



# Lake County Illinois

## Legislation Details (With Text)

<b>File #:</b>	17-0902	<b>Version:</b>	2	<b>Name:</b>	Ordinance amending Chapter 35 and adopting Section 35.37 Administrative Fee for Impounded Vehicles
<b>Type:</b>	ordinance	<b>Status:</b>	Passed		
<b>File created:</b>	8/22/2017	<b>In control:</b>	Law & Judicial Committee		
<b>On agenda:</b>		<b>Final action:</b>	11/14/2017		
<b>Title:</b>	Ordinance amending Chapter 35 adopting Section 35.37 Administrative Fee for Impounded Vehicles.				
<b>Sponsors:</b>					
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	1. Chapter 35 Section 35.37 Administrative Fee for Impounded Vehicles, 2. LCSO Proposed Tow Fee Changes				

Date	Ver.	Action By	Action	Result
11/14/2017	2	Lake County Board	adopted	Pass
11/1/2017	2	Financial & Administrative Committee	recommended for adoption to the regular agenda	Pass
10/31/2017	2	Law & Judicial Committee	approved and referred on to the Financial and Administrative Committee	Pass
10/4/2017	2	Financial & Administrative Committee	removed from the agenda	
10/3/2017	2	Law & Judicial Committee	postponed	Pass

Ordinance amending Chapter 35 adopting Section 35.37 Administrative Fee for Impounded Vehicles.

- The Lake County Sheriff's Office (LCSO), in cooperation with the State's Attorney, has drafted a recommended ordinance to implement an administrative impounded vehicle fee of \$250.
- While multiple Lake County municipalities and two collar counties have implemented this fee, it would be a new fee for Lake County.
- The recommendation to implement an administrative impound fee is intended to seek partial reimbursement for the costs associated with processing, removing, impounding, storing and releasing a vehicle. This fee would be in addition to any towing and storage fees levied by a third party.
- To ensure adequate due process, the recommended ordinance also includes an optional administrative adjudication process.
- The LCSO will monitor this activity and complete an evaluation after the first year of implementation.
- The proposed effective date is April 1, 2018 which will allow sufficient time for a smooth implementation and integration into the Planning, Building and Development Department's administrative adjudication schedule.

### ORDINANCE

**WHEREAS**, 625 ILCS 5/11-208.7, statutorily bestows the authority upon a County Board to adopt 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 county may be in addition to any fees charged for the towing and storage of an impounded vehicle; and

**WHEREAS**, vehicles are impounded as a result of certain crimes and traffic offenses occurring in the Lake County; and

**WHEREAS**, when vehicles are impounded Lake County incurs administrative and processing costs associated with the investigation, arrest, and detention of an offender, or the removal, impoundment, storage, and release of the vehicle; and

**WHEREAS**, pursuant to 55 ILCS 5/5-43005, Lake County created a system of administrative adjudication for violations of specified county ordinances which has an established hearing process available to hear matters under this ordinance.

**WHEREAS**, the current Chapter 35: Finances, Fees, and Funds addresses Lake County Sheriff's Office fees in Sections 35.35 and 35.36.

**NOW, THEREFORE, BE IT ORDAINED**, by this County Board of Lake County, Illinois, that this ordinance be adopted and be made effective April 1, 2018.

**WHEREAS**, it is necessary for the County Board to formally amend Chapter 35 to include:

### **35.37 ADMINISTRATIVE FEE FOR IMPOUNDED VEHICLES**

#### **Section 1. Administrative Fee**

1. The registered owner, or its agent, of a vehicle impounded for a violation identified in Section 2, shall pay to the Lake County Sheriff's Office an administrative fee of \$250.00 for the administrative and processing costs associated with the investigation, arrest and detention of an offender, or the removal, impoundment, storage and release of the vehicle.
2. The administrative fee shall be waived by the Sheriff's Office upon verifiable proof that the vehicle was stolen at the time the vehicle was impounded.
3. This administrative fee is in addition to any fees charged for the towing and storage of an impounded vehicle owed to the towing company.

#### **Section 2. Applicability**

The administrative fee shall be imposed prior to the release of any vehicle, as defined in the Illinois Vehicle Code 625 ILCS 5/1-217, properly impounded for any of 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 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 (if the possession of cannabis is more than 10 grams); 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 720 ILCS 5/24-1 (Unlawful Use of Weapons), 720 ILCS 5/24-1.5 (Reckless Discharge of a Firearm), or 720 ILCS 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 more than 10 grams of 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 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
9. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/16 (Theft and Related Offenses), or 720 ILCS 5/16A (Retail Theft).

### **Section 3. Notice of Impoundment and Seizure**

1. Whenever the Sheriff or his designee has cause to believe that a motor vehicle is subject to impoundment, the Sheriff or his designee shall provide for the towing of the vehicle to a facility authorized by the Sheriff.
2. At the time the vehicle is towed, the Sheriff's Office shall notify or make a reasonable attempt to notify the registered 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 Sheriff's Office shall provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the registered owner or lessee of the vehicle or lienholder posts with the Sheriff's Office a bond equal to the administrative fee as provided by this section and pays for all towing and storage charges.

### **Section 4. Collection of Administrative Fees**

The following shall apply to any fees imposed pursuant to § 2 of this ordinance:

1. All administrative fees shall be imposed on the registered owner/lessee of the motor vehicle or the agent of that owner. The registered owner/lessee shall be the recorded title holder to a motor vehicle as registered with the Illinois Secretary of State or any other applicable governmental agency.
2. The administrative fee shall be in addition to:
  - a. Any other penalties which may be assessed by a court for the underlying violations; and
  - b. Any towing or storage fee, or both, charged by the tow service.
3. The fee is non-negotiable.
4. The fees shall be uniform for all similarly situated vehicles.
5. The registered owner/lessee may pay the specified fine amount and waive the right to an administrative hearing pursuant to § 6.
6. The administrative fee shall be collected at the Lake County Sheriff's Office payable to Lake County:
  - a. Monies collected shall be placed into a Lake County Sheriff's Office account specifically designated for this ordinance.
  - b. Monies collected shall be used to reimburse and compensate the Lake County Sheriff's Office for the administrative costs and fees incurred as a result of violation of offenses identified in § 2 of this ordinance.
7. The tow and/or storage fee shall be collected by and paid to the person, firm, or entity which

towed and stores the impounded vehicle.

### **Section 5. 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 registered owner or lessee's address as registered with the Secretary of State;
2. Be served upon the registered owner or lessee within 10 days after a vehicle is impounded by the Sheriff; 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 mailing of the notice of administrative hearing.

### **Section 6. Waiver of Hearing and Vehicle Release**

The registered owner, lessee, and any lienholder of record for the impounded vehicle has the option to waive his or her right to an administrative hearing and pay the administrative fee for the release of the vehicle.

1. The waiver shall be in writing on the approved Sheriff's Office document and signed by the registered owner, lessee, or lienholder.
2. Upon payment of the administrative fee, the registered owner, lessee, or lienholder will be provided with a payment receipt and a release authorization allowing the tow company to release the vehicle.
3. The registered owner, lessee, and any lienholder of record shall still be responsible for all towing and storage fees which shall be payable to the person, firm, or entity which towed and stores the impounded vehicle.

### **Section 7. Administrative Hearing**

1. The Hearing Officer shall determine whether or not the vehicle was impounded in accordance with this ordinance and either sustain or overrule the impoundment.
2. The Administrative hearing shall be conducted by a Hearing Officer in conformance with the procedures set forth in Lake County Codes 94.53 and 94.56 - 94.59.
3. The Hearing Officer may not change the amount of the Administrative Fee.
4. At the conclusion of the administrative hearing, the Hearing Officer shall issue a written decision either sustaining or overruling the vehicle impoundment.
  - a. If the basis for the vehicle impoundment is sustained by the Hearing Officer, the administrative bond posted to secure the release of the vehicle shall be forfeited to the county;
  - b. If the basis for the vehicle impoundment is overruled by the Hearing Officer, the administrative bond posted to secure the release of the vehicle shall be forfeited by the county and returned to the owner, lessee, or lienholder within 35 days of the decision.

### **Section 8. Vehicle Release - After Hearing**

1. No towing company shall release any vehicle towed at the request of the Sheriff or his designee to any person, unless that person first provides either (a) a receipt to the towing company demonstrating that all administrative fees imposed pursuant to this ordinance have been paid in full; or (b) an order from the Hearing Officer finding that the vehicle impoundment was overruled.

2. In spite of the decision of the Hearing Officer, Lake County is not responsible for any fees charged for the towing and storage of an impounded vehicle owed to the towing company.

### **Section 9. Unclaimed Vehicles**

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

### **Section 10. Unpaid Fine, Penalty, or Administrative Fee's**

Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this ordinance 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.

### **Section 11. Applicability of Other Laws**

This ordinance 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 ordinance shall be in addition to any and all penalties that may be assessed or imposed by a court for any criminal charges.

### **Section 12. Administrative Review**

1. 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 19<sup>th</sup> Judicial Circuit Court, pursuant to the Administrative Review Act, 735 ILCS 5/3-101, as amended, and Section 94.60.
2. Any owner of record, lien holder or other person with a legal interest in the motor vehicle (respondent), seeking review of a final decision shall be required to reimburse Lake County for the costs of preparing and certifying the record of proceedings. Failure of the respondent to reimburse Lake County shall be grounds for the dismissal of a complaint for administrative review pursuant to 735 ILCS 5/3-109.
3. Any administrative fee posted with Lake County to secure the release of a motor vehicle prior to a hearing shall be held by Lake County until the Hearing Officer issues a decision or, if there is a judicial review of the Hearing Officer's decision, until a reviewing court issues a final decision.

### **Section 13. Enforcement**

This ordinance shall be enforced by the Lake County Sheriff or his or her designee(s) and, at his or her discretion through administrative adjudication pursuant to the Lake County Administrative Adjudication Ordinance (§§94.50 - 94.66).

### **Section 14. Effective Date**

This ordinance takes effect on April 1, 2018 after adoption by the County Board.

Adopted: November 14, 2017

**BE IT FURTHER ORDAINED**, that the County Clerk is hereby directed to forward a certified copy of this Ordinance to the Lake County Sheriff.

**DATED**, Waukegan, Illinois, on November 14, 2017.