$15 per unpaid citation in order to request a hearing or enter into a payment plan with the Village. When this ordinance was written, parking fines were \$25 per citation (they are \$35 now). The deposit essentially represented 60% of the original fine. The \$15 per citation can also be difficult to administer because records clerks must locate all of the citations and then multiply them times \$15. The proposed amendment would change the ordinance to 25% of all unpaid fines and fees in lieu of the \$15 per citation deposit. This makes administration of this section of the ordinance easier while also reducing the amount that needs to be deposited in some cases. For example, a person with eight unpaid citations (\$35) totaling \$280 would have to deposit \$120 under the current ordinance while they would have to deposit \$70 under the proposed ordinance amendment.

Section 72.06 of the ordinance sets immobilization fees and deposits. Per the ordinance, a deposit of \$25 for immobilization and \$25 on the fee for towing are due on a post immobilization demand for a hearing. The proposed amendment brings the immobilization deposit to \$50 and the tow fee deposit to \$150. Both amounts represent the costs incurred by the Village on every immobilization and subsequent tow.

In addition to the monetary changes in 72.06, the proposed ordinance change updates section 72.06 (B). This section currently reads that a hearing, "...shall be held before a hearing officer designated by the Chief of Police within 48 hours of the receipt of the demand and the deposit required, unless an extension of time is agreed to by the parties" When this ordinance was enacted the Village did not utilize an administrative hearing officer as it does now under Chapter 73 of the Village of Lombard Code of Ordinances. These administrative hearings are regularly held twice a month. Requiring the administrative hearing officer to hold a hearing within 48 hours is unduly burdensome and would cause the Village to incur additional costs. The proposed change to the ordinance would provide a hearing on the next regularly scheduled administrative hearing date.

These changes to the above listed ordinance sections will modernize them and provide increase the operational efficiency of the police department's administration of the vehicle immobilization program. Please let me know if you have any questions.

Ordinance No.

WHEREAS, the President and Board of Trustees of the Village of Lombard have heretofore passed and approved Ordinance 7748 a, An Ordinance Regulating Traffic in the Village of Lombard (hereinafter the Lombard Traffic Code); and

WHEREAS, the President and Board of Trustees of the Village of Lombard find that the Lombard Traffic Code has been amended from time to time; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, as follows:

Section 1: That Chapter 72 section 72.04 of the Village of Lombard Code of Ordinances is amended to the following:

“§ 72.04 Notice After Challenge Period.

Should no determination be made that eligibility of the motor vehicle for immobilization be invalid within the 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 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 § 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 twenty-five percent (25%) of the total penalties and fees due on the outstanding complaints listed in the notice of eligibility 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 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 twenty-five percent (25%) of the penalties and fees due for all complaints/unpaid final determinations of vehicular regulation violation liability, and within 72 hours sign an installment agreement to pay the remainder of the amount owed over a period of time. If an installment agreement is not signed within 72 hours, the motor vehicle shall be subject to vehicle immobilization and the original amount (less any amount paid) shall be due. No further option under this subsection (B)(4) shall be available. Each payment made under an executed installment agreement will be applied to the total amount due and no one 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 vehicle immobilization and the original amount due (less any amount paid) plus additional charges for vehicle 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 § 72.04(B)(1)(2) or (3) hereof within 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 § 72.06 hereof must be paid, before the vehicle will be released from impoundment."

Section 2: That Chapter 72 section 72.06 of the Village of Lombard Code of Ordinances is amended to the following:

"§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 \$50.00 on the immobilization fee and \$150.00 on the towing fee must be submitted within 21 days of the receipt of a notice pursuant to § 72.05, or 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 on the next regularly scheduled administrative hearing date, 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 § 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. "

Section 3: That this Ordinance shall be in full force and effect from and after its passage, approval, publication in pamphlet form and the posting of appropriate signs as provided by law.

Passed on first read this ____ day of _____, 2022.

First reading waived by action of the Board of Trustees this ____ day of _____, 2022.

Passed on second read this ____ day of _____, 2022.

Ayes:

Nays:

Absent:

Approved this ____ day of _____, 2022.

Keith T. Giagnorio
Village President

LEGISTAR# 220226

Attest:

Liz Brezinski
Village Clerk

Published by me in pamphlet form this ____ day of _____, 2022.

Liz Brezinski, Village Clerk