

CHAPTER 51
ADMINISTRATIVE PENALTY
VEHICLE IMPOUNDMENT AND BAIL BOND FEE

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51.01 VIOLATIONS

A. A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations shall be subject to seizure and impoundment by the Village, and the owner of record shall be liable to the Village for an administrative penalty in an amount not to exceed \$500, in addition to any towing and storage fees as hereinafter provided.

1. Driving with a suspended or revoked license, as provided in Section 41.01 of this Code or 625 ILCS 5/6-303.
2. Driving under the influence, as provided in Section 41.01 of this Code or 625 ILCS 5/11-501(a).
3. Except as provided herein below, any other violations of the Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*) or this Code which require that the vehicle be towed.
 - a. A person whose valid driver's license expired within six months.
 - b. A person who is less than 17 years of age operating a motor vehicle on any street or highway when in violation of Section 43.18, Curfew, of this Code.
4. Any violations of law which make the vehicle subject to seizure under 720 ILCS 5/36-1, *et seq.*

5. Any other circumstances under which the vehicle may be towed pursuant to this Code, Lake in the Hills Police Department Field Operations Procedures or Lake in the Hills Police Department Administrative Procedures.

51.02 GENERAL REGULATIONS

A. This Chapter shall not replace or otherwise abrogate any existing state or federal laws or Village ordinances pertaining to vehicle seizure and impoundment, and these penalties shall be in addition to any penalties that may be assessed by a court for any criminal charges.

B. This Chapter shall not apply if the vehicle used in the violation was stolen at that time and the theft was reported to the appropriate police authorities within 24 hours after the theft was discovered.

C. Fees for towing and storage of a vehicle pursuant to this Chapter shall be those approved by the Chief of Police for all towing agents authorized to tow for the Police Department.

51.03 NOTICE

Whenever a Police Officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Chapter, the Police Officer shall provide for the towing of the vehicle to a facility authorized by the Village. The Police Officer shall notify any person identifying him or herself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, of the fact of the seizure of the vehicle and of the owner's right to request an administrative hearing to be conducted in accordance with this Code and this Chapter. Said vehicle shall be impounded pending the completion of the hearing provided for in this Chapter, unless the vehicle owner posts a \$500 cash bond with the Village and pays the towing and storage charges.

51.04 PRELIMINARY HEARING

A. If the owner of record of a vehicle seized pursuant to this Chapter desires to appeal the seizure, the owner must make a request for a preliminary hearing within 24 hours of the seizure. The request shall be in writing and filed with the Chief of Police or his/her designee, who shall conduct such preliminary hearing within 24 hours after receipt of the request, excluding Saturdays, Sundays or Village holidays.

B. All interested persons shall be given a reasonable opportunity to be heard at the preliminary vehicle impoundment hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

C. If, after the hearing, the Chief of Police or his/her designee determines there is probable cause to believe that the vehicle is subject to seizure and impoundment pursuant to this Chapter, the continued impoundment of the vehicle shall be ordered as provided herein unless the vehicle owner posts with a \$500 cash bond to the Village and pays the towing agent any applicable towing and storage fees.

D. If the Chief of Police or his/her designee determines there is no such probable cause, the vehicle will be returned without penalty or other fees.

51.05 ADMINISTRATIVE HEARING

A. The Village shall appoint an individual, not employed by the Police Department, to serve as an administrative Hearing Officer ("Hearing Officer" for purposes of this Chapter).

B. Within five business days after a vehicle is seized and impounded pursuant to this Chapter, the Village shall notify the owner of record, by certified mail, of the owner's right to request a hearing to challenge whether a violation has occurred. The owner of record seeking a hearing must file a written request for a hearing with the hearing officer no later than 30 business days after the notice was mailed. The hearing date shall be not more than 10 business days after a request for a hearing has been filed. An owner of record can request the scheduled hearing date be continued to another date, so long as the request for continuance is made no later than 48 hours prior to the hearing.

C. All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible. In a hearing on the propriety of impoundment of a vehicle, any sworn or affirmed report, citation or ticket that (i) is prepared in the performance of a law enforcement officer's duties and (ii) sufficiently describes the circumstances leading to the impoundment, shall be admissible evidence of the vehicle owner's liability, unless rebutted by clear and convincing evidence to the contrary.

D. If, after the hearing, the Hearing Officer determines by a preponderance of evidence that the vehicle was used in violation of this Chapter, the Hearing Officer shall then enter an order finding the owner of record of the vehicle liable to the Village for the administrative penalty.

E. If, after the hearing, the Hearing Officer does not determine by a preponderance of the evidence that the vehicle was used in such a violation, the Hearing Officer shall enter an order finding for the owner and for the return of the vehicle.

F. If the owner of record requests a hearing but fails to appear at the hearing or fails to request a hearing in a timely manner, the owner of record shall be deemed to have waived his right to a hearing and the Hearing Officer shall enter a default order in favor of the Village in the amount of the administrative penalty. Once the order has been entered, the Village shall make a reasonable effort to notify any lien holder of the default order entered against the owner of record.

G. If a default order is entered against the owner of record for failing to request or appear at a hearing, the owner of record may make a request to vacate the default judgment. The motion shall be made in writing and sent by certified mail to the Hearing Officer within 30 days of the default order being entered. Once such a request is made, the default order will be vacated and the administrative hearing will be set within 10 days of the request.

H. If the owner of record pays such penalty and the vehicle is returned to the owner, no default order need be entered if the owner is informed of his right to a hearing and signs a waiver, in which case an order of liability shall be deemed to have been made when the Village receives the written waiver.

51.06 POSTING OF BOND

A. If a \$500 bond is posted with the Police Department the impounded vehicle shall be released to the owner of record. However, the vehicle owner shall remain liable to the towing agent for any applicable towing fees.

B. If a penalty is imposed by the Hearing Officer for a violation of this Chapter, the bond shall be forfeited to the Village. However if a violation of this Chapter is not proven by a preponderance of the evidence, the bond shall be returned to the person posting the bond.

C. All bond money posted pursuant to this Chapter shall be held by the Village until the Hearing Officer has issued a decision.

D. The bond posted shall be in the form of cash, money order, certified check, E-check, or any authorized credit and debit cards.

51.07 ADMINISTRATIVE PENALTY

If an administrative penalty is imposed pursuant to this Chapter, such penalty shall constitute a debt due and owing to the Village. If a vehicle has been impounded when such a penalty is imposed, the Village may seek to obtain a judgment on the debt and enforce such judgment against the vehicle as provided by law. Except as provided otherwise in this Chapter, a vehicle shall continue to be impounded until the penalty is paid to the Village and any applicable towing and storage fees are paid to the towing agent, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle or the vehicle is sold or otherwise disposed of to satisfy a judgment to enforce a lien as provided by law.

If the administrative penalty and applicable fees are not paid within 30 days after an administrative penalty is imposed against an owner of record who defaults by failing to appear at the hearing, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles. In all other cases, if the administrative penalty and applicable fees are not paid within 30 days after the expiration of time at which administrative review of the Hearing Officer's determination may be sought, or within 30 days after an action seeking administrative review has been resolved in favor of the Village, whichever is applicable, the vehicle shall be deemed unclaimed and shall be disposed of in the manner provided by law for the disposition of unclaimed vehicles under the Illinois Vehicle Code. However, where proceedings have been instituted under state or federal drug asset forfeiture laws, disposal of the subject vehicle shall be consistent with those proceedings.

51.08 VEHICLE POSSESSION

A. Except as otherwise provided by law, no owner, lien holder or other person shall be legally entitled to take possession of a vehicle impounded under this Chapter until the administrative penalty and fees applicable under this Chapter have been paid. However, whenever a person with a lien of record against an impounded vehicle has commenced foreclosure proceedings, possession

of the vehicle shall be given to that person if s/he agrees in writing to refund the Village the amount of the net proceeds of any foreclosure sale, less any amounts required to pay all lien holders of record, not to exceed the administrative penalty, plus the applicable fees.

B. For purpose of this Chapter, the "owner of record" of a vehicle is the record title holder as registered with the Illinois Secretary of State.

51.09 BAIL BOND FEE

A. The Police Department shall charge a \$30 administrative processing fee for posting bail or bond in any legal process, civil or criminal, or on any bookable arrest, including a warrant, to be levied and paid at the time of posting said bail or bond.

B. In order for the fee to be assessed, the subject must be processed in the Police Department's booking room and post bond at the Police Department.

C. Exception: The processing fee shall not be charged to a subject if the individual is incurring the administrative vehicle impoundment penalty.

D. If the administrative processing fee is imposed pursuant to this Section, such penalty shall constitute a dept due and owing to the Village, and the Village may seek to obtain a judgment on the debt and enforce such judgment as provided by law.

Established November 9, 2006

Amended June 14, 2007

Amended December 11, 2008

Amended April 24, 2014