



# Village of Lemont

418 Main Street • Lemont, Illinois 60439

*Village of Faith*

## VILLAGE BOARD MEETING

FEBRUARY 13, 2012 - 7:00 P.M.

### AGENDA

#### Mayor

Brian K. Reaves

#### Village Clerk

Charlene M. Smollen

#### Trustees

Debby Blatzer  
Paul Chialdikas  
Clifford Miklos  
Rick Sniegowski  
Ronald Stapleton  
Jeanette Virgilio

#### Administrator

Benjamin P. Wehmeier

#### Administration

phone (630) 257-1590  
fax (630) 243-0958

#### Building Department

phone (630) 257-1580  
fax (630) 257-1598

#### Planning & Economic Development

phone (630) 257-1595  
fax (630) 243-0958

#### Engineering Department

phone (630) 243-2705  
fax (630) 257-1598

#### Finance Department

phone (630) 257-1550  
fax (630) 257-1598

#### Police Department

14600 127th Street  
phone (630) 257-2229  
fax (630) 257-5087

#### Public Works

16680 New Avenue  
phone (630) 257-2532  
fax (630) 257-3068

[www.lemont.il.us](http://www.lemont.il.us)

#### I. PLEDGE OF ALLEGIANCE

#### II. ROLL CALL

#### III. CONSENT AGENDA (RC)

##### A. APPROVAL OF MINUTES

##### 1. JANUARY 23, 2012 VILLAGE BOARD

##### 2. JANUARY 23, 2012 COMMITTEE OF THE WHOLE

##### B. APPROVAL OF DISBURSEMENTS

#### IV. MAYOR'S REPORT

##### A. AUDIENCE PARTICIPATION

#### V. CLERK'S REPORT

##### A. CORRESPONDENCE

##### B. ORDINANCES

##### 1. ORDINANCE AMENDING LEMONT MUNICIPAL CODE CHAPTER 5.04, SECTION 5.04.080: ALCOHOLIC BEVERAGES (REDUCING THE NUMBER OF CLASS A-3 AND A-5 LIQUOR LICENSES)

(ADMINISTRATION)(REAVES)(WEHMEIER)

##### 2. ORDINANCE AMENDING CHAPTER 15 OF THE LEMONT, ILLINOIS MUNICIPAL CODE RELATING TO ADDITIONAL AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLINGS, 2006 EDITION AS AMENDED

(ADMINISTRATION)(REAVES)(WEHMEIER/SCHAFFER)

##### C. RESOLUTIONS

##### 1. RESOLUTION APPROVING ASSET FORFEITURE AND RESTRICTED FINES PROCEDURES MANUAL

(ADMIN/PD/FINANCE)(REAVES/MIKLOS/SNIEGOWSKI)(WEHMEIER/SCHAFFER/SHAUGHNESSY/FRIEDLEY)

- 2. RESOLUTION AUTHORIZING SUBMITTAL OF 2012 CDBG PROGRAM YEAR APPLICATION - PORTER ST. ALLEY SANITARY SEWER & WATER MAIN REPLACEMENT  
(PUBLIC WORKS)(BLATZER)(PUKULA)**
- 3. RESOLUTION APPROVING LETTER OF CREDIT REDUCTION - KRISTYNA CROSSING  
(ADMIN./PLANNING & ED)(REAVES/STAPLETON)(WEHMEIER/BROWN)**
- 4. RESOLUTION APPROVING VACATION OF PUBLIC UTILITY AND DRAINAGE EASEMENT, LOTS 15 AND 16, SMITH FARM SUBDIVISION  
(PLANNING & ED)(STAPLETON)(BROWN)**
- 5. RESOLUTION APPROVING CONSOLIDATION OF LOT 15 AND 16 SMITH FARMS SUBDIVISION  
(PLANNING & ED)(STAPLETON)(BROWN)**
- 6. RESOLUTION RELATING TO THE SEMI-ANNUAL REVIEW OF CLOSED SESSION MINUTES  
(ADMINISTRATION)(REAVES)(WEHMEIER/SCHAFFER)**

- VI. VILLAGE ATTORNEY REPORT**
- VII. VILLAGE ADMINISTRATOR REPORT**
- VIII. BOARD REPORTS**
- IX. STAFF REPORTS**
- X. UNFINISHED BUSINESS**
- XI. NEW BUSINESS**
- XII. MOTION FOR EXECUTIVE SESSION (RC)**
- XIII. ACTION ON CLOSED SESSION ITEMS**
- XIV. MOTION TO ADJOURN (RC)**

**MINUTES**  
**VILLAGE BOARD MEETING**  
**January 23, 2012**

The regular meeting of the Lemont Village Board was held on Monday, January 23, 2012 at 7:00 p.m., President Brian Reaves presiding.

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

Roll call: Chialdikas, Miklos, Stapleton, Virgilio, Blatzer, present. Sniegowski absent.

**III. CONSENT AGENDA**

Motion by Stapleton, seconded by Blatzer, to approve the following items on the consent agenda by omnibus vote:

**A. Approval of Minutes**

1. January 9, 2012 Village Board Meeting.

**B. Approval of Disbursements**

Roll call: Chialdikas, Miklos, Stapleton, Virgilio, Blatzer, \_\_\_eyes. Sniegowski absent. Motion passed.

**IV. MAYOR'S REPORT**

- A. Police Awards were presented by the Chief for an incident on December 13<sup>th</sup> (bank robbery in Lemont) in which the suspect was captured.

**B. AUDIENCE PARTICIPATION**

**V. CLERK'S REPORT**

**A. Correspondence**

**B. Ordinances**

**C. Resolutions**

1. **Resolution R-5-12 Accepting Public Improvements at Woodglen Subdivision, Phase One.** Motion by Stapleton, seconded by Blatzer, to adopt said resolution. Roll call: Chialdikas, Miklos, Stapleton, Virgilio, Blatzer, \_\_\_eyes. Sniegowski absent. Motion passed.

**VI. VILLAGE ATTORNEY REPORT**

**VII. VILLAGE ADMINISTRATOR REPORT**

Re-emphasized the Village website for residents to get information on the Village.

**VIII. BOARD REPORTS**

**IX. STAFF REPORTS**

**X. UNFINISHED BUSINESS**

**XI. NEW BUSINESS**

**XII. EXECUTIVE SESSION**

Motioned by Chialdikas, seconded by Stapleton, to move into the Executive Session for the purpose of discussing Pending Litigation, Setting the Price of Real Estate and Personnel. Roll call: Chialdikas, Miklos, Stapleton, Virgilio, Blatzer, \_\_\_ ayes. Sniegowski absent. Motion passed.

**XIII. ACTION ON CLOSED SESSION ITEMS**

There being no further business, a motion was made by Stapleton, seconded by Virgilio, to adjourn the meeting at 7:55 p.m. Voice vote: 5 ayes. Motion passed.

**Committee of the Whole**  
**January 23, 2012**  
8:00 p.m.

A Special Meeting of the Village of Lemont Committee of the Whole was held on Monday January 23, 2012 in the Board Room of the Village Hall at 418 Main Street in Lemont, Illinois. The meeting took place immediately following the regularly scheduled Village Board Meeting.

**CALL TO ORDER**

Mayor Reaves called the meeting to order at 8:00 p.m. and acknowledged that the following were present:

Trustees Paul Chialdikas, Ron Stapleton, Debbie Blatzer, Cliff Miklos and Jeanette Virgilio. Trustee Rick Sniegowski was absent.

Also present were Village staff members Ben Wehmeier, James, Brown, Charity Jones, Ed Buettner, George Schafer, Chief Kevin Shaughnessy, Ralph Pukula, and Village Attorney Jeffery Stein.

**DISCUSSION ITEMS**

I&M Canal Corridor Presentation

A representative from the I&M Canal Corridor Association gave a brief presentation to update the Village Board on the activities of the Corridor Association. The purpose of the presentation was also to create awareness and gain more support and involvement from communities along the line. The matching sign grant program for the corridor was also presented; more information on the program would be available at future meetings. There was some brief discussion on the topic.

Discussion of Bella Strada Proposal

The Village Board approved the Bella Strada townhouse project in May 2006. The first of four buildings was completed and now occupied, with the 3 other buildings not built as of yet. Staff has been approached by several potential buyers over the last year or so. Local builder Tony Hegarty approached the Village about zoning entitlements and the desire to change some of them. Before going through the process, the buyer wanted feedback from the Board on whether or not some of the changes would be looked favorable upon. Some of the changes include the buildings being reduced to 2 floors with a square footage for 1900-2000 and slight façade changes. The majority of the board did not have an issue with the changes. The item would have to now go in front of Planning and Zoning Commission.

Discussion of Third Party Electrical Contract Process

All of the Village's electrical contracts are up for renewal this coming May and staff was looking for direction from the Board on the process going forward for the renewal. The Village has had a good

relationship with its current broker, but it could be an opportunity to work with another company. The Mayor mentioned that it might be a good to reach out to Dacott to see what rates they could provide, since the Village is also using Dacott for its residential accounts, through the upcoming referendum. Staff would be reaching out to Dacott and will present the item at a future meeting for further discussion.

#### Amendment to Building Code

Mr. Buettner presented an amendment to the building code that his staff is recommending. The amendment involves reducing a stairway egress issue. There was limited discussion on the topic general consensus was that the amendment would be supported by all. The item would be up for approval at a future meeting.

#### Marketing Discussion

Trustee Chialdikas led a brief discussion on marketing efforts for the Village. He showed a presentation about a possible marketing campaign the Village could undertake, with the theme being trying to entice people to move to Lemont. Trustee Chialdikas reiterated that the presentation was to bring about ideas for marketing campaigns. Some of the methods presented could be used and some could not, he just wanted to get the process started as budget time approaches. The Village has already reserved the domain names ilivelemont.com, ilivelemont.org and ilivelemont.net in case the project moves forward. There was general agreement on the marketing initiative. More discussion would be taking place during the budget discussions.

#### **UNFINISHED BUSINESS**

None.

#### **NEW BUSINESS**

None.

#### **AUDIENCE PARTICIPATION**

No Audience Participation

#### **ADJOURNMENT**

Mayor Reaves adjourned the meeting at 10:00 PM

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO	AMOUNT DESCRIPTION	DIST
01 AMALGAMATED BANK OF CHICAGO	12-02-01	17-00-56950		485.00 SERIES 2003A FEE	485.00
01 A BEEP LLC	46415	10-20-60601		29289.00 2ND INSTLMT-RADIO	29289.00
01 ARCHON CONSTRUCTION CO INC	10444-4SF	25-00-573200		74540.18 STATE/WARNER	74540.18
01 AVAYA FINANCIAL SERVICES	20868335	10-20-70100		834.97 P/D PHONE SYS	834.97
01 ALLYN CORP PLUMBING	5266	10-35-57500		285.00 SUMP-PUMP ELEVATO	285.00
01 AMAUDIT	527	22-05-54400		561.84 GAS CONT.	62.07
	527	10-90-53900		PHONE CONT.	469.38
	527	10-15-53000		ELEC CONT	30.39
01 ADAPTIVE SOFTWARE/PRECISION SY	01/12/13	10-35-57515		1385.00 SUPPORT	1385.00
01 ASHLAND INC	95755378	10-17-61100		192.16 SUPPLIES	192.16
01 AMERICAN SOCIETY OF SANITARY E	12-01-30	10-25-52200		85.00 M. HAIDACHER	85.00
01 ASSOCIATED TECHNICAL SERVICES	22062	22-05-58100		663.00 LOCATE WATER LEAK	663.00
01 AUTO TRANS SUPERVISORS ASSN	12-01-31	10-17-52200		220.00 MEMBERSHIP	220.00
01 AT&T	630243044801	22-10-54150		1237.32 CHESTNUT XNG LIFT	42.21
	630243045901	22-10-54150		OAK TREE LIFT STA	46.43
	630243095801	10-90-53900		CONNEMARA	268.61
	630243123001	22-10-54150		EAGLE RIDGE LIFT	43.79
	630243146801	72-00-57000		INTERNET	96.85
	630243160901	22-10-54150		KOHL'S/TARGET LIFT	45.80
	630243173901	22-05-54400		WELL #6	91.81
	630257043601	22-10-54150		GLENS OF CONNAMAR	43.89
	630257159801	10-90-53900		PHONES	120.04
	630257198201	22-10-54150		RUFFLED FEATHERS	41.81
	630257229001	22-05-54400		WELL #3	101.44
	630257247401	10-90-53900		PHONES	123.93
	630257527101	22-10-54150		HARPERS GROVE	45.43
	630257593601	22-05-54400		WELL #4	46.45
	630257642101	22-05-54400		WELL #5	36.79
	630257953901	22-10-54150		KEEPATAW TRAILS	42.04
01 AVALON PETROLEUM COMPANY	000662	10-17-61500		19462.19 FUEL DSL	3459.00
	010744	10-17-61500		FUEL DSL	4237.29
	471633	10-17-61500		FUEL UNL	3157.44
	471634	10-17-61500		FUEL UNL	3593.40

DATE: 02/13/12

Monday February 13,2012

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PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	471635	10-17-61500	FUEL UNL	2775.79	
	959953	10-17-61500	FUEL DSL PD GEN	982.92	
	959954	10-17-61500	FUEL DSL	924.09	
	959955	10-17-61500	FUEL DSL	332.26	
01 AVAYA INC				360.42	
	2731642654	10-90-53900	PHONES		360.42
01 AZAVAR				809.19	
	8728	45-00-56600	CONTNGCNY PAY		809.19
01 BURKE ELECTRICAL CONSTRUCTION				543.50	
	22410	10-35-57515	RELAMP PARKING		543.50
01 BRISTOL HOSE & FITTING				19.70	
	00287569	10-17-61100	PARTS		19.70
01 BONZANI, ANNA MARIA				14.70	
	12-01-18	10-00-28060	HOLIDAY BAZAAR		14.70
01 BATTERY SERVICE CORPORATION				506.30	
	217849	10-17-61100	BATTERIES	175.00	
	218033	10-17-61100	BATTERIES	3.30	
	218216	10-17-61100	BATTERIES	328.00	
01 BURGER KING #12832				147.34	
	11-10-17	10-20-60100	PRISONER MEALS	85.87	
	11-12-26	10-20-60100	PRISONER MEALS	61.47	
01 CERTANIUM ALLOYS CO				550.00	
	12-01-22	10-20-60110	OPERATION COST		550.00
01 CARGILL INC-SALT DIVISION				61883.30	
	2900353828	40-00-60900	ROAD SALT	6339.83	
	2900353830	40-00-60900	ROAD SALT	3161.88	
	2900358913	40-00-60900	ROAD SALT	4735.09	
	2900362044	40-00-60900	ROAD SALT	3170.54	
	2900364067	40-00-60900	ROAD SALT	1573.21	
	2900364071	40-00-60900	ROAD SALT	12696.38	
	2900364075	40-00-60900	ROAD SALT	12607.94	
	2900366036	40-00-60900	ROAD SALT	11120.07	
	2900377394	40-00-60900	ROAD SALT	6478.36	
01 CALL ONE				830.09	
	12/01-0000	10-90-53900	PHONES		830.09
01 CAVANAUGH, PATRICK				108.50	
	12-01-18	10-00-28060	HOLIDAY BAZAAR		108.50
01 CASA BY CHARLESTON				500.00	
	110038A	10-00-28210	R-335 FRONT		500.00
01 CLAYBACK DEVELOPMENT				1000.00	
	050963	10-00-28200	R-1005 STACIA LAN		1000.00
01 CHICAGO BADGE & INSIGNIA CO				327.70	
	11324	10-20-61400	COMMENDATIONS		327.70
01 COMCAST CABLE				138.57	
	12-01-22	10-90-53900	INTERNET	69.29	
	12/01/19	80-00-70100	INTERNET	69.28	
01 COOK COUNTY HIGHWAY DEPT				633.00	



PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	2011-4	10-15-57400	COOK CTY TIMBERLI	633.00	
01 CLOSED CIRCUIT INNOVATIONS				730.00	
4925		80-00-70100	VH CAMERA	205.00	
4925		75-00-57000	M/S CAMERA	325.00	
4925		72-00-57000	P/G CAMERA	200.00	
01 CCP INDUSTRIES INC				514.35	
IN00827091		75-00-57000	FLRMATS METRA ST	383.53	
IN00837312		10-15-60900	MAINT SUP	130.82	
01 CINTAS DOCUMENT MANAGEMENT				62.57	
DD25136277		10-10-60100	SHREDDING	62.57	
01 CASEY EQUIPMENT CO INC				68.92	
C92946		10-17-61100	PARTS	68.92	
01 COMED				7670.64	
12/01-0229		10-15-53000	STRT LTNG	25.22	
12/01-2027		10-15-53000	STRT LTNG	4369.88	
12/02-0007		10-15-53000	ST LIGHTNG	255.28	
12/02-4052		22-05-54400	METER HEATER	85.94	
12/02-6066		10-15-53000	STRT LGHTNG	2893.94	
12/02-8014		10-15-53000	ST LIGHTNG	40.38	
01 CHIPAIN'S FINER FOODS				12.58	
12/02/01		10-15-60100	OFF SUP	12.58	
01 CHASE				1160.97	
12-02-13		10-20-53550	CALEA	327.10	
12-02-13		10-20-60100	SUPPLIES	103.00	
12-02-13		10-15-60100	COMP STAND	30.98	
12-02-13		10-20-52600	POWERCASE	56.90	
12-02-13		10-20-52100	MEETINGS	17.14	
12-02-13		10-20-60100	DVD PLAYER	124.99	
12-02-13		10-90-60601	EMMA	15.00	
12-02-13		10-10-52100	MEETINGS	29.00	
12-02-13		10-10-52450	RECORDING	6.50	
12-02-13		10-05-52100	MTG-MAYOR	124.52	
12-02-13		10-60-52100	CONF-BALLARD	110.00	
12-02-13		10-05-52100	STRATGC PLN	61.31	
12-02-13		80-00-70100	DOMAIN REG	42.48	
12-02-13		10-10-52300	MEETING	155.30	
12-02-13A		10-90-52250	BANK ADJ	43.25-	
01 CASTLETOWN HOMES INC				1000.00	
050968		10-00-28200	R-12644 THORNBERR	1000.00	
01 CHRISTIAN, EMILY				178.50	
12-01-18		10-00-28060	HOLIDAY BAZAAR	178.50	
01 CHAMPION SPORTSWEAR				134.38	
47126		10-00-28040	DARE T-SHIRTS	134.38	
01 CHICAGO INTERNATIONAL TRUCKS				2540.53	
13016212		10-17-61100	PARTS	348.57	
13016332		10-17-61100	PARTS	139.13	
13016931		10-17-61100	PARTS	266.44	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	13017454	10-17-61100	PARTS	142.54	
	1303312	10-17-57000	REPAIR 1012	1227.57	
	1303414	10-17-57000	REPR TRK #1136	416.28	
01 COURTNEY'S SAFETY LANE				32.00	
12-01-05		10-17-57000	SAFETY LANE 103	32.00	
01 CRAWFORD, MURPHY & TILLY INC				6963.50	
91756		22-10-56300	CSO MONITOR	753.50	
91757		10-15-56300	BRIDGE INSPECTION	6210.00	
01 COPENHAVER CONSTRUCTION				9996.30	
11372-1		10-00-28500	SMITH FARMS	9996.30	
01 CAREY C COSENTINO, PC				1500.00	
12-01-01		10-90-56430	LEGAL-PROSECUTION	1500.00	
01 CARIBBEAN POOLS INC				1000.00	
110580		10-00-28200	R-1026 WALTER	1000.00	
01 CHICAGO PARTS SOUND				328.64	
436884		10-17-61100	PARTS	210.00	
436886		10-17-61100	PARTS	118.64	
01 CIVIC PLUS				1050.00	
95645		80-00-70100	WEBSITE HOSTING	1050.00	
01 DUPAGE COUNTY CHIEFS OF POLICE				50.00	
2012		10-20-52200	MEMBERSHIP	50.00	
01 DON MORRIS ARCHITECTS PC				200.00	
01-12-INSP		10-25-56550	BDLG INSP 01/12	200.00	
01 DUPAGE OVERHEAD GARAGE DOORS				1055.00	
12-01-19		10-15-57000	DOOR REPAIR	332.00	
12989		10-15-57000	DOOR REPAIRS	723.00	
01 DUSTCATCHERS				150.88	
31883		10-35-57515	CARPETS	76.15	
31884		10-35-57500	CARPETS	74.73	
01 EDM PUBLISHERS				99.00	
10897356		10-25-60300	BLDG PERMITS LAW	99.00	
01 ELEVATOR INSPECTION SERVICES				100.00	
34811		10-35-57515	INSPECTION	100.00	
01 ELITE TRANSMISSION				1902.00	
7580		10-17-57000	RPR TRANS 176	1902.00	
01 EMERGENCY VEHICLE TECHNOLOGIES				8565.05	
1755		10-20-70300	VEH EQUIPMEN 11-2	8565.05	
01 EXELON ENERGY INC				24949.51	
100367700280		22-10-54150	RUF FTHRS LFT STA	400.68	
100367800280		22-10-54150	CHESTNUT X LFT ST	236.12	
100367900280		22-10-54150	HARPERS GRV LFT S	151.15	
100368000280		22-10-54150	OAK TREE LFT STA	289.16	
100368100280		22-05-54400	WELL #6	7961.05	
100523800280		22-10-54150	KPTAW TRL LFT ST	287.84	
100523900280		22-05-54400	WELL #5	11433.16	
100524000290		22-05-54400	WELL#4	3968.20	
100539200280		22-10-54150	GLNS OF CON LFT S	222.15	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
01 FEDERAL EXPRESS CORP 7-769-44955		10-10-52300	POSTAGE	101.59	101.59
01 FOLGERS FLAG & DECORATING 0016588-IN		10-35-57515	FLAG POLE ROPE	62.20	62.20
01 FLEET SERVICES 28482403		10-17-61500	OUTSIDE FUEL	9.06	9.06
01 FRANK NOVOTNY & ASSOCIATES INC 10360-7 10428-5 10444-5 11043-5 11239-3		25-00-567100 25-00-571100 25-00-573100 25-00-517100 22-10-57050	HOUSTON&STATE REH ENG NEW AV WTR MN ENG STATE & WARNE ENG LOGAN DAM ENG SSFS	47155.17 19877.00 11266.25 13156.06 2510.80 345.06	
01 FLEET SAFETY SUPPLY 54499		10-17-61100	PARTS	104.67	104.67
01 GALLAGHER MATERIALS 625534MB		40-00-60900	COLD PATCH	2204.28	2204.28
01 GARG, ANKIT 12-02-02		75-00-20005	PERMIT REFUND	177.84	177.84
01 GOLDY LOCKS INC 54898		10-35-57515	ADJ DETENTION LCK	114.00	114.00
01 GOLLAN-HOHENBERGER, ELIZABETH 12-01-18		10-00-28060	HOLIDAY BAZAAR	28.00	28.00
01 GT MECHANICAL INC 1100016320		10-35-57500	GT MECHANICAL	649.00	649.00
01 GUARANTEED TECH SERV & CONSULT 2009227 2010044 2010057 2010075		80-00-70100 80-00-70100 80-00-70100 80-00-70100	IT SUPPORT IT SUPPORT IT SUPPORT IT SUPPORT	2400.00 880.00 400.00 560.00 560.00	
01 HALPER, PEGGY 0033 0033 0033		10-30-52400 10-00-29400 10-00-29400	PZC MTG MINUTES PAS THR CS 11-14 PAS THR CS 12-01	168.00 24.50 73.50 70.00	
01 HALL SIGNS INC 271404		40-00-60900	SIGN MATERIAL	947.64	947.64
01 HOPPY'S LANDSCAPING 6412		10-15-57400	9" SNOW PLOW DWNT	4000.00	4000.00
01 HORNIK, CHRISTINE 080820		10-00-28200	R-12445 THORNBERR	200.00	200.00
01 HERITAGE TECHNOLOGY SOLUTIONS 76031		80-00-70100	DOOR SYSTEM	700.00	700.00
01 ILLINOIS ASSOCIATION OF CHIEFS 2012		10-20-52200	MEMBERSHIP	200.00	200.00
01 INTERNATIONAL ASSOC OF CHIEFS 1001012247		10-20-52200	MEMBERSHIP	120.00	120.00
01 ILL ASSN PROPERTY/EVIDENCE MGR				25.00	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	1310	10-20-52200	MEMBERSHIP	25.00	
01 ILLINOIS CPAA	12-02-02	10-20-52200	MEMBERSHIP	25.00	25.00
01 IIMC	11-12-28	10-05-52200	MEMBERSHIP	160.00	160.00
01 ILLINOIS TOLLWAY	G11405742	10-15-57400	I-PASS	63.50	63.50
01 INKWELL LTD				1068.17	
	56731	10-20-60100	SUPPLIES		113.98
	56825	10-20-60100	SUPPLIES		269.95
	56839	10-20-60100	SUPPLIES		35.98
	56871	10-10-60100	SUPPLIES		17.93
	56872	10-20-60100	SUPPLIES		362.94
	56937	10-20-60100	SUPPLIES		140.52
	56946	10-25-60100	OFF SUPPLY		126.87
01 I R M A				13142.99	
	11-12-08	10-20-53200	PD IRMA DED		6994.95
	11-12-08	10-15-53200	PW IRMA DED		6148.04
01 IMPERIAL SERVICE SYSTEMS, INC				1697.50	
	55719	10-35-57500	VH CLEANING		656.00
	55719	10-35-57505	SV CLEANING		34.00
	55719	75-00-57350	MS CLEANING		42.50
	55719	72-00-57000	PG CLEANING		34.00
	55719	10-35-57515	PF CLEANING		931.00
01 JACOBOWSKI, KEN	12-01-06	22-00-20005	REFUND	58.25	58.25
01 JCM UNIFORMS				832.50	
	662541	10-20-61400	D. TULLY		625.10
	662727	10-60-61400	M CAMPBELL		103.00
	663055	10-20-61400	G SMITH		104.40
01 JONES, CHARITY	12-01-26	10-30-52100	MTG MILEAGE	46.34	46.34
01 KIRK, BETTY	12-01-18	10-00-28060	HOLIDAY BAZAAR	53.20	53.20
01 LEMONT CHAMBER OF COMMERCE	12/02/24	10-10-52100	DINNER DANCE	600.00	600.00
01 LAW ENFORCEMENT RECORDS MGR OF	12-01-17	10-20-52200	P GARCIA	25.00	25.00
01 LEE JENSEN SALES CO, INC	122471	10-15-70200	TOOLS	3145.00	3145.00
01 LUBE MASTER/SOFTWAY CAR WASH	IL-2660	10-20-57000	CAR WASHES	79.95	79.95
01 LUDWIG'S INC	12-01-05	10-20-60600	CANIDAE	43.99	43.99
01 LANGE'S WOODLAND FLOWERS	002031/1	10-20-60100	FLOWERS	50.00	50.00
01 MATCO TOOLS				86.35	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	012512A	10-17-57000	REPAIR	59.00	
	020112A	10-17-61200	SAFETY EQUIP	27.35	
01 MCMASTER-CARR SUPPLY CO.				441.90	
	16170226	40-00-60900	SIGN MATERIAL	117.41	
	16291288	40-00-60900	BOLTS FOR SIGNS	18.81	
	16291298	22-05-61050	PARTS FOR SOFTNER	20.85	
	16427803	40-00-60900	SIGN SUPPLIES	284.83	
01 MECCON INDUSTRIES				195631.20	
	47048	25-00-567200	HOUSTON/STATE	195631.20	
01 MENARD'S				124.41	
	64255	10-60-57000	LT BULBS FOR UNIT	74.56	
	70050	22-05-61300	TOOLS	49.85	
01 MCKEOWN, FITZGERALD, ZOLLNER,				863.64	
	11-12-31	10-90-56440	LEGAL-LABOR	863.64	
01 METROPOLITAN INDUSTRIES INC				977.50	
	0000256335	22-10-57150	TRGT/KOHL LFT ST	575.00	
	0000256436	22-10-57150	CHSTNT X LFT ST	402.50	
01 MINUTEMAN PRESS				142.93	
	3050	10-20-52500	FIELD DIRECTORY B	142.93	
01 M & M GLASS SERVICE				345.00	
	466667	10-17-61100	PARTS	250.00	
	466667	10-17-57000	LABOR	95.00	
01 MORRIS ENGINEERING INC				1528.75	
	12-02718	10-15-56400	ENG GLEN OAKS	1128.75	
	12-02730	10-25-56305	GRDG RVW 01/12	400.00	
01 MONROE TRUCK EQUIPMENT				2685.86	
	293182	10-17-61100	SNOWPLOW BLADES	2685.86	
01 MID-TOWN PETROLEUM INC				1458.65	
	438889	10-17-61100	HYD OIL BULK	749.00	
	439135	10-17-61100	OIL	709.65	
01 NAPA AUTO PARTS				566.68	
	457294	10-17-61100	CREDIT	8.46-	
	458398	10-17-61100	PARTS	235.67	
	459232	10-17-61100	PARTS	47.06	
	460109	10-17-61100	PARTS	99.19	
	460326	10-17-61100	PARTS	12.00-	
	460756	10-17-61100	PARTS	205.22	
01 NEOPOST INC				268.00	
	13625454	10-15-60100	INK CARTRIDGES	268.00	
01 NICOR GAS				6580.25	
	12-01-20008	22-10-54150	KEEPATAW TRAILS	36.88	
	12/01-00430	22-10-54150	RUFFLED FEATHERS	80.90	
	12/01-10005	22-10-54150	CHESTNUT XNG LIFT	25.00	
	12/01-2000 8	22-05-54400	WELL #3	361.86	
	12/01-23824	22-10-54150	GLNS OF CON LFT S	26.75	
	12/01-28592	10-35-54200	14574 127TH	1437.46	
	12/01-5980	33-00-70600	UTILTY DISCONCT	918.92	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	12/01-87001	22-10-54150	SMITH FARMS	24.37	
	12/01-93785	22-05-54400	WELL #6	51.08	
	12/01-94404	10-35-54350	16680 NEW AVE	1795.64	
	12/01-94404	22-05-54400	16680 NEW AVE	1795.63	
	12/01-95892	22-10-54150	TARGET/KOHL'S LIFT	25.76	
01 O'HANLEY, HEIDI				38.50	
12-01-18	10-00-28060	HOLIDAY BAZAAR		38.50	
01 OCCUPATIONAL HEALTH CENTERS				69.00	
1006571114	10-90-56500	EMPL EXAM		69.00	
01 OS LEMONT DEVELOPMENT CO				6500.00	
080778A	10-00-28210	R-15434 127TH ST		500.00	
080778B	10-00-28400	R-15434 127TH ST		5000.00	
080778C	10-00-28200	R-15434 127TH ST		1000.00	
01 PARRY, MONA				57.40	
12-01-18	10-00-28060	HOLIDAY BAZAAR		57.40	
01 PINNER ELECTRIC INCORP				400.00	
21866	40-00-60900	TRAFFIC SIGNALS		400.00	
01 P & G KEENE ELECTRICAL				562.18	
176764	10-17-61100	PARTS		562.18	
01 PORTER LEE CORP				318.00	
11292	10-20-60110	SUPPLIES/BEAST		318.00	
01 POPLAWSKI, MARGARET				155.00	
12-01-18A	10-53-68010	HOLIDAY WORKSHOP		120.00	
12-01-18B	10-00-28060	HOLIDAY BAZAAR		35.00	
01 P R STREICH & SONS INC				522.00	
IN000036212	10-17-61200	LIFT INSP		522.00	
01 QUINLAN SECURITY SYSTEMS				196.59	
9732	10-15-57000	MAINT. AGREEMENT		196.59	
01 QUILL CORPORATION				457.09	
9467250	10-10-60100	SUPPLIES		95.96	
9579857	10-10-60100	OFF SUPPLIES		91.33	
9656665	10-53-58000	SPAT-12		139.40	
9656665	10-10-60100	SUPPLIES		45.81	
9733847	10-10-60100	OFF SUPPLIES		84.59	
01 RAGS ELECTRIC				1092.00	
4827-44	40-00-60900	MAINT.		1000.00	
7955	10-35-57500	OLD PD ELECTRIC		92.00	
01 RAINBOW PRINTING				231.90	
408647	10-15-60100	OFF. SUPPLIES		141.95	
408678	10-15-60100	OFF SUPPLIES		89.95	
01 ROD BAKER FORD				1300.25	
112134	10-17-61100	PARTS		118.64	
112157	10-17-57000	REPAIR		100.00	
112157	10-17-61100	PARTS		206.66	
112164	10-17-61100	PARTS		43.08	
112226	10-17-61100	PARTS		139.43	
112258	10-17-61100	PARTS		139.43	

PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	112261	10-17-61100	PARTS	71.74	
	112355	10-17-61100	PARTS	14.59	
	C12202	10-17-57000	REPAIR 083	466.68	
01 RICCIO CONSTRUCTION CORP				9190.00	
2167		22-05-58100	WATER SERVICE		9190.00
01 RCM DATA CORPORATION				4924.30	
IN36570		80-00-70100	COPIER		4363.00
IN36597		80-00-70100	CREDIT		403.35-
IN36598		80-00-70100	SVC AGRMNT		964.65
01 RISTOW, LEONA				85.40	
12-01-18		10-00-28060	HOLIDAY BAZAAR		85.40
01 RAY O HERRON CO INC				21.70	
0047835-IN		10-20-61400	STARS		21.70
01 ROZYCKI LYNN				107.80	
12-01-18		10-00-28060	HOLIDAY BAZAAR		107.80
01 RAYSA & ZIMMERMANN, LLC				12066.73	
12-02-03		10-90-56410	LEGAL-CORP		10416.73
20011		33-00-56950	LEGAL-DEBT CERT		1650.00
01 SOUTHWEST CENTRAL DISPATCH				23616.14	
12-02		10-20-53800	ASSESSMENT		23616.14
01 SURE-FIRE AUTO PARTS				437.30	
231722		10-17-61100	PARTS		24.37
4784-231219		10-17-61100	PARTS		412.93
01 STATE FIRE MARSHAL				75.00	
5125040475		10-35-57515	INSPECTION		75.00
01 SIKICH LLP				6092.00	
135986		10-10-56600	FINANCE		5497.00
136336		10-10-56600	GSTAT FIN		595.00
01 SHORE GALLERIES INC				639.00	
92819		10-20-61400	VEST - MOORE		639.00
01 SULLIVAN & JAMES KITCHENS & BA				225.00	
110794		10-00-20001	R-521 WOODCREST		225.00
01 SNAP-ON INDUSTRIAL				1149.41	
ARV/16345489		10-17-61300	TOOL-TPMS		1149.41
01 SOS TECHNOLOGIES				572.95	
48405		10-20-61200	AED PADS		572.95
01 SPRINT				2406.90	
180900510-120		10-90-53900	PHONES		2406.90
01 SOUTH SUBURBAN ASSN - CHIEFS O				1075.00	
12-01-26		10-20-52200	MOBIL FIELD FORCE		1000.00
2012		10-20-52200	MEMBERSHIP		75.00
01 SUBURBAN BUILDING OFFICIALS CO				500.00	
12-02-06		10-25-52100	SBOC SEMINARS		500.00
01 SOUTH SUBURBAN WATER WORKS ASS				45.00	
JAN2012		10-17-52200	MEMBERSHIP		45.00
01 SWAHM POOL				82266.21	
12/02		10-90-53100	HLTH/LIFE INS		60876.99

DATE: 02/13/12

Monday February 13, 2012

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PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	12/02	22-15-53100	HLTH/LIFE INS	18747.18	
	12/02	10-00-29550	COBRA	2642.04	
01 TOSHIBA FINANCIAL SERVICES				1894.81	
	56725034	10-20-70100	COPIER	756.95	
	56734735	10-90-70100	COPIER LEASE	785.00	
	56764257	10-15-57000	COPIER LEASE	352.86	
01 TEBOS EVERGREENS				530.00	
	11/11/25	10-53-58000	TREES DOWNTOWN	530.00	
01 TOSHIBA FINANCIAL SERVICES				291.20	
	194714630	10-20-70100	COPIER	291.20	
01 TIGERDIRECT				2312.06	
	F83973310102	80-00-70100	COMP WARR	348.00	
	F86205890101	80-00-70100	WARR.	155.22	
	F86205890102	80-00-70100	COMPUTER	932.60	
	F86205890103	80-00-70100	MONITOR	139.95	
	F86244540101	80-00-70100	BTTRY BACKUP	242.10	
	F86244540103	80-00-70100	BTTRY BACKUP	249.95	
	P37875130102	80-00-70100	COMP. BACKUP	244.24	
01 T P I				4395.00	
	6178	10-25-56400	PLN RVW JAN'12	3275.00	
	6178	10-25-56550	INSPEC-JAN'12	840.00	
	6178	10-25-56600	CONSULTING	40.00	
	6178	25-00-567100	VOL PROJECT INSP	240.00	
01 TERMINAL SUPPLY CO				478.28	
	12615-00	10-17-61100	SUPPLIES	85.67	
	12615-01	10-17-61100	SUPPLIES	10.34	
	13688-00	10-17-61100	PARTS	382.27	
01 UNIFIRST CORPORATION				40.68	
	061 0659163	10-17-57000	SHOP TOWEL SERVIC	40.68	
01 UNITED STATES POSTAL SERVICE				300.00	
	12-01-31	10-20-52300	POL POSTAGE	163.50	
	12-01-31	22-05-52300	WATER POSTAGE	.88	
	12-01-31	10-25-52300	BLDG POSTAGE	86.13	
	12-01-31	10-10-52300	AD/FIN POSTAGE	48.59	
	12-01-31	10-30-52300	PLAN POSTAGE	.90	
01 VERIZON BUSINESS				34.20	
	05903071	10-90-53900	PHONES	34.20	
01 VISION SERVICE PLAN (IL)				903.07	
	12-01-17	10-90-53100	VISION INS	903.07	
01 WILL COUNTY POLICE CHIEF'S ASS				105.00	
	2012	10-20-52200	MEMBERSHIP	105.00	
01 WHOLESALE DIRECT INC				56.45	
	000190752	10-17-61100	PARTS	56.45	
01 WOLTERS KLUWER LAW & BUSINESS				158.34	
	82194858	10-10-60100	P/R PAMPHLETS	158.34	
01 WASTE MANAGEMENT				401.43	
	3298282-2007-2	22-05-54300	DUMP FEES	377.43	



SYS DATE:02/08/12

VILLAGE OF LEMONT

SYS TIME:18:00

A / P W A R R A N T L I S T [NW1]

REGISTER # 397

DATE: 02/13/12

Monday February 13,2012

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PAYABLE TO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
	4428806-2007-9	10-15-52900	SERVICE		24.00
01 WESTERN REMAC INC	40544	80-00-590400	SAFE PARK SIGNS	4870.00	4870.00
01 WEATHER SEAL-NUSASH OF KANKAKE	110602	10-00-28200	R-1229 COUNTRY LN	1000.00	1000.00
01 WENTWORTH TIRE SERVICE INC	410882	10-17-61100	TIRES	896.00	896.00
01 ZEE MEDICAL INC				1881.32	
	0100397938	10-17-61400	UNIFORMS		164.68
	D5574801	10-15-61200	A.E.D.		1000.00
	D5574801	22-05-61200			716.64

\*\* TOTAL CHECKS TO BE ISSUED 739730.84

FUND	AMOUNT
GENERAL FUND	273903.35
T.I.F.	485.00
WATER & SEWER FUND	60053.78
WATER/SEWER CAPITAL IMPROVE FUND	317221.49
GATEWAY PROPERTY ACQUISITION	2568.92
MOTOR FUEL TAX	66856.27
ROAD IMPROVEMENT FUND	809.19
PARKING GARAGE FUND	330.85
PARKING LOT FUND	928.87
GENERAL CAPITAL IMPROVEMENTS	16573.12
*** GRAND TOTAL ***	739730.84

A/P MANUAL CHECK POSTING LIST

POSTINGS FROM ALL CHECK REGISTRATION RUNS(NR) SINCE LAST CHECK VOUCHER RUN(NCR)

PAYABLE TO REG NO	INV NO	CHECK DATE G/L NUMBER	CHECK NO DESCRIPTION	AMOUNT	DIST
01 CHICAGO TITLE INSURANCE 440	12-01-26	01/26/12 33-00-70600	66658 12897 & 12935 MAI	75000.00	75000.00
01 RUFFLED FEATHERS GOLF CLUB 442	4/30 DEPOSIT	02/03/12 10-00-29023	66660 MAYORS DRIVE	2000.00	2000.00
01 UNITED STATES POSTAL SERVICE 439	12-01-10	01/26/12 22-05-52300	66659 POSTAGE	3400.00	3400.00

\*\* TOTAL MANUAL CHECKS REGISTERED 80400.00

REPORT SUMMARY

CASH FUND	CHECKS TO BE ISSUED	REGISTERED MANUAL	TOTAL
01	739730.84	80400.00	820130.84
TOTAL CASH	739730.84	80400.00	820130.84

DISTR FUND	CHECKS TO BE ISSUED	REGISTERED MANUAL	TOTAL
10	273903.35	2000.00	275903.35
17	485.00	.00	485.00
22	60053.78	3400.00	63453.78
25	317221.49	.00	317221.49
33	2568.92	75000.00	77568.92
40	66856.27	.00	66856.27
45	809.19	.00	809.19
72	330.85	.00	330.85
75	928.87	.00	928.87
80	16573.12	.00	16573.12
TOTAL DISTR	739730.84	80400.00	820130.84

**VILLAGE OF LEMONT  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE  
AMENDING LEMONT MUNICIPAL CODE  
CHAPTER 5.04, SECTION 5.04.080: ALCOHOLIC BEVERAGES  
(Reducing Number of Class A-3 Liquor Licenses)**

**ADOPTED BY THE  
PRESIDENT AND THE BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS \_\_\_ DAY OF \_\_\_\_\_, 2012**

**Published in pamphlet form by  
Authority of the President and  
Board of Trustees of the Village of  
Lemont, Counties of Cook, Will and  
DuPage, Illinois, this \_\_\_ day of \_\_\_\_\_, 2012.**

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

AN ORDINANCE  
AMENDING LEMONT MUNICIPAL CODE  
CHAPTER 5.04, SECTION 5.04.080: ALCOHOLIC BEVERAGES  
(Reducing Number of Class A-3 Liquor Licenses)

**WHEREAS**, the Village of Lemont (“Village”) is an Illinois Municipal Corporation pursuant to the Illinois Constitution of 1970 and the Statutes of the State of Illinois; and,

**WHEREAS**, Slammers, a business establishment within the Village was previously licensed to sell alcohol pursuant to a Class A-3 liquor license granted by the Village; and

**WHEREAS**, Slammers has ceased its business operation and has no intention of seeking a renewal of its Class A-3 liquor license; and

**WHEREAS**, the President and Board of Trustees of the Village of Lemont desire to reduce the number of Class A-3 liquor licenses granted.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Lemont, Illinois:

**SECTION 1:** The above recitals are incorporated in this ordinance as if fully set forth.

**SECTION 2:** The Lemont Municipal Code, Chapter 5, Section 5.04, Subsection 5.04.080 is hereby amended to read as follow in the manner and form shown in strikethrough type below and inserting therein and therefore such new text in the manner and form and shown in underlined bold type below, so that said Section 5.04.080 shall hereafter provide as follows:

5.040.080 License – Fees – Classes of Operator.

- B. Number of Licenses. There shall be issued in the Class A-1 and A-2 categories, together, not more than five at any one time; the number of Class A-3 licenses to be issued at any one time shall not exceed ~~thirteen~~ **twelve**, and the number of C-1 licenses to be issued at any one time shall not exceed seven.

**SECTION 3:** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**SECTION 4:** All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

**SECTION 5:** The Village Clerk of the Village of Lemont shall certify to the adoption of this Ordinance and cause the same to be published in pamphlet form.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DUPAGE, ILLINOIS, on this \_\_\_\_ day of \_\_\_\_\_, 2012.**

**PRESIDENT AND VILLAGE BOARD MEMBERS:**

	AYES:	NAYS:	ABSENT:	ABSTAIN
<b>Debby Blatzer</b>	_____	_____	_____	_____
<b>Paul Chialdikas</b>	_____	_____	_____	_____
<b>Clifford Miklos</b>	_____	_____	_____	_____
<b>Ron Stapleton</b>	_____	_____	_____	_____
<b>Rick Sniagowski</b>	_____	_____	_____	_____
<b>Jeanette Virgilio</b>	_____	_____	_____	_____

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**BRIAN K. REAVES**  
**President**

ATTEST:

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**CHARLENE M. SMOLLEN**  
**Village Clerk**

**VILLAGE OF LEMONT  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE  
AMENDING LEMONT MUNICIPAL CODE  
CHAPTER 5.04, SECTION 5.04.080: ALCOHOLIC BEVERAGES  
(Reducing Number of Class A-5 Liquor Licenses)**

**ADOPTED BY THE  
PRESIDENT AND THE BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS \_\_\_ DAY OF \_\_\_\_\_, 2012**

**Published in pamphlet form by  
Authority of the President and  
Board of Trustees of the Village of  
Lemont, Counties of Cook, Will and  
DuPage, Illinois, this \_\_\_ day of \_\_\_\_\_, 2012.**

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

AN ORDINANCE  
AMENDING LEMONT MUNICIPAL CODE  
CHAPTER 5.04, SECTION 5.04.080: ALCOHOLIC BEVERAGES  
(Reducing Number of Class A-5 Liquor Licenses)

**WHEREAS**, the Village of Lemont (“Village”) is an Illinois Municipal Corporation pursuant to the Illinois Constitution of 1970 and the Statutes of the State of Illinois; and,

**WHEREAS**, Montefiori, a business establishment within the Village was previously licensed to sell alcohol pursuant to a Class A-5 liquor license granted by the Village; and

**WHEREAS**, Montefiori has ceased its business operation and has no intention of seeking a renewal of its Class A-5 liquor license; and

**WHEREAS**, the President and Board of Trustees of the Village of Lemont desire to reduce the number of Class A-5 liquor licenses granted.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Lemont, Illinois:

**SECTION 1:** The above recitals are incorporated in this ordinance as if fully set forth.

**SECTION 2:** The Lemont Municipal Code, Chapter 5, Section 5.04, Subsection 5.04.080 is hereby amended to read as follow in the manner and form shown in strikethrough type below and inserting therein and therefore such new text in the manner and form and shown in underlined bold type below, so that said Section 5.04.080 shall hereafter provide as follows:

5.040.080 License – Fees – Classes of Operator.

\*\*\*

5. Class A-5.

- a. Class A-5 licenses shall authorize the sale of intoxicating liquor for consumption on the premises, if the premises are not open to the general public and primarily serve meals prepared in the kitchen of the establishment, having seating capacity for the service of meals at tables and/or counters for not less than fifty patrons at the same time.



- b. The annual fee for a Class A-5 license shall be five hundred dollars, payable in two installments of two hundred fifty dollars each, the first installment of which shall be deposited with the application for a license and the second installment of which shall be due and payable on the first day of May or the first day of November, whichever occurs first.
- c. There shall be issued in the Class A-5 category not more than ~~two~~ **one** licenses at any one time.

**SECTION 3:** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**SECTION 4:** All Ordinances or parts of Ordinances in conflict herewith shall be and the same are hereby repealed.

**SECTION 5:** The Village Clerk of the Village of Lemont shall certify to the adoption of this Ordinance and cause the same to be published in pamphlet form.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DUPAGE, ILLINOIS,**  
on this \_\_\_\_ day of \_\_\_\_\_, 2012.

**PRESIDENT AND VILLAGE BOARD MEMBERS:**

	AYES:	NAYS:	ABSENT:	ABSTAIN
<b>Debby Blatzer</b>	_____	_____	_____	_____
<b>Paul Chialdikas</b>	_____	_____	_____	_____
<b>Clifford Miklos</b>	_____	_____	_____	_____
<b>Ron Stapleton</b>	_____	_____	_____	_____
<b>Rick Sniegowski</b>	_____	_____	_____	_____
<b>Jeanette Virgilio</b>	_____	_____	_____	_____

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**BRIAN K. REAVES**  
President

ATTEST:

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**CHARLENE M. SMOLLEN**  
Village Clerk

**VILLAGE OF LEMONT  
ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 15 OF THE LEMONT, ILLINOIS  
MUNICIPAL CODE RELATING TO ADDITIONAL AMENDMENTS TO THE  
INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY  
DWELLINGS, 2006 EDITION AS AMENDED**

**ADOPTED BY THE  
PRESIDENT AND THE BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS \_\_\_ DAY OF \_\_\_\_\_, 2012**

Published in pamphlet form by  
Authority of the President and  
Board of Trustees of the Village of  
Lemont, Counties of Cook, Will and  
DuPage, Illinois, this \_\_\_ day of \_\_\_\_\_, 2012.

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

**An Ordinance Amending Chapter 15 of the Lemont, Illinois Municipal Code Relating to Additional Amendments to the International Residential Code for One and Two Family Dwellings, 2006 Edition as Amended**

**WHEREAS**, the Village of Lemont (“Village”) is an Illinois Municipal Corporation pursuant to the Illinois Constitution of 1970 and the Statutes of the State of Illinois;

**WHEREAS**, the Village Board finds that certain model building codes, including residential codes, may be adopted and amended by municipalities; and,

**WHEREAS**, the Village Board further finds that the residential codes of the Village may be amended to provide for the protection of the public health, safety, morals and welfare, and is otherwise in the public interest; and,

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT and BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COOK, DUPAGE AND WILL COUNTIES, ILLINOIS, as follows:**

**SECTION 1:** The foregoing findings and recitals, and each of them, are hereby adopted as Section 1 of this Ordinance and are incorporated by reference as if set forth verbatim herein.

**SECTION 2:** The Lemont, Illinois Municipal Code (“Village Code”), as amended, is hereby further amended by in the manner and form shown below with additions being shown in underlined text and deletions being shown in strikethrough text, so that Section 15.06.020 (20) shall hereafter provide as follows:

(20) RESERVED ~~Section R311.4.1 *Exit door required.* Delete in its entirety and in lieu thereof substitute the following new Section 311.4.1:~~

~~Section R311.4.1 *Exit doors required.* Not less than two exit doors conforming to this section shall be provided for each dwelling unit. The required exit doors shall provide for direct access from the habitable portions of the dwelling unit to the exterior without requiring travel through a garage. Access to habitable levels not having an exit in~~

~~accordance with this section shall be by a ramp in accordance with Section R311.6 or a stairway in accordance with Section R311.5.~~

**SECTION 3:** That the Village Clerk of the Village of Lemont be and is directed hereby to publish this Ordinance in pamphlet form, pursuant to the Statutes of the State of Illinois, made and provided.

**SECTION 4:** Should any Section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be invalid.

**SECTION 5:** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DUPAGE, ILLINOIS,** on this \_\_\_\_ day of \_\_\_\_\_, 2012.

**PRESIDENT AND VILLAGE BOARD MEMBERS:**

	AYES:	NAYS:	ABSENT:	ABSTAIN
<b>Debby Blatzer</b>	_____	_____	_____	_____
<b>Paul Chialdikas</b>	_____	_____	_____	_____
<b>Clifford Miklos</b>	_____	_____	_____	_____
<b>Ron Stapleton</b>	_____	_____	_____	_____
<b>Rick Sniegowski</b>	_____	_____	_____	_____
<b>Jeanette Virgilio</b>	_____	_____	_____	_____

\_\_\_\_\_  
**BRIAN K. REAVES**  
President

ATTEST:

\_\_\_\_\_  
**CHARLENE M. SMOLLEN**  
Village Clerk

**Village Board  
Agenda Memorandum**

Item #

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to: Mayor & Village Board

from: Ben Wehmeier, Village Administrator  
George Schafer, Assistant Village Administrator  
Kevin Shaughnessy, Police Chief  
Ted Friedley, Village Treasurer

Subject: Resolution Approving Asset Forfeiture and Restricted Fines Procedures Manual

date: February 8, 2012

**BACKGROUND/HISTORY**

One of the final financial policies the Village Board needs to review and approve is the asset forfeiture policy. Due to the many rules and regulations associated with different forfeitures received from the Police Department, the process can be rather complicated. This policy will provide consistent procedures for handling these proceeds.

**PROS/CONS/ALTERNATIVES (IF APPLICABLE)**

**RECOMMENDATION**

Staff recommends approval of the attached policy

**ATTACHMENTS (IF APPLICABLE)**

1. Resolution Approving Asset Forfeiture and Restricted Fines Procedures Manual
2. Asset Forfeiture and Restricted Fines Procedures Manual

**SPECIFIC VILLAGE BOARD ACTION REQUIRED**

Motion to Approve Resolution

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION ADOPTING AN ASSET FORFEITURE AND RESTRICTED FINES PROCEDURES MANUAL**

**WHEREAS**, the Village of Lemont desires to adopt an Asset Forfeiture and Restricted Fines Procedures Manual;

**WHEREAS**, the President and Board of Trustees find that adopting the attached Village of Lemont Asset Forfeiture and Restricted Fines Procedures Manual is in the interest of the public health, safety and welfare of the residents of Lemont;

**NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES as follows:**

**SECTION 1:** That the Village of Lemont Asset Forfeiture and Restricted Fines Procedure Manual, attached as Exhibit A hereto is hereby adopted.

**SECTION 2:** This Resolution shall be in full force and effect from and after its passage as provided by law.

**SECTION 3:** The Village Clerk of the Village of Lemont shall certify to the adoption of this Resolution and cause the same to be published in pamphlet form.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL AND DUPAGE, ILLINOIS on this \_\_\_\_\_ day of \_\_\_\_\_, 2012.**

**PRESIDENT AND VILLAGE BOARD MEMBERS:**

	AYES:	NAYS:	ABSENT:	ABSTAIN
<b>Debby Blatzer</b>	_____	_____	_____	_____
<b>Paul Chialdikas</b>	_____	_____	_____	_____
<b>Clifford Miklos</b>	_____	_____	_____	_____
<b>Ron Stapleton</b>	_____	_____	_____	_____
<b>Rick Sniegowski</b>	_____	_____	_____	_____
<b>Jeanette Virgilio</b>	_____	_____	_____	_____

\_\_\_\_\_  
**BRIAN K. REAVES**  
President

ATTEST:

\_\_\_\_\_  
**CHARLENE M. SMOLLEN**  
Village Clerk

Village of Lemont  
Asset Forfeiture and Restricted Fines Procedures Manual  
Adopted February 13, 2012

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Village of Lemont  
Asset Forfeiture and Restricted Fines Procedures Manual  
Adopted February 13, 2012

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**A. Objective**

The Asset Forfeiture and Restricted Fines Procedures Manual provides an outline for asset forfeiture and restricted fine procedures. This manual shall be reviewed on a yearly basis for possible revisions by the current Village Treasurer and the Police Department to ensure that the manual is current with industry standards and practices, Illinois Compiled Statutes and the United States Department of Justice Requirements.

The responsibility for the administration of the asset forfeiture and restricted fine proceeds procedures has been delegated to the Village Treasurer and the Police Department Office Manager, who shall implement the following procedures and internal controls, as prescribed by the Revenue and Cash Management Policy.

**B. Asset Forfeitures**

The Village is eligible to participate in the sharing of forfeiture proceeds from the following sources:

1. Federal Department of Justice (DOJ) Forfeitures

The DOJ program is a nationwide law program under which the Attorney General shares federally forfeited property with participating state and local law enforcement agencies as outlined in the Equitable Sharing Agreement. Forfeitures processed under the DOJ Equitable Sharing Agreement are subject to the rules and regulations set forth in the Agreement

The Village is eligible to participate in the sharing of forfeiture proceeds under the DOJ Equitable Sharing Agreement if the Village provided personnel to assist with the investigation that led to the forfeited assets. The equitable shares allocated to a law enforcement agency must bear a reasonable relationship to the agency's direct participation in the investigation or law enforcement effort resulting in the forfeiture.

The DOJ Equitable Sharing Guidelines include specific guidelines for permissible uses of forfeiture asset proceeds. These include law enforcement investigations, training and machinery and equipment. Refer to the DOJ Equity Sharing Guidelines for additional details related to permissible uses, included as Attachment A.

2. Article 36 State Forfeitures

Illinois Compiled Statutes 720 ILCS 5/36 provides the Village with the right to seize vessels, vehicles and aircraft that are used with the knowledge and consent of the owner in the commission of crimes that are prohibited under certain sections of this law. Proceeds are to be used for general law enforcement purposes.



3. State General Forfeitures

The Illinois Compiled Statutes 725 ILCS 150 entitled “Drug Asset Forfeiture Procedures Act” and several subsections of 725 ILCS 5 provide guidelines for asset forfeitures. The proceeds from these forfeitures are typically restricted to expenditures related to the type of crime that led to the conviction (i.e., proceeds from forfeitures related to drugs must be spent for the purpose of training or enforcement purposes relating to drug prevention, investigation, or prosecution of drug crimes). Amounts distributed to units of local government by the state include the description of the ILCS section that governs the proceeds. All proceeds shall be used in accordance with the provisions of the Illinois Compiled Statutes that applies to the proceeds. See 725 ILCS 150 included as Attachment B.

**C. Restricted Use Fines and Penalties**

The Illinois Compiled Statutes provides guidelines for the Village to share in the proceeds of certain types of additional fines or penalties.

1. Court Supervision Vehicle Replacement Fines

Illinois Compiled Statute 625 ILCS 5/16-104c requires any person who receives a disposition of court supervision for a violation to pay a \$29 fine. Of this fee, \$20 shall be paid to the law enforcement agency that employed the arresting officer and shall be used for the acquisition or maintenance of police vehicles. See 625 ILCS 5/16 included as Attachment C.

2. State DUI Restricted Fines

Illinois Compiled Statute 625 ILCS 5/11-01 assesses an additional administrative fine for anyone found guilty of violations related to a DUI. If the Village assisted in the arrest, the Village will receive \$350 for DUI 1 (first offense) and \$200 for DUI 2 (second offense). These amounts are processed through the County Clerk’s office. Proceeds shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the state. See ILCS 5/11 included as Attachment D.

**D. Accounting Procedures and Internal Controls**

1. Bank Account

The Village will maintain a separate bank account for asset forfeiture and restricted fine proceeds. This will be a pooled cash account for all forfeiture and restricted fine proceeds.

Village of Lemont  
Asset Forfeiture and Restricted Fines Procedures Manual  
Adopted February 13, 2012

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2. General Ledger Accounts

The Village will maintain a separate deferred revenue and revenue general ledger accounts for the following types of asset forfeiture and restricted fine revenues:

- a. Federal Department of Justice Forfeitures
- b. State Article 36 Forfeitures
- c. State General Forfeitures
- d. Court Supervision Vehicle Replacement Fines
- e. State DUI Restricted Fines

3. Forfeiture Log

The Police Department will maintain a log and supporting copies of all forms filed with the applicable departments for consideration of shared revenue participation. These forms include the DOJ DAG forms and the county court orders. The logs will include the seizure type, amount, share amount requested, amount received and date received. The Police Department Office Manager will reconcile the log to the general ledger account on a monthly basis.

4. Cash Receipts

The Village receives proceeds in the form of a direct deposit for DOJ proceeds and a check for all other proceeds. The Village shall contact all payees to verify all payments are made payable to the Village of Lemont and mailed directly to the Finance Department. The Finance Department processes the cash receipts as follows:

- a. When a DOJ receipt is posted in the forfeiture bank account, the Village receives a notice from the bank. The Police Department also receives an e-share notification from the DOJ. The Finance Department will record the receipt in the DOJ deferred revenue account and forward a copy to the Police Department who is responsible for updating the DOJ forfeiture log.
- b. Checks received at the Police Department are processed through the Police Department cash register<sup>1</sup>. The Police Department Office Manager will record the receipt on the Receipt of Issued Funds form and forward to the Finance Department for recording. This form identifies the general ledger account to which this receipt should be recorded. The Police Department Office Manager will also update any applicable log for the forfeiture accounts.

Village of Lemont  
Asset Forfeiture and Restricted Fines Procedures Manual  
Adopted February 13, 2012

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- c. Checks received in the Village Finance Department are processed through the main cash register<sup>1</sup>. The Finance Department will deposit the checks and record the receipt in a general ledger transfer account. A copy of the check will be sent to the Police Department who is responsible for general ledger account coding on the Receipt of Issued Funds form. The Police Department will send the completed form to the Finance Department who will allocate the receipt from the transfer account to the appropriate general ledger deferred revenue account.

5. Expenditures

The asset forfeiture and restricted fine proceeds are restricted to Police Department expenditures. When the Police Department incurs an expense that would be eligible for payment from one of the deferred revenue accounts, the Police Department will submit the invoice for payment along with a Receipt of Issued Funds form that identifies which forfeiture or restricted fine general ledger account the expense should be applied to. This form must be reviewed by the Village Administrator and the Police Chief, who will verify the expense complies with the restrictive nature of the forfeiture or restricted fine account. The Village Treasurer will review to verify that there are sufficient funds available in the general ledger account. In addition, all expenses must be in compliance with the Village Purchasing Authority Policy. Upon recording the expenditure, the corresponding amount will be recognized as revenue.

6. Interest

Interest earned in the pooled forfeiture bank account will be allocated to the general ledger accounts that share in the pooled account on a proportionate basis.

7. Monthly Reconciliation

On a monthly basis, the Finance Department will reconcile the pooled forfeiture bank account to the general ledger. A copy of the completed reconciliation will be forwarded to the Police Department for review.

**E. Department of Justice Annual Reporting Requirements**

On an annual basis, the police department will prepare the DOJ Equitable Sharing Agreement and Certification. This must be signed by the Police Chief and the Mayor and filed within 60 days of the fiscal year-end.

**F. Record Retention**

The Village shall retain for a period of at least seven years all documents and records pertaining to participation in the DOJ Equitable Sharing Program and all state forfeiture programs.

<sup>1</sup> see additional cash receipts procedures in the Revenue and Cash Management Procedures and Internal Control Manual



# Guide to Equitable Sharing for State and Local Law Enforcement Agencies

April 2009

## Foreword

In the nearly 25 years since the Comprehensive Crime Control Act of 1984 authorized federal officials to implement a national asset forfeiture program, asset forfeiture has become one of the most powerful tools for targeting criminals—including drug dealers and white collar criminals—who prey on the vulnerable for financial gain. Forfeiture statutes are now prevalent throughout the federal legal code and their use, along with other important anti-crime measures, has had a significant impact on crime.

One of the most important provisions of asset forfeiture is the authorization to share federal forfeiture proceeds with cooperating state and local law enforcement agencies. The Department of Justice Asset Forfeiture Program serves not only to deter crime but also to provide valuable additional resources to state and local law enforcement agencies. As this is written, the Department of Justice has shared over \$4.5 billion in forfeited assets with more than 8,000 state and local law enforcement agencies.

*A Guide to Equitable Sharing for State and Local Law Enforcement Agencies* serves to promote and maintain the integrity of the equitable sharing program so that it can continue to merit public confidence and support. For this reason it is supplemented with the National Code of Professional Conduct for Asset Forfeiture (see Appendix B). All seizing and prosecutorial agencies should ensure compliance with this Code.

Most importantly, this *Guide* seeks to assist state and local law enforcement agencies participating in the program by clarifying the directives they must follow to obtain and use equitably shared funds. The goal is to make the process as clear as possible so that local communities and the nation can thrive from reduced crime and from quality law enforcement.

Richard Weber, Chief  
Asset Forfeiture and Money Laundering Section  
Criminal Division  
Department of Justice

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## I. What Is the Department of Justice Asset Forfeiture Program?

The Department of Justice Asset Forfeiture Program (the Program) is a nationwide law enforcement initiative that removes the tools of crime from criminal organizations, deprives wrongdoers of the proceeds of their crimes, recovers property that may be used to compensate victims, and deters crime. The most important objective of the Program is law enforcement. Equitable sharing further enhances this law enforcement objective by fostering cooperation among federal, state, and local law enforcement agencies.

Federal law authorizes the Attorney General to share federally forfeited property with participating state and local law enforcement agencies.<sup>1</sup> The exercise of this authority is discretionary and limited by statute. The Attorney General is not required to share property in any case.

The Controlled Substances Act most fully states the intent of Congress in the sharing of forfeited property. Section 881(e)(3) of Title 21, United States Code, provides that:

The Attorney General shall assure that any property transferred to a State or local law enforcement agency...

(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort as a whole; and with respect to the violation of law on which the forfeiture is based; and

(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.<sup>2</sup>

*A Guide to Equitable Sharing for State and Local Law Enforcement Agencies* applies only to the sharing of assets that were seized by Department of Justice investigative agencies and federal agencies participating in the Department of Justice Asset Forfeiture Program and that were forfeited judicially or administratively to the United States by the United States Attorney's Offices or Forfeiture Program participants. Participating agencies and components currently approved include:

U.S. Department of Justice agencies and components:

- Criminal Division, Asset Forfeiture and Money Laundering Section (AFMLS)
- Justice Management Division, Asset Forfeiture Management Staff (AFMS)
- Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Drug Enforcement Administration (DEA)

<sup>1</sup> 21 U.S.C. § 881(e)(1)(A) and (e)(3), 18 U.S.C. § 981(e)(2), and 19 U.S.C. § 1616a.

<sup>2</sup> 21 U.S.C. § 881(e)(3).

- Federal Bureau of Investigation (FBI)
- U.S. Attorney's Offices (USAO)
- U.S. Marshals Service (USMS)

Components outside of the U.S. Department of Justice:

- U.S. Department of Agriculture, Office of Inspector General (USDA-OIG)
- U.S. Department of Defense, Criminal Investigative Service (DCIS)
- U.S. Department of State, Bureau of Diplomatic Security (DSS)
- U.S. Food and Drug Administration, Office of Criminal Investigations (FDA-OCI)
- U.S. Postal Inspection Service (USPIS)

The FBI, DEA, ATF, and USPIS are the only agencies participating in the Department of Justice Program that directly adopt seizures by state or local law enforcement agencies. Under limited circumstances, the USAOs may directly adopt such seizures.<sup>3</sup>

As soon as assets are identified for seizure/forfeiture in a federal investigation or an adoptive forfeiture, the USAO or seizing agency handling the case should contact the USMS to discuss pre-seizure planning to determine the necessary resources for property management and disposal requirements.<sup>4</sup> Pre-seizure planning is required to seize real property, businesses, or any unusual, complex, or unique assets (e.g., animals, property contaminated with hazardous material, leasehold agreements, partnership interests, valuable arts and antiques, or a large quantity of assets posing potential storage problems).

The U.S. Department of the Treasury administers its own Asset Forfeiture Program.<sup>5</sup> For policies and participating agencies, please visit the Treasury Executive Office for Asset Forfeiture website at [www.treas.gov/offices/enforcement/teof/](http://www.treas.gov/offices/enforcement/teof/).

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<sup>3</sup> In accordance with *Asset Forfeiture Policy Manual* (2008), Chap. 1, Sec. VIII.G.

<sup>4</sup> See Pre-Seizure Planning Guide, USMS Pub. No. 106 (June 2000) for further information regarding pre-seizure planning.

<sup>5</sup> Participating agencies in the Treasury Asset Forfeiture Program include the Internal Revenue Service (IRS), U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), U.S. Secret Service (USSS), and U.S. Coast Guard.

## II. Which Non-federal Agencies Are Eligible to Participate in the Justice Equitable Sharing Program?

### A. State or local law enforcement agencies

Any state or local law enforcement agency that directly participates in an investigation or prosecution that results in a federal forfeiture may request an equitable share of the net proceeds of the forfeiture.<sup>6</sup>

For purposes of equitable sharing, the Department of Justice defines *law enforcement agency* as a state or local government organization authorized to engage in as its primary function the investigation and apprehension, or the prosecution of individuals suspected or convicted of offenses against the criminal laws of the United States or of any state, county, municipality, or territory of the United States. Furthermore, a law enforcement agency is primarily composed of or employs individuals designated or qualified under state statutes as peace officers or those who are authorized to prosecute criminal violations or to exercise police powers such as making arrests, seizing property, executing warrants and court orders, and carrying firearms.

A *primary function* is one that: (1) occupies a clear majority of the agency's working time over a typical work cycle; and (2) is performed on a regular and recurring basis by the agency and a majority of its officers, employees, and agents. Functions that are of an emergency, incidental, or temporary nature are not considered primary even if they should amount to a majority of an agency's working time.

Typically, a law enforcement agency will include city, district, local, county, or state police, sheriff, or highway patrol departments, and state or local prosecutors' offices. Determinations of agency eligibility are solely within the discretion of the Department of Justice, Criminal Division.

Department of Justice policy requires shared monies and property to be used for law enforcement purposes. Sharing will be withheld from any state or local law enforcement agency where state or local law, regulation, or policy requires federal equitable sharing funds to be transferred to non-law enforcement agencies or expended for non-law enforcement purposes.

No sharing request or recommendation, including shares negotiated in a task force or other agreement, is final until approved by the federal deciding authority.

In accordance with the Crime Victims' Rights Act and the Attorney General's authority, the Department of Justice gives priority in the distribution of forfeited assets to valid owners, lienholders, federal financial regulatory agencies, and victims (in that order) through petitions for remission or mitigation or requests for restoration.<sup>7</sup> After losses to the above parties have been satisfied, any remaining net proceeds can be shared with state and local law enforcement agencies.<sup>8</sup>

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<sup>6</sup> See part VII on how to calculate sharing percentages for participating agencies.

<sup>7</sup> Remission or mitigation is the return of forfeited property to an owner or lienholder of the property or to a victim of the crime underlying the forfeiture. See 28 C.F.R. § 9.8 (2008). Restoration is the use of forfeited funds to pay restitution to the victim of a criminal offense in accordance with a restoration order entered as part of a criminal judgment.

<sup>8</sup> Sharing is always based on net proceeds. See part III.E.

## **B. State National Guard agency or unit**

A state National Guard generally does not meet the law enforcement agency criteria for participation in the Department of Justice Equitable Sharing Program because its primary mission serves a military or other non-law enforcement purpose. An individual National Guard unit, however, may qualify for sharing if:

- (1) It is a distinct unit of a state National Guard that has counterdrug activities as its primary mission and receives funding solely for this purpose; or
- (2) It is a military police or similar state National Guard unit that provides support to federal law enforcement agencies in counterdrug activities.

In determining whether a National Guard unit qualifies to participate in the sharing program, the Department of Justice will consider the following:

- (1) The unit directly performs or operationally supports law enforcement functions, e.g., marijuana eradication, surveillance, air transport, or field communications, as opposed to clerical assistance;
- (2) Direct or supporting law enforcement functions occupy a clear majority of the unit's working time over a typical work cycle and are performed on a regular and recurring basis;
- (3) State law vests the unit with peace officer authority, i.e., to investigate criminal activity and conduct searches, seizures, or arrests; and
- (4) State law permits the unit to receive equitably shared funds to finance law enforcement functions.

The Department of Justice will determine whether individual National Guard units are eligible to participate in the Equitable Sharing Program on a case-by-case basis. Once a state National Guard unit has been determined to be eligible, it will participate in the program in the same manner as any other state or local law enforcement agency, including adherence to reporting and compliance requirements, procedures to apply for shares of forfeiture properties, and all equitable sharing policies.

## **C. State and local prosecutorial agencies**

State and local prosecutorial agencies are eligible to receive equitable sharing for assistance they provide in federal forfeiture cases. The following are examples of ways prosecutorial agencies may qualify for an equitable share:

- (1) Providing assistance in the preparation of search and seizure warrants and other documents relating to the seizure and forfeiture. (Sharing percentage will be based on the degree of participation in the investigation, usually calculated by the work hours expended.)
- (2) Providing a key informant or substantially assisting throughout the investigation that leads to a federal forfeiture. (Sharing percentage will be based on the degree of participation in the investigation, usually calculated by the work hours expended.)

- (3) Cross-designating state or local attorneys to handle the federal forfeiture or related criminal cases in federal court. (The Department will authorize sharing of up to five percent of the total net forfeiture proceeds with local prosecutors who cross-designate attorneys to handle adoptive and/or joint forfeiture cases in federal court as Special Assistant United States Attorneys. That sharing amount will be deducted from the Federal Government's share.)
- (4) Prosecuting criminal cases under state law directly related to a federal forfeiture. (Sharing percentage will be determined on a case-by-case basis.)

### III. How Do Agencies Participate in the Equitable Sharing Program?

#### A. Joint investigation

Joint investigations are those in which federal agencies work with state or local law enforcement agencies or foreign countries to enforce federal criminal laws. Joint investigations may originate from participation on a federal task force or a formal task force comprised of state and local agencies or from state or local investigations that are developed into federal cases.

#### B. Adoption of a state or local seizure

An adoption occurs when a state or local law enforcement agency seizes property and requests one of the federal seizing agencies<sup>9</sup> to adopt the seizure and proceed with federal forfeiture. Federal agencies may adopt such seized property for forfeiture where the conduct giving rise to the seizure is in violation of federal law and where federal law provides for forfeiture.

A state or local law enforcement agency requesting federal adoption of a state or local seizure must comply with all applicable state laws and regulations pertaining to the transfer of seized property to a federal law enforcement agency, including any requirement for a state judicial order or prosecutorial consent (e.g., declination letter) for such transfer. When required by state law, a state transfer order should be obtained for assets seized pursuant to a state search warrant or a warrantless search to which state jurisdiction has attached. Federal officials should consult with appropriate state or local authorities in adoption situations.

State and local agencies have **30 calendar days** from the date the property is seized to request a federal adoption. The adopting federal agency may waive the 30-day deadline where the state or local law enforcement agency requests a waiver in writing, which must include a written explanation of exceptional circumstances that justify the delay. The lack of personnel to process paperwork will not be considered an exceptional circumstance that would justify an untimely request for federal adoption.

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<sup>9</sup> See part I for details on federal agencies that adopt state and local agency seizures.

#### IV. What Are the Minimum Monetary Thresholds for Adoptive Forfeitures?

Generally, seized property will not be adopted for federal forfeiture unless the equity in the property exceeds the following thresholds:

**Minimum Adoption Thresholds**

Conveyances	Vehicles	\$5,000
	Vessels	\$10,000
	Aircraft	\$10,000
Real Property	Land and Improvements	\$20,000 or 20 percent of the appraised value, whichever is greater
All Other Property	Currency Bank Accounts Monetary Instruments Jewelry, etc.	\$2,000
	Firearms	May be forfeited regardless of value

The United States Attorneys, in consultation with federal seizing agencies and state and local law enforcement, may institute higher or lower district-wide thresholds for judicial forfeiture cases as law enforcement or management needs require. Department of Justice Asset Forfeiture Program participating agencies and the Department of the Treasury may set their own thresholds.

Exceptions may be made in individual cases where an overriding law enforcement benefit requires the seizure of an asset that does not meet the thresholds. In such cases, the thresholds may be waived when forfeiture will serve a compelling law enforcement interest, such as the forfeiture of a crack house, a conveyance with hidden compartments, or a vehicle used in alien smuggling that is seized at an international border. Any downward departure from the monetary thresholds in individual cases must be approved in writing by a supervisory level official, and an explanation of the reason for the departure must be noted in the case file. For example, an appropriate basis for a downward departure is that the owner or person in possession of the property has been arrested or will be criminally prosecuted.

Lower thresholds may not necessarily result in increased sharing with state and local law enforcement agencies. Because sharing is always based on net proceeds, forfeiture of property with a lower value may result in no net proceeds to share.<sup>10</sup>

<sup>10</sup> See part VII.E for a definition of *net proceeds*.

## V. How Is Property Federally Forfeited?

Forfeiture is the taking of property derived from a crime, involved in a crime, or that which makes a crime easier to commit or harder to detect without compensating the owner.

### A. Administrative forfeiture

Administrative forfeiture is the process by which federal seizing agencies may declare property forfeited to the United States without judicial involvement.<sup>11</sup> Seizures must be based on probable cause. Federal law authorizes the seizing or adopting federal agency to administratively forfeit:

#### Maximum Administrative Forfeiture Thresholds

Monetary Instruments	(e.g., cash, checks, stocks, bonds)	Unlimited Value
Hauling Conveyances	(e.g., vehicles, vessels, and aircraft used to transport illegal drugs)	Unlimited Value
Other Property	(e.g., bank accounts, jewelry, etc.)	\$500,000 or less

### B. Judicial forfeiture

Judicial forfeiture, both civil and criminal, is the process by which property is declared forfeited to the United States by a court.<sup>12</sup> It is required for any property other than monetary instruments and hauling conveyances if:

- (1) the value of the other property exceeds \$500,000;
- (2) a valid, timely claim has been filed in an administrative forfeiture; or
- (3) the property is real estate.

<sup>11</sup> See Appendix A for additional information on the different types of federal forfeiture.

<sup>12</sup> *Id.*



## VI. How Do Agencies Apply For An Equitable Share?

After the seizure in a joint investigation or adoption in an adoptive case, a state or local agency may request a share of the property by submitting a Form DAG-71, Application for Transfer of Federally Forfeited Property, to the federal seizing agency.<sup>13</sup> A separate Form DAG-71 must be completed for each asset to be shared.<sup>14</sup>

### A. Completing the Form DAG-71

1. In the upper right-hand corner of the Form DAG-71, enter the date, the name of the federal agency handling the seizure, and the federal agency case number.
2. Leave Part I of the Form DAG-71 blank. It is for federal use only.
3. In Part II, provide the state or local law enforcement agency's name, address, and the National Crime Information Center (NCIC) code or ORI tracking number. Enter the agency's name exactly as listed on the NCIC registration or the Equitable Sharing Agreement and Certification form.
4. The contact person is the person who has knowledge of the case and will be able to answer questions about the investigation.
5. In Part III under "Asset Requested" and "Property Requested," provide a complete description of the asset. If the asset is a vehicle, include the VIN, make, model, and type. If the asset is real property, include the full address and the block and lot number.
6. Place a check in the "Item" block if the agency requests an asset for official use, or place a check in the "Cash/Proceeds" block if requesting cash or proceeds and include the requested percentage.
7. In Part IV, state how the shared funds are intended to be used. Check all blocks that are appropriate and complete "Other" if the intended use is not listed.
8. In Part V, provide all pertinent information about the agency's contribution to the investigation. Include work hours spent by law enforcement officers on the seizure or subsequent hours expended in support of the forfeiture. For cases involving multiple assets, a separate Form DAG-71 needs to be submitted for each asset. Work hours must be stated for each seizure, not the total number of hours worked on the investigation.
9. Complete Part VI by providing a brief description of the case and a thorough explanation of the agency's contribution to the investigation. Never assume the deciding authority knows the details of the case or the agency's role.

<sup>13</sup> See Appendix D for a copy of the Form DAG-71 and other supplemental instructions.

<sup>14</sup> The Form DAG-71 (see Appendix D) and the Equitable Sharing Agreement and Certification (see Appendix E) are current as of the date of the printing of this *Guide*. The most current versions of these forms are available on the Department of Justice Web site at [www.usdoj.gov/criminal/afmls/forms](http://www.usdoj.gov/criminal/afmls/forms).

10. In Part VII.B, the county attorney, city attorney, district attorney, state attorney, or law enforcement agency counsel can sign as legal counsel.

Sharing requests must be submitted within 60 days after the seizure or within 60 days after the federal adoption of a state or local seizure. The 60-day rule may be waived by the federal seizing agency in exceptional circumstances upon a written request stating the reasons for the late submission of the equitable sharing request which would justify the waiver. The waiver request must accompany the Form DAG-71. In judicial forfeitures, an agency may amend its Form DAG-71 within 60 days after forfeiture to reflect any continued participation in the case.

No sharing request will be considered after the forfeited property has been distributed, deposited into the Assets Forfeiture Fund, or otherwise disposed of according to law.

### **B. Common causes of delay**

Forfeiture, like all legal proceedings, takes time. Equitable sharing may occur only after the federal forfeiture has been completed, the United States has taken clear title to the property, the property has been sold or otherwise disposed of as provided by law, and a final sharing decision has been made by the appropriate federal official. Listed below are some factors that may delay sharing:

1. If the forfeiture involves victims of crime who may be entitled to remission or restitution, sharing cannot occur until the victims' claims are resolved. All available funds must be used to compensate victims before any sharing payments are made.
2. If the forfeiture involves property that must be sold, the sale must be completed and the net proceeds determined before sharing may occur.
3. If the agency submits an incomplete Form DAG-71, the missing information must be provided before sharing can occur. For example, if the form does not contain complete or specific information about the contribution of the local law enforcement agency, such as the number of hours expended and any unique or indispensable contribution by the local law enforcement agency, then that information must be provided before sharing will be authorized. Federal agencies submitting equitable sharing packets must also include federal agency work hours. Federal investigative work hours are always required in joint cases so that the relative degree of participation of the agencies can be determined. The equitable sharing deciding authority cannot evaluate the sharing request without this information.
4. Distribution in equitable sharing cases involving forfeited assets with a total value of \$1 million or more requires the approval of the Deputy Attorney General. Equitable sharing packages forwarded to AFMLS must include all assets listed in the forfeiture order. For example, where a forfeiture order includes cash in the amount of \$1.5 million, a bank account containing \$500,000, and six other assets such as automobiles and pieces of jewelry worth \$30,000, the Deputy Attorney General is the equitable sharing decision-maker for all eight assets.
5. The USMS electronically transfers equitable sharing payments to a participating state or local law enforcement agency's bank account. If the USMS does not have an agency's

banking information, the funds cannot be transferred. To facilitate wire transfers, all participating agencies must complete and submit an Automated Clearing House (ACH) Vendor form to the USMS. If an agency's banking information changes, an updated ACH Vendor form must be submitted. The ACH Vendor form may be downloaded from [www.usdoj.gov/criminal/afmls/forms](http://www.usdoj.gov/criminal/afmls/forms) or [www.usmarshals.gov/assets/eshare](http://www.usmarshals.gov/assets/eshare).

6. In cases involving both domestic and international sharing, international sharing must be completed before domestic sharing can occur. International sharing, which requires both Department of Justice and Department of State approval and concurrence by the Department of the Treasury, often takes additional time to complete.

## VII. How Is an Agency's Equitable Share Determined?

### A. Adoptive seizures

The federal share in adoptive cases where 100 percent of pre-seizure activity was performed by a state or local agency will generally be 20 percent of the net proceeds.

### B. Joint investigations with federal agencies

Equitable shares allocated to a law enforcement agency must bear a reasonable relationship to the agency's direct participation in the investigation or law enforcement effort resulting in the forfeiture. The deciding authority ordinarily determines equitable shares by comparing the number of work hours expended by each agency participating in the seizure. Where the work hours alone do not reflect the contribution of a law enforcement agency, the deciding authority considers qualitative factors in making a sharing allocation. In determining the amount of an adjustment based on qualitative factors, the deciding authority will consider such factors as:

- the inherent importance of the activity;
- the length of the investigation;
- whether the agency otherwise entitled to an adjustment would already receive a comparatively large share based on reported work hours;
- whether an agency originated the information leading to the seizure;
- whether an agency provided unique and indispensable assistance;
- whether an agency initially identified the assets for seizure;
- whether an agency seized one or more assets that were forfeited in non-federal proceedings during the same investigation; or
- whether the agency could have achieved forfeiture under state law but instead joined forces with the United States to conduct a more effective investigation or prosecution.

The presence of any of the above qualitative factors may warrant an adjustment in the percentage awarded to an agency. If, and to what extent, an adjustment is warranted is within the discretion of the deciding authority and will be done on a case-by-case basis.

If certain criteria are satisfied, state and local law enforcement agencies that are members of a task force may receive equitable sharing based upon the task force written sharing agreement. In no case will the federal share be less than 20 percent.

#### 1. Spin-off investigations

In a case where assets are seized in an investigation that is a spin-off of a larger multi-agency investigation, the deciding authority may approve sharing with an agency that contributed work hours to both the initial investigation and the spin-off seizure. In limited instances, the deciding authority may

determine that an agency which did not participate in the subsequent seizure but provided indispensable assistance in the initial investigation that aided investigators in the spin-off investigation is eligible for a share of the asset from that spin-off case. The determination of an agency's eligibility to share in assets seized in spin-off investigations will be made on a case-by-case basis.

### C. Sharing in task force cases

Many task forces involving federal, state, and local law enforcement agencies have pre-arranged, written equitable sharing agreements based upon relative numbers of personnel and other contributions to the task force operation. The following criteria apply to both formal and informal task forces and these pre-arranged percentages will be honored only when:

- the agreement is in writing, signed, and dated by all participating agencies, and reviewed and updated annually;
- the pre-arranged sharing percentages fairly reflect overall agency contributions to the task force, including accounting for any participation by a federal agency;
- the deciding authority is satisfied that the pre-arranged percentages continue to reflect the true overall agency contributions to the task force, including accounting for any participation by a federal agency;
- the task force has a well-defined subject area or organization target as its focus, and the specific seizures are part of the overall investigative function of the task force (e.g., an airport seizure by an airport interdiction task force is part of an investigation of airport drug smuggling, not simply an investigation of a particular smuggler); and
- the agreement is made before or at the onset of an investigation; the deciding authority will not honor informal sharing agreements agreed upon following the conclusion of an investigation.

If the total appraised value of all assets in a single administrative or judicial forfeiture order is \$1 million or greater, a copy of the task force agreement must be submitted along with the completed Form DAG-71.

#### 1. Formally chartered task forces

The Department of Justice will generally honor written sharing agreements by formal task forces that are legal entities entitled to receive and spend money. A formal task force may receive a sharing disbursement by indicating its NCIC/ORI tracking number or equitable sharing tracking number assigned by AFMLS on the Form DAG-71. Alternatively, separate disbursements may be made to the members of a formally chartered task force based on its agreed sharing percentages.

## 2. Informal task forces

The Department of Justice will generally honor written sharing agreements by informal task forces when the informal task force itself is a permanent or semi-permanent entity established to conduct a long-term investigation of multiple targets committing similar violations in a particular location or of a single target engaged in multiple criminal activities over a lengthy period of time such that multiple forfeiture cases over the life of the task force are likely. If the informal task force and its pre-arranged percentages are acceptable, separate sharing amounts will be disbursed to each individual law enforcement agency in the task force. No funds will be disbursed to the informal task force itself. A joint investigation of a specific target or organization does not constitute an informal task force simply because it is labeled as such. So-called task force agreements based merely on jurisdictional boundaries will not be honored.

For example, an acceptable investigation of multiple targets includes a long-term interdiction operation at a local airport. An acceptable investigation of a single-target might be a long-term investigation of a major drug trafficking organization where participating agencies work on different aspects of the investigation.

### D. Equitable sharing deciding authorities

#### 1. Investigative agency

If the total appraised value of all the assets forfeited in a single *administrative* forfeiture order is less than \$1 million, the investigative agency determines the appropriate equitable share for each asset and requesting agency.

#### 2. United States Attorney

If the total appraised value of all the assets forfeited in a single *judicial* forfeiture order is less than \$1 million, the United States Attorney determines the appropriate equitable share for each asset and requesting agency.

#### 3. Deputy Attorney General<sup>15</sup>

In either multi-district cases, cases involving the equitable transfer of real property, or cases where the total appraised value of all the assets forfeited in a single administrative or judicial forfeiture order is \$1 million or more, the Deputy Attorney General determines the appropriate equitable share of each asset. In determining whether the \$1 million threshold has been reached, the federal seizing agency and the United States Attorney processing a sharing request must combine the current “Asset Value” listed in the Consolidated Asset Tracking System (CATS) of each of the assets included in the forfeiture order or declaration of forfeiture. If the total value for all of the assets is \$ 1 million or greater, the Deputy Attorney General is the equitable sharing decision-maker for all of the assets. Property forfeited under a single judicial order cannot be split up or separated so that only those individual

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<sup>15</sup> By order dated June 5, 1995, the Deputy Attorney General delegated his authority to make final equitable sharing decisions to the Assistant Attorney General for the Criminal Division in cases where the seizing agency, the United States Attorney, and AFMLS agree on the allocation of forfeited property.

pieces of property with values greater than \$1 million are sent to the Deputy Attorney General for sharing decisions.

**E. Sharing always based on net proceeds**

Equitable sharing is based on the net proceeds of the forfeiture, which is calculated as follows:

Gross receipts	From forfeiture or the sale of forfeited property
Less	<p>Qualified third-party interests (e.g., valid liens or mortgages)</p> <p>Money paid to victims (persons who incurred a monetary loss of a specific amount as a direct result of the offense underlying the forfeiture, or a related offense)</p> <p>Federal case-related expenses (e.g., advertising costs, out-of-pocket investigative or litigation expenses)</p> <p>Federal property management and disposition expenses (e.g., appraisal, storage, security, sale)</p> <p>Any award paid to a federal informant</p> <p>Payments for the services of experts and consultants with whom the Department of Justice has contracted to assist in asset identification, seizure, management, forfeiture, or disposition, wherever it is feasible and economically practicable to directly trace such costs and allocate them on a reasonable and consistent basis among the assets subject to forfeiture</p> <p>International sharing</p> <p>Any reimbursements relating to the seizure from the Assets Forfeiture Fund to the requesting agency (e.g., overtime, leased space)</p>
Equals	Net Proceeds of the Forfeiture

Federal law mandates that sharing is discretionary. Therefore, any equitable sharing payments to be disbursed to state and local law enforcement agencies that amount to less than \$50.00 after all expenses are paid will be extinguished and the funds will remain in the Assets Forfeiture Fund.



## VIII. What Are the Uses of Equitably Shared Property?

### A. Law enforcement uses

Except as noted in this *Guide*, equitably shared funds shall be used by law enforcement agencies for law enforcement purposes only. Subject to laws, rules, regulations, and orders of the state or local jurisdiction governing the use of public funds available for law enforcement purposes, the expenses noted below are pre-approved as permissible uses of shared funds and property.

To avoid a conflict of interest or the appearance of a conflict of interest, any employee of any federal, state, or local governmental agency (or members of his or her immediate family or those residing in his or her household) who was involved in the investigation which led to the forfeiture of the property to be sold by the USMS contractor is prohibited from purchasing, either directly or indirectly, forfeited property. Additionally, Department of Justice employees and contractors may not, without prior written approval of a designated agency official, directly or indirectly purchase property that has been forfeited to the United States; or personally use such property that has been directly or indirectly purchased from the United States by a member of his or her immediate family.

The fact that shared property was forfeited as a result of a particular federal violation does not limit its use. For example, when an agency receives a share of property that was forfeited for a federal drug violation, the recipient is not limited in its use of the property in the recipient agency's drug enforcement program. Among the following uses, priority should be given to supporting community policing activities, training, and law enforcement operations:

#### 1. Permissible uses

- a. **Law enforcement investigations**—the support of investigations and operations that may result in furthering the law enforcement goals and mission, e.g., payment of overtime for officers and investigators; payments to informants; “buy,” “flash,” or reward money; and the purchase of evidence.
- b. **Law enforcement training**—the training of officers, investigators, prosecutors, and law enforcement support personnel in any area that is necessary to perform official law enforcement duties. Priority consideration should be given to training in: (1) asset forfeiture in general (statutory requirements, policies, procedures, case law); (2) the Fourth Amendment (search and seizure, probable cause, drafting affidavits, confidential informant reliability); (3) ethics and the National Code of Professional Conduct for Asset Forfeiture,<sup>16</sup> (4) due process; (5) protecting the rights of innocent third parties (individuals and lienholders); (6) use of computers and other equipment in support of law enforcement duties; and (7) this *Guide*.
- c. **Law enforcement and detention facilities**—the costs associated with the purchase, lease, construction, expansion, improvement, or operation of law enforcement or detention facilities used or managed by the recipient agency. For example, the costs of leasing,

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<sup>16</sup> See Appendix B for a copy of the National Code of Professional Conduct for Asset Forfeiture.



operating, and furnishing an off-site undercover narcotics facility is a permissible use of shared funds. Capital improvements should not be made on leased property or space since the law enforcement agency will not benefit from the improvements upon termination of the lease; improvement costs are generally covered in the terms of the lease. Approval from AFMLS is required prior to making such capital expenditures.

- d. **Law enforcement equipment**—the costs associated with the purchase, lease, maintenance, or operation of law enforcement equipment for use by law enforcement personnel that supports law enforcement activities. For example, furniture, file cabinets, office supplies, telecommunications equipment, copiers, safes, fitness equipment, computers, computer accessories and software, body armor, uniforms, firearms, radios, cellular telephones, electronic surveillance equipment, and vehicles (e.g., patrol cars and surveillance vehicles).
- e. **Law enforcement travel and transportation**—the costs associated with travel and transportation to perform or in support of law enforcement duties and activities. All related costs must be in accordance with the agency’s state per diem and must not create the appearance of extravagance or impropriety.
- f. **Law enforcement awards and memorials**—the cost of award plaques and certificates for law enforcement personnel, provided that the plaque or certificate is in recognition of a law enforcement achievement, activity, or the completion of law enforcement training, and the cost does not create the appearance of extravagance or impropriety. Shared funds may not be used to pay cash awards.

Shared funds may be used to pay the costs for modest commemorative plaques, displays, or memorials that serve to recognize or memorialize a law enforcement officer’s contributions, such as a memorial plaque or stone at a police department facility in honor of officers killed in the line of duty.

- g. **Drug and gang education and awareness programs**—the costs associated with conducting drug or gang education and awareness programs by law enforcement agencies. Such costs include meeting costs, anti-drug abuse literature costs, travel expenses, and salaries for officers working in a drug education program such as DARE.
- h. **Matching funds**—the costs associated with paying a state or local law enforcement agency’s matching contribution or share in a federal grant program, provided that the grant funds are used for a permissible law enforcement purpose in accordance with this *Guide* or where such use is authorized by federal law.
- i. **Pro rata funding**—a law enforcement agency’s percentage of the costs associated with supporting multi-agency items or facilities. For example, if a town purchases a new computerized payroll system, and the police department payroll represents 20 percent of the total use of the payroll system, then the police department may use shared money to fund its pro rata share (20 percent) of the operating and maintenance expenses of the system.

- j. **Asset accounting and tracking**—the costs associated with the accounting, auditing, and tracking of expenditures for federally shared cash, proceeds, and tangible property. For example, the use of shared funds to pay the fees associated with the contracting of a bookkeeper is permissible.

The OMB Single Audit Act requires any agency that expends more than \$500,000 in federal funds in an agency's fiscal year to complete an external audit. The use of forfeiture funds to perform this audit is permissible.

- k. **Language assistance services**— In connection with their law enforcement activities and operations, recipient agencies are encouraged to consider the need for language services for persons with limited English proficiency and, consistent with the provisions of this *Guide*, may use shared funds to provide such services. Examples of such permissible uses include the costs of language training for law enforcement personnel and 911 operators, contracting for interpretation services, and printing law enforcement documents in foreign languages.
- l. **Transfers to other law enforcement agencies**—Cash transfers of shared funds from one state or local law enforcement agency to another are permitted. In order to receive a cash transfer of shared funds, the law enforcement agency must be in compliance with the Agreement, Certification and Audit provisions of this *Guide* (see part X). All cash transfers must be used in accordance with the permissible use provisions of this *Guide*. The agency transferring the funds is responsible for verifying that the recipient agency is eligible to receive sharing. The transfer must be reported on the Equitable Sharing Agreement and Certification form filed by both the donor and recipient agencies.
- m. **Support of community-based programs**—A state or local law enforcement agency or prosecutor's office may use up to 15 percent of the total of shared monies received by that agency in the last two fiscal years for the costs associated with drug abuse treatment, drug and crime prevention education, housing and job skills programs, or other nonprofit community-based programs or activities that are formally approved by the chief law enforcement officer (e.g., chief, sheriff, prosecutor). All expenditures must be supportive of and consistent with a law enforcement effort, policy, and/or initiative.

**Cash transfers to community-based programs are not permitted.** State and local law enforcement agencies are prohibited from making cash transfers or donations to support community-based programs. Instead, agencies may directly purchase supplies, equipment, and/or services for eligible community-based programs, or reimburse such programs for eligible expenditures with a valid, itemized receipt. See Appendix C for guidelines to determine a community-based program's eligibility.

- n. **Windfall situations**—Where the total amount of federal equitable sharing received within one fiscal year represents over 25 percent of a state or local law enforcement agency's annual budget, recipient agencies may utilize the amount over 25 percent to provide additional support to community-based programs as referenced in letter m above. For

example, if an agency's annual appropriated budget is \$1 million and the agency receives a total of \$300,000 in equitable sharing funds during the fiscal year, the amount above \$250,000 (25 percent of the agency's budget), or \$50,000, is considered a "windfall." The agency, in its discretion, may use all or part of this money in addition to the 15 percent permitted under section m above. In windfall situations, AFMLS may require additional auditing and/or reporting regarding the agency's handling and expenditure of funds.

## 2. Impermissible uses

- a. **Salaries—Equitable sharing monies may not be used to pay the salaries and benefits of current, permanent law enforcement personnel, except in limited circumstances.** The purpose of this rule is to protect the integrity of the asset forfeiture and equitable sharing programs so that the prospect of receiving equitable sharing monies does not influence, or appear to influence, law enforcement decisions.

Exception: Equitable sharing funds may be used to pay the salaries and benefits of law enforcement officers in the following limited situations:

- (1) **Express statutory authorization**—When federal law expressly permits state and local law enforcement agencies to use equitably shared funds to pay the salaries and benefits of local law enforcement officers or as matching funds in federal grant programs, such use is permissible. For example, the Community Oriented Policing Services (COPS) program established by the Violent Crime Control and Law Enforcement Act of 1994, allows state and local law enforcement agencies to use equitably shared funds to meet the local match requirements of that program, including grants for salaries and benefits.
- (2) **Overtime of officers and investigators**—Shared funds may be used to pay the overtime of officers and investigators involved in law enforcement operations. This policy is applicable to all officers and is not limited to those working on drug-related investigations.
- (3) **New positions and temporary or not-to-exceed one year appointments**—Shared funds may be used to pay the first year's salary and benefits of an individual hired for a new sworn law enforcement position that supplements the current law enforcement work force. After the first year, the salary and benefits for that position must be paid entirely from the agency's appropriated funds. Shared funds may also be used to pay the salaries of temporary (less than one year) positions or not-to-exceed one year appointments. This exception applies strictly to sworn law enforcement positions. Shared funds may not be used to provide funding for unsworn, support personnel (e.g., administrative, secretarial, or clerical positions).

- (4) **Salary of an officer hired to replace an officer assigned to a task force**—When a law enforcement agency assigns a law enforcement officer to a task force<sup>17</sup> for a period of at least one year or the life of the task force and hires a new law enforcement officer to replace the officer so assigned, the agency may pay the salary and benefits of the replacement officer from equitably shared funds so long as the replacement officer does not engage in the seizure of assets or narcotics law enforcement as a principal duty.<sup>18</sup>

A principal duty is a duty that the officer is expected to perform regularly. In order to pay the replacement officer's salary with equitably shared funds, the task force must be a law enforcement entity constituted under federal, state, or local law that is primarily engaged in specific and targeted law enforcement activities involving more than one law enforcement agency. In addition, the chief administrative officer of the law enforcement agency assigning an officer must not maintain direct day-to-day operational control of the task force although he or she may participate in the policy-level control of such task force.

When a law enforcement agency has assigned an officer and paid for the replacement as specified above, and it becomes necessary to return the officer from the task force, the law enforcement agency may continue to use forfeited funds to pay for the salary and benefits of the replacement officer for a period not to exceed six months.<sup>19</sup>

- (5) **Specialized programs**—A law enforcement agency may pay the salary and benefits of a law enforcement officer assigned to specific approved specialized programs which do not generally involve traditional law enforcement functions. Officers assigned to programs such as DARE do not routinely perform narcotics law enforcement or seizure duties. Accordingly, there is little risk that their conduct will actually influence law enforcement priorities or create a conflict of interest.

- b. Use of forfeited property by non-law enforcement personnel**—Non-law enforcement agency personnel are not permitted to use shared vehicles, forfeited property, or items purchased with shared funds.

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<sup>17</sup> For example, groups of state and local law enforcement agencies frequently establish separate units under the command of an experienced officer. All assigned agents have full law enforcement power within the combined area of the constituent agencies. The chief of police of any one constituent agency does not exercise day-to-day individual command authority over the task force but may sit as a member of a Steering Committee, Board of Directors, or other supervisory authority which sets general task force policies.

<sup>18</sup> For example, Officer Y is assigned to a task force. The agency may then hire Officer Z and may pay Officer Z's salary from asset forfeiture funds. Officer Z may not be assigned to a narcotics unit and he may not be assigned to a unit that identifies assets for seizure. If during Officer Z's routine patrol duties, he stops a vehicle found to contain narcotics and cash, the agency may continue to pay Officer Z's salary from asset forfeiture funds.

<sup>19</sup> This provision is designed to afford law enforcement agencies the opportunity to rearrange staffing assignments without suffering severe financial hardships and also recognizes that the hiring process can take time.

- c. **Payment of education-related costs**—Shared funds may not be used for scholarships, financial aid, or non-law enforcement classes. Only tuition for law enforcement classes necessary to the performance of an officer’s official duties is permitted.
  - d. **Uses contrary to the laws of the state or local jurisdiction**—Shared funds and property may not be used for any purpose that would constitute an illegal or improper use of state or local law enforcement funds or property under the laws, rules, regulations, and orders of the state or local jurisdiction of which the agency is a part.
  - e. **Non-official government use of shared assets**—Any use that creates the appearance that shared funds are being used for political or personal purposes is not permitted. For example, the use of shared funds for a sheriff’s campaign paraphernalia is impermissible.
  - f. **Purchase of food and beverages**—Shared funds generally may not be used to pay for food and beverages (alcoholic and non-alcoholic) for consumption by law enforcement personnel or their guests, except for the limited circumstances listed below:
    - (1) **Conference package policy**—Shared funds may be used to purchase food and beverages provided as part of a conference package. For example, a hotel provides complimentary coffee and bagels for breakfast with the rental of its conference room for an authorized training event. The same conference package rule applies to food or beverages served at a banquet or party to recognize law enforcement achievements.
    - (2) **Meals during local operations**—Shared funds may also be used to purchase food and beverages if state or local law or rules governing reimbursement of expenses permit officers to be reimbursed for such expenses, e.g., meals purchased while an officer is on official travel, attending a training conference, or engaged in a disaster operation, such as earthquake or hurricane relief.
  - g. **Extravagant expenditures**—Receiving agencies should use federal sharing monies prudently and in such a manner as to avoid any appearance of extravagance, waste, or impropriety. For example, tickets to social events, hospitality suites at conferences, or meals outside of the per diem are impermissible uses of shared funds.
3. **General guidance concerning use**
- a. **Windfall situation**—In a windfall situation, where an agency receives equitable sharing funds totaling more than 25 percent of its budget in a fiscal year, the agency may be subject to additional audit and reporting requirements.
  - b. **Use of interest income**—Interest earned on forfeited cash or proceeds must be deposited into the agency’s equitable sharing revenue account and used for law enforcement purposes and is subject to the same use restrictions as shared cash or proceeds.

- c. **Anticipated shared property should not be budgeted**—Agencies should not “spend it before you get it” or budget anticipated receipts. Receiving agencies may not commit to the spending of sharing monies for a certain purpose in advance. For example, if a local law enforcement agency files a Form DAG-71 to request a 50 percent share of \$100,000, the \$50,000 should not be obligated or budgeted for two reasons: (1) the completion of the forfeiture is uncertain; and (2) the amount of the sharing that will ultimately be approved is also uncertain.
- d. **Shared monies should not be retained unnecessarily**—Shared monies normally should be expended for their designated use or other permissible law enforcement purpose as they are received. Shared monies may be retained in a holding account for up to three years to satisfy future needs or retained longer for major long-term expenditures such as capital improvements.
- e. **Use of proceeds from sale of shared property**—Proceeds from the sale of shared property, facilities, equipment, and other items acquired with shared funds must be deposited into the agency’s equitable sharing revenue account and are subject to the same permissible use restrictions and reporting requirements as shared cash or proceeds, in accordance with the provisions of this *Guide*.

## **B. Increase and not replace**

Sharing must be used to increase or supplement the resources of the receiving state or local law enforcement agency or any other ultimate recipient agency. Shared resources **shall not be used** to replace or supplant the appropriated resources of the recipient. The recipient agency must benefit directly from the sharing. In determining whether supplantation has occurred, the Department of Justice will examine the law enforcement agency’s budget as a whole and allow agencies to use equitable sharing funds for any permissible purpose as long as shared funds **increase the entire law enforcement budget**. The Department of Justice may terminate sharing with law enforcement agencies that are not permitted by their governing authorities to benefit directly from equitable sharing.

*Example of Improper Supplantation:* A police department receives \$100,000 in federal sharing money only to have its budget cut \$100,000 by the city council. In this instance, the police department has received no direct benefit from equitable sharing whatsoever. Rather, the city as a whole has received the benefit of the sharing.

## **C. Transfer of forfeited real property**

The transfer of federally forfeited real property is permitted only in the following three situations:

1. Through the equitable sharing process, real property may be transferred to a state or local agency which substantially participated in the investigation that led to the seizure of the property. The agency must demonstrate a compelling law enforcement need for the property and outline its intended use on the DAG-71 form. The agency must also sign a memorandum of understanding with regard to the use of the property and agree to pay any federal costs/expenses as well as the federal share before the transfer will be approved.



*Example:* A state police department assists in the seizure of a farm where drugs were grown. The agency may request the property instead of the proceeds from its sale if the agency has a compelling need, such as a law enforcement training facility or a police substation.

2. The Weed and Seed Initiative<sup>20</sup> authorizes the transfer of federally forfeited real property through state or local law enforcement agencies to private, nonprofit organizations to support drug abuse treatment, drug and crime prevention and education, housing, and job skills programs, or other community-based programs. The requirements of the Weed and Seed Initiative are as follows:
  - a. The initial recipient of the property must be a state or local law enforcement agency which participated in the investigation that resulted in the forfeiture;
  - b. The ultimate recipient must be an appropriate nonprofit organization, which agrees to use the property in compliance with the initiative and agrees that if the property ceases to be used for its intended purposes for a specified time period, title may revert back to the United States.
  - c. Any state or local agency with a claim to an equitable share of the property must agree to waive the claim.
  - d. A Form DAG-71 must be submitted by the initial recipient to the USAO identifying the property to be transferred to the nonprofit organization pursuant to the Weed and Seed Initiative.
  - e. The USAO must submit a “Request for Transfer of Real Property Pursuant to the Weed and Seed Initiative” and a draft Memorandum of Understanding along with the Form DAG-71 to AFMLS.
  - f. AFMLS will submit the completed package to the Deputy Attorney General for approval of the transfer.

Generally, title to real property will be transferred to the state or local law enforcement agency. If the initial recipient state or local law enforcement agency is not authorized to take title to the real property, then either the state or local government agency authorized to accept title on behalf of the law enforcement agency will receive title, or under certain circumstances, the Department of Housing and Urban Development may be able to take title to the property for re-transfer to the Weed and Seed recipient.

Questions on transfers pursuant to the Weed and Seed Initiative should be directed to AFMLS.

<sup>20</sup> See *Asset Forfeiture Policy Manual* (2008), Chap. 6, Sec. VIII.

3. A governor of a state in which a forfeited property is located may request that the property be transferred to that state for recreational or historic purposes or for the preservation of natural conditions. See 21 U.S.C. § 881(e)(4)(B). The Deputy Attorney General must approve these transfers.

#### **D. Transfer of forfeited tangible personal property**

1. Any forfeited tangible property (any property other than real estate) transferred to a state or local agency for official use must be used for law enforcement purposes only. Moreover, such transferred property is subject to the rules applicable to similar property purchased by a state or local agency with appropriated funds. Finally, forfeited luxury motor vehicles—an automobile with a National Automotive Dealers Association (NADA) wholesale value of \$50,000 or more—may be placed in official use only for undercover law enforcement purposes.

*Example:* A federally forfeited SUV is assigned to a state or local law enforcement official who is not authorized to use a government vehicle under local rule. This is impermissible because the forfeited SUV would be subject to the same use restrictions as purchased vehicles.

*Example:* A federally forfeited luxury car worth more than \$50,000 is assigned to a law enforcement official who is authorized to use a government vehicle, but the luxury vehicle is used for routine law enforcement work. This is impermissible because a luxury vehicle is being used for purposes other than undercover work, thereby misusing government resources and creating an appearance of impropriety.

2. The recipient law enforcement agency may, at its discretion, transfer the tangible property to another governmental department or agency to support drug abuse treatment, drug and crime prevention and education, housing, and job skills programs, or other community-based programs. Such governmental department or agency may, in turn, transfer any tangible property so received to a private, nonprofit community organization to be used for such purposes.

Tangible property transferred for official law enforcement use must be used for at least two years. If, however, the property becomes unsuitable for the stated purpose before the end of the two-year period, it may be sold with approval from AFMLS and the proceeds deposited in the agency's federal equitable sharing revenue account and used in compliance with this *Guide*.



### **E. Reimbursement of federal costs**

State and local law enforcement agencies that receive real property or tangible personal property must pay the Department of Justice Assets Forfeiture Fund for any liens, costs related to storage or maintenance, costs of shares to other agencies, and the federal share. If the agency is unable to pay these expenses with appropriated or equitably shared funds, these costs can be charged against the agency's equitable share of other assets in the case. If the requesting agency is unable to pay the federal share, costs, and the shares of other agencies, the property will be sold and the proceeds equitably distributed to participating agencies.

### **F. Return of equitably shared funds**

On occasion, a criminal conviction, forfeiture order, or equitable sharing decision may be reversed after the equitable sharing payments have been disbursed to state and local law enforcement agencies. In such cases, it may be necessary for the shared funds to be returned to the United States. The state and local agency recipients will be notified of the reversal by the Department of Justice component that rendered the equitable sharing decision. When such a return of funds is necessary, the recipient state or local agency will have the option of either: (A) returning the funds via a check to the USMS or (B) having an equivalent amount off-set against future equitable sharing. When an agency elects to have the funds off-set against future sharing, it must contact the USMS District Office in writing.

## **IX. What Are the Accounting Procedures and Requirements for Shared Cash, Proceeds, and Tangible Property?**

All participating state and local law enforcement agencies must implement standard accounting procedures and internal controls (e.g., tracking share requests and receipts, electronically depositing shares into a separate revenue account or accounting code) to track equitably shared monies and tangible property. Those procedures must be consistent with those set forth below.

### **A. Bookkeeping procedures and internal controls**

The state or local participating law enforcement agency must:

1. Establish a separate revenue account or accounting code through the agency's finance department for the proceeds from the Department of Justice Equitable Sharing Program. This account or accounting code will be used solely for funds from the Department of Justice Equitable Sharing Program. No other funds may be included in this account or with this accounting code.

This bank account information must be provided to the USMS on the ACH Vendor form. The process of electronic payments, known as E-Share, provides a fast, efficient, and secure method of making equitable sharing payments. Participation in the program is mandatory. The form may be downloaded from [www.usmarshals.gov/assets.eshare](http://www.usmarshals.gov/assets.eshare) or [www.usdoj.gov/criminal.afmls](http://www.usdoj.gov/criminal.afmls).

2. Not commingle Department of Justice equitable sharing funds with funds from any other source. Corrective measures must be taken if this occurs.
3. Deposit any interest income earned on equitably shared funds in the same revenue account or under the accounting code established solely for the shared funds.
4. Maintain a log and copies of all Forms DAG-71 forwarded to the Department of Justice. A consecutive numbering system should be used for control purposes. The log should contain seizure type (property or currency), amount, share amount requested, amount received, and date received.
5. Update the log when an E-Share notification is received. The amount received may differ from the amount requested.
6. Establish an internal procedure to recommend expenditures from the revenue account. In many small agencies, the chief of police determines the purposes for which the funds are used. In larger agencies, committees have been formed to make recommendations for expenditures to the agency head. The agency head must authorize all expenditures from the federal sharing revenue account.
7. Use tangible property placed into official use for a law enforcement purpose for at least two years following the transfer. After two years, the property may be sold for the benefit of the law enforcement agency. All proceeds from the sale of such property must be deposited into

the agency's equitable sharing account. Agencies requesting to sell property prior to two years must obtain approval from AFMLS.

8. Use purchased or acquired luxury automobiles only for undercover assignments.
9. Obtain approval for expenditures from the governing body, such as the town council or city manager's office, if appropriate.
10. Upon final approval, issue contracts or purchase orders to formally disburse deposited assets for goods or services. Deduct purchase orders and contracts from the account balance.
11. Maintain a record of all expenditures from the revenue account or accounting code. These expenditures must be in accordance with this *Guide*.
12. Issue quarterly and yearly reports that detail the actual amounts and uses of the federal asset sharing funds and property within their jurisdiction, if appropriate.

## X. What Are the Reporting and Audit Requirements?

To ensure effective management, promote public confidence in the integrity of the Equitable Sharing Program, and protect the Asset Forfeiture Program against potential waste, fraud, and abuse, the Department of Justice has established for participating law enforcement agencies reporting requirements that include the annual submission of the Equitable Sharing Agreement and Certification form and, if applicable, an audit report. A state or local law enforcement agency must be in compliance with the reporting requirements set forth in this *Guide* to receive any distribution of money or property under the Equitable Sharing Program. An agency is considered to be in compliance once the Equitable Sharing Agreement and Certification form is submitted electronically and the signed Affidavit/Signature page is received within the required deadlines.

### A. Federal Equitable Sharing Agreement and Certification Form

As a prerequisite to participating in the Department of Justice Equitable Sharing Program, a state or local law enforcement agency must annually submit to AFMLS a signed Equitable Sharing Agreement and Certification form. (See Appendix E.) The agreement must be signed by the head of the law enforcement agency and a designated official of the governing body.<sup>21</sup> By signing the Affidavit, the signatories agree to be bound by the statutes and guidelines that regulate the equitable sharing program and certify that the law enforcement agency will comply with these guidelines and statutes.

State and local law enforcement agencies must submit this form within 60 days after the end of an agency's fiscal year, regardless of whether funds were received or maintained during the fiscal year. The report must be completed electronically and emailed to [aca.submit@usdoj.gov](mailto:aca.submit@usdoj.gov).

Once the agency has emailed the form, the Affidavit/Signature page must be printed, signed, and faxed to AFMLS.

<sup>21</sup> For purposes of the Equitable Sharing Agreement and Certification form, a governing body is an institution or organization that has budgetary oversight over the law enforcement agency. A law enforcement official should not sign for the governing body unless the official has budgetary oversight over the agency.

New participants will check the “New Participant” button on the form, enter the agency’s fiscal year end date, current fiscal year budget information, and proceed to the Affidavit/Signature page. Existing participants will check the “Existing Participant” button on the form and complete the Annual Certification Report and the Affidavit/Signature page. Participating agencies must notify AFMLS of any change in administration at the law enforcement agency and/or its governing body by checking the “Change in Administration” button and resubmitting the Agreement and Certification form electronically.

Where the agency or organization submitting the Agreement is a multi-agency task force, Table A of the Equitable Sharing Agreement and Certification form must be completed providing a list of the task force members or participating law enforcement agencies. If the task force distributes or transfers any equitably shared monies or property to any member or participating state or local law enforcement agency, it must ensure that each such recipient agency has a valid Equitable Sharing Agreement and Certification form on file with AFMLS.

If equitable sharing receipts are deposited in an interest bearing account, interest income must be reported on the certification section of the form. Agencies are not required to use interest bearing accounts. If an agency enters a zero in the “interest income accrued,” it must check the non-interest-bearing account box.

If the reporting law enforcement agency uses any funds for “other law enforcement expenses,” “transfers to other law enforcement agencies,” “permissible use transfers,” or “matching grants,” the tables in the certification section of the form must be completed with all requested information. The total values will auto-populate into the certification section of the form.

Agencies that do not receive federal equitable sharing funds or property during a fiscal year must submit the Equitable Sharing Agreement and Certification form listing “0” receipts. The head of the law enforcement agency and a designated official of the governing body must sign the Affidavit page of the Equitable Sharing Agreement and Certification form.

## **B. Annual audit**

State and local law enforcement agencies that receive federally shared cash, proceeds, or tangible property are required to perform an audit consistent with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Per those guidelines, agencies that expend more than \$500,000 in federal funds (e.g., Justice and/or Treasury forfeiture funds, grants, cooperative agreements) per fiscal year are required to conduct an external audit. In such circumstances, an independent accounting firm may be contracted to perform the required audit. Copies of this audit must be retained by the law enforcement agency. Forfeiture funds may be used to pay the fees associated with conducting such audits.

The *Government Auditing Standards*, issued by the U.S. General Accounting Office, must be followed by auditors and audit organizations conducting the required independent financial audit. These standards pertain to the auditor’s professional qualifications, the quality of the audit effort, and the characteristics of professional and meaningful audit reports.

### C. Record retention

State and local law enforcement agencies shall retain for a period of at least five years all documents and records pertaining to their participation in the Department of Justice Equitable Sharing Program and their receipt and expenditure or use of shared cash, proceeds, real property, or tangible personal property, including but not limited to Forms DAG-71, Equitable Sharing Agreement and Certification forms, accounting and bookkeeping documents, logs and records, bank records and statements, and audit reports.

## XI. What If Agencies Do Not Fulfill the Compliance Requirements?

This *Guide* describes the sharing process and is binding upon all state and local agencies seeking federal sharing transfers.

At the time agencies receive shared funds, they will be asked to certify that the cash or property shared will be used consistent with the Form DAG-71 or as otherwise authorized and consistent with the policies set forth in this *Guide*. Noncompliance with the policies of this *Guide* may subject recipient agencies to one or more of the following sanctions:

1. Denial of an agency's sharing request;
2. Temporary or permanent exclusion from further participation in the equitable sharing program;
3. Offsets from future sharing in amounts equal to impermissible uses;
4. Civil enforcement actions in U.S. District Court for breach of contract; or
5. Where warranted, federal criminal prosecution for false statements under 18 U.S.C. § 1001, fraud involving theft of federal program funds under 18 U.S.C. § 666, or other sections of the criminal code, as applicable.

No equitable sharing funds or property will be distributed to any state or local law enforcement agency that is not in compliance with the annual reporting requirements outlined in this *Guide*. A law enforcement agency that has requested an equitable share of federally forfeited money or property in accordance with the provisions of the *Guide* but is not in compliance with the reporting requirements will be notified in writing by AFMLS and will be given 60 calendar days to come into compliance. If the requesting agency comes into compliance within the 60-day period, it will receive any withheld sharing funds or property.

Additional time to comply may be granted upon request. However, if the agency fails to become compliant within one year, the agency's sharing requests will be denied and extinguished, and any equitable sharing money and/or property being held will be deposited into the Department of Justice Assets Forfeiture Fund. Any such denial and the deposit of money and/or property into the Assets Forfeiture Fund shall be final and irrevocable. Any sharing requests for money and/or property not yet forfeited are not affected.

## APPENDIX A:

### What Are the Types of Federal Forfeiture?

Forfeiture is the taking of property derived from a crime, involved in a crime, or that which makes a crime easier to commit or harder to detect.

#### A. Administrative Forfeiture

Administrative forfeiture is the process by which property may be forfeited to the United States without judicial involvement. Federal seizing agencies perform administrative forfeitures. Seizures must be based on probable cause. The authority for a seizing agency to start an administrative forfeiture action is found in 19 U.S.C. § 1607.

Administrative forfeiture can be used to seize and forfeit the following:

- any amount of currency;
- personal property valued at \$500,000 or less, including cars, guns, and boats;
- hauling conveyances of unlimited value.

Real property cannot be forfeited administratively.

If the property owner files a claim, the administrative forfeiture process stops and the Government must bring a forfeiture action in federal court or return the property to the claimant. The seizing agency forwards the claim to the United States Attorney's Office for action.

#### B. Judicial Forfeiture

Judicial forfeiture, civil and criminal, is the process by which property may be forfeited to the United States by filing a forfeiture action in federal court.

- Criminal Forfeiture

Criminal forfeiture is an action brought as part of the criminal prosecution of a defendant that includes the forfeiture of property used or derived from the crime. If the defendant is convicted, the judge or the jury may find that the property is forfeitable. Forfeiture is limited to the property interests of the defendant and only to property involved in the particular counts on which the defendant is convicted. Only the defendant's interest can be forfeited in a criminal case because criminal forfeiture is part of the sentence in the criminal case. For example, if the defendant used someone else's car to commit a crime and the owner of the car was not indicted for the crime in which the car was used, the car cannot be forfeited in the criminal case. Instead, a civil forfeiture case can be filed against the car.

If a third party claims an interest in the property that the Government seeks to forfeit criminally, the issue is determined in an ancillary hearing before the court only after the criminal trial is completed, the defendant convicted, and a preliminary order of forfeiture is entered. Once the interests of third

parties are resolved, the court issues a final order of forfeiture. The order of forfeiture might not happen for months or years, even if the forfeiture is uncontested, resulting in a delay in the disposal of the property.

If the property subject to forfeiture is no longer available, the court can enter a money judgment or order the forfeiture of substitute assets.

- Civil Forfeiture

Civil forfeiture is a proceeding brought against the property rather than against the person who committed the offense. Civil forfeiture does not require either criminal charges against the owner of the property or a criminal conviction.

To obtain a federal forfeiture, the Government must prove the forfeiture and the connection between the property and the crime by a preponderance of the evidence. Forfeiture may be applicable to property that is traceable as proceeds of the offense, that facilitated the offense, or that was involved in money laundering. All claims of interest or ownership in the property, such as property owned by third parties, are resolved in a single trial.



## APPENDIX B:

### National Code of Professional Conduct for Asset Forfeiture

1. Law enforcement is the principal objective of forfeiture. Potential revenue must not be allowed to jeopardize the effective investigation and prosecution of criminal offenses, officer safety, the integrity of ongoing investigations, or the due process rights of citizens.
2. The Constitution and Federal Statutes prohibit the improper use of personal characteristics such as race, color, national origin, gender, or religion to target individuals for law enforcement action.
3. No prosecutor's or sworn law enforcement officer's employment or salary shall be made to depend upon the level of seizures or forfeitures he or she achieves.
4. Whenever practicable, and in all cases involving real property, a judicial finding or probable cause shall be secured when property is seized for forfeiture. Seizing agencies shall strictly comply with all applicable legal requirements governing seizure practice and procedures.
5. If no judicial finding of probable cause is secured, the seizure shall be approved in writing by a prosecuting or agency attorney or by a supervisory-level official.
6. Seizing entities shall have a manual detailing the statutory grounds for forfeiture. This manual will include procedures for prompt notice to interest holders, the expeditious release of seized property where appropriate, and the prompt resolution of claims of innocent ownership.
7. Seizing entities retaining forfeited property for official law enforcement use shall ensure that the property is subject to internal controls consistent with those applicable to property acquired through the normal appropriations processes of that entity.
8. Unless otherwise provided by law, forfeiture proceeds shall be maintained in a separate fund or account subject to appropriate accounting controls and annual financial audits of all deposits and expenditures.
9. Seizing agencies shall strive to ensure that seized property is protected and its value preserved.
10. Seizing entities shall avoid any appearance of impropriety in the sale or acquisition of forfeited property.



## APPENDIX C:

### Guidelines for Determining a Community-Based Program's Eligibility

To ensure that recipient law enforcement agencies administer these guidelines for determining a community-based program's eligibility in accordance with the federal law and Department of Justice policy, an agency's chief law enforcement officer must ensure his or her agency's adherence to the following requirements governing eligibility, background, and compliance of applicants to be eligible to benefit from shared funds. The federal investigating agencies and the United States Attorney's Offices also are tasked with helping to ensure applicants' suitability to receive guidelines for shared funds use expenditures. Once completed, the chief law enforcement officer's certification that an applicant is eligible to benefit from shared funds will remain effective for one year.

#### I. Eligibility

For an applicant to benefit from permissible use expenditures, the chief law enforcement officer shall determine that the applicant fulfills the following eligibility requirements:

##### A. Type of Entity

The applicant must be either:

- (1) a state, county, or local governmental department or agency; or
- (2) a private, nonprofit organization, pursuant to 26 U.S.C. § 501(c)(3) or (4).

##### B. Activity of Entity

The applicant also must be primarily engaged in providing a program that is both:

- (1) community-based; and
- (2) supportive of and consistent with a law enforcement effort, policy, or initiative.

Such programs include, but are not limited to, the following:

- (1) drug abuse treatment;
- (2) drug and crime prevention education;
- (3) providing housing; or
- (4) providing job skills.

In order to assist chief law enforcement officers in determining whether a potential recipient of benefits under the guidelines for supporting community-based programs with shared funds is eligible,

the Department of Justice provides the following non-exclusive list of examples of activities that it has approved in the past as qualifying to benefit from equitable sharing:

- (1) establish a detoxification center;
- (2) fund a Police Athletic League's "Summer Playstreets" program for crime and drug prevention;
- (3) fund a city parks department's anti-gang initiative;
- (4) fund "Law Enforcement Explorer Posts," a Boy Scouts program promoting law enforcement training and community service;
- (5) fund a "Crime Stoppers" program providing reward money and assistance to neighborhood watch groups including training on observance and effective witness skills;
- (6) purchase a computer for teaching job skills and drug and alcohol awareness to probationers;
- (7) fund programs for incarcerated youth, parents of murdered children, and domestic violence victims; and
- (8) fund a methadone clinic.

Considering each of these approved activities, the Department of Justice based its approval on the activity's nexus to a law enforcement interest, whether:

- (1) direct (e.g., paying rewards for key information);
- (2) preventative (e.g., funding a methadone clinic, drug awareness program, anti-gang initiative, and probationer training); or
- (3) developmental in promoting community policing (e.g., incorporating law enforcement awareness in a Boy Scout program).

## **II. Background and Compliance with Law and Policy**

### **A. Certification by Applicant**

An applicant for benefits to support community-based programs with shared funds must certify in writing the following aspects of its background and compliance with federal law and Department of Justice guidelines:

- (1) The applicant fulfills the basic eligibility requirements set forth in parts I.A and B above.
- (2) The applicant agrees:
  - a. to account separately for all guidelines for shared funds use benefits received; and
  - b. to subject such accounting to the standard accounting requirements and practices employed under state or local law for recipients of federal, state, or local funds.

- (3) The applicant is in compliance with the federal civil rights laws.
- (4) The applicant is in compliance with federal laws that apply to the applicant.
- (5) No officer, director, trustee, or fiduciary of the applicant has been:
  - a. convicted of a felony offense under federal or state law; or
  - b. convicted of any drug offense.
- (6) No shared benefits will be used for political or personal purposes.
- (7) No shared benefits will be used for any purpose that would constitute an improper or illegal use under the laws, rules, regulations, or orders of the state or local jurisdiction in which the applicant is located or operates.

The applicant's certification must be signed by the head of the applicant entity and must be submitted to the chief law enforcement officer who will approve expenditures on the applicant's behalf. The chief law enforcement officer shall maintain this certification as a record as long as the applicant may benefit from shared funds, and thereafter, for as long as the chief law enforcement officer is required to maintain records under applicable state or local laws or regulations.

Any applicant that cannot certify its compliance with number 5 above (criminal record of principals) should provide the chief law enforcement officer with a detailed explanation of the aspects in which, and the reasons why, certification is not possible. A chief law enforcement officer who wishes to provide support to an applicant that cannot certify compliance with number 5 above shall provide an explanation for his or her position, along with a copy of the applicant's explanation, as an attachment to the law enforcement agency's Form DAG-71 (Application of Transfer of Federally Forfeited Property) to the Asset Forfeiture and Money Laundering Section (AFMLS), Criminal Division, Department of Justice. AFMLS will make the final decision on whether the provision of guidelines for shared funds use benefits is appropriate.

An applicant for benefits under these guidelines that cannot certify the other aspects of its background and compliance with federal law and Department of Justice guidelines (numbers 1–4, 6 and 7 above) will be denied guidelines for shared funds use benefits.

#### **B. Statement by Chief Law Enforcement Officer**

The chief law enforcement officer shall explain in writing why the applicant's receipt of permissible use benefits for the particular activity or use is supportive of and consistent with a law enforcement effort, policy, and/or initiative within the guidelines to support community-based programs. The chief law enforcement officer also shall maintain this written statement as a record as specified in section II.A above.

### **C. Inquiry by the Chief Law Enforcement Officer**

A chief law enforcement officer is also responsible for determining whether an applicant for benefits under these guidelines or its principals (e.g., officer, director, trustee, or fiduciary) currently is the subject of federal, state, or local criminal investigation. Accordingly, a chief law enforcement officer shall:

- (1) utilize all investigative resources available (e.g., National Crime Information Computer) to determine the applicant's status and provide the findings to the federal investigative agency on the Form DAG-71; and
- (2) fully identify the applicant and its principals on the Form DAG-71.

### **D. Inquiry by the Federal Investigating Agency**

The federal investigative agency that receives the Form DAG-71 shall use the information identifying the applicant and its principals to conduct further checks of whether the applicant or its principals currently are the subject of a federal, state, or local criminal investigation. The federal investigative agency also shall provide this identifying information to the United States Attorney in the district where the applicant is located, and where the applicant is operating, and to the chief law enforcement officer involved (unless non-disclosure is required to safeguard a federal investigation in progress).

### **E. Inquiry by the United States Attorney**

The United States Attorney in the district where an applicant or one of its principals is located, or where it or one of its principals is operating, shall determine whether the applicant or principal currently is the subject of grand jury proceedings or other prosecutorial scrutiny in that district, and the United States Attorney shall notify the federal investigative agency of the findings, and also shall notify the chief law enforcement officer involved (unless non-disclosure is required by federal law or to safeguard a federal investigation in progress).

APPENDIX D:

Form DAG-71: Application for Transfer of Federally Forfeited Property

Date:        
 Investigative Agency:     
 Case Number: \_\_\_\_\_

U.S. Department of Justice

Application for Transfer of Federally Forfeited Property  
 (For Use By United States Law Enforcement Agencies Only)

For Federal Use Only

(For Additional Information - See Instructions)

I.

Asset #: _____
Seizure Date: _____
Judicial District: _____
Case Type: Adoption: <input type="checkbox"/> Joint: <input type="checkbox"/>
<b>(Check One)</b>

- All assets transferred must be used for the law enforcement purpose stated in the request.
- Deadline for submission of this request is sixty (60) days following the seizure.
- The requesting agency will be responsible for reimbursing the Federal Government its costs and may be responsible, in a single-asset case, for reimbursing the federal share.

II. Requesting Agency Name:

Address: \_\_\_\_\_

NCIC Code: Date:

Contact Person: \_\_\_\_\_ Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_

III. Asset Requested: \_\_\_\_\_

Property Description: \_\_\_\_\_

- Other assets in this case (Attach list)  
 Request Type:  
 Item  Cash/Proceeds \_\_\_\_\_%

IV. Specific Intended Law Enforcement Use:

- Salaries  Purchase of Equipment  Other (Please explain): \_\_\_\_\_  
 Purchase of Vehicles  Place Into Official Use  
(If other than cash)

V. Contribution (If any answer to A thru E is yes, provide details in Part VI):

	Yes	No
A. Did your agency originate the information leading to the seizure?	<input type="checkbox"/>	<input type="checkbox"/>
B. Were any other assets seized under state law?	<input type="checkbox"/>	<input type="checkbox"/>
C. Were extraordinary expenses incurred?	<input type="checkbox"/>	<input type="checkbox"/>
D. Did your agency supply any unique or indispensable assistance?	<input type="checkbox"/>	<input type="checkbox"/>
E. Are there any assets located in foreign countries associated with this case?	<input type="checkbox"/>	<input type="checkbox"/>
F. How many hours were expended? _____ hours	<input type="checkbox"/>	<input type="checkbox"/>





**U.S. DEPARTMENT OF JUSTICE**  
**Instructions for Completing Form DAG-71**  
**Application for Transfer of Federally Forfeited Property**

General Instructions

- Transfer of federally forfeited property is governed by the Department of Justice Attorney General's Guidelines on Seized and Forfeited Property (Guidelines).
- Requesting **state or local** law enforcement agency (Agency) head or designee must complete the DAG-71. (**Note:** Incomplete or inaccurate information is the most common cause of delay in processing.)
- For international transfer of federally forfeited property, contact the Asset Forfeiture Office, Criminal Division, Department of Justice, Washington D.C.
- A **separate** DAG-71 must be completed for **each** asset (or proceeds) requested.
- The **deadline** for submitting the DAG-71 to the federal investigative agency processing the forfeiture (federal agency) is **60 days from the date of the last seizure in the case**. No DAG-71 will be considered if submitted after the deadline.
- In a one-asset case where the Agency requests the tangible property in lieu of proceeds, the Agency must return costs and the appropriate federal equitable share to the United States. If the Agency is unable to return the costs and federal share, the property will be liquidated and the proceeds distributed proportionally. (Upon adequate justification, exceptions may be granted by the deciding official.)

DAG-71

- Part I:** For federal use only. (**Note:** Asset Number refers to federal investigative agency case number or uniform identifier.)
- Part II:** Provide information requested. If **NCIC code** is not known, contact the federal agency responsible for processing this forfeiture. **Contact person** is the person who has authority to accept property and transfer documents, and/or money.
- Part III:** Provide as complete a property description as possible. Include serial or vehicle identification number. You must check either **"Item"** (if requesting the asset) or **"Cash/Proceeds"** (if requesting a percentage of the asset). Attach list of any other assets in this case.
- By law, **percentage requested** must be based on the "degree of direct law enforcement effort by the state or local agency resulting in the forfeiture, taking into account the total value of all property forfeited and total law enforcement effort, including any related criminal prosecution with respect to the violation of law on which the forfeiture is based." (21 U.S.C. 881(e)(3)).
- Part IV:** Indicate specific intended law enforcement purpose(s) for requested cash, proceeds or tangible property. Pursuant to the Guidelines, all property, including cash and proceeds, must be used for the specific law enforcement purpose(s) approved.
- Part V:** Answer all items A-F. If an answer to A thru E is yes, provide details in Block VI.
- Part VI:** Space for additional information.
- Part VII:** Agency head or his designee and appropriate legal office must certify that information provided in Blocks I-VI is true and accurate.

### SUPPLEMENTAL INSTRUCTIONS FOR MULTIPLE ASSETS

Where multiple assets are seized on the same date, in the same case, and the same request is made for each asset, preparation of paperwork can be simplified by using the following method:

- (1) Complete one original of the DAG-71. In Block III, Asset Requested, enter "See asset marked by an 'x' on the attached list."
- (2) Prepare a list of all assets seized in the case, as shown in the sample below.
- (3) Photocopy the DAG-71 and the list as many times as needed. You will need one copy for each asset.
- (4) Enter an "x" in the appropriate place next to one asset on each copy of the list. That copy will serve as the original DAG-71 for the asset marked with an "x."
- (5) Provide original signatures on all DAG-71s.

Below is a sample of such a list:

#### LISTING OF ASSETS SEIZED

CASE NO. \_\_\_\_\_

<u>Asset ID No.</u> (Fed. Use Only)	<u>Asset Description</u>	<u>Serial Number</u>
— 93DEA000789	\$32,000 U.S. currency	n/a
— 93DEA000790	1993 Lexus 4 dr sedan, metallic gold	345YG89FE9332
— 93DEA000791	One Panasonic cellular phone	678954321
<u>X</u> 93DEA000792	1992 Jeep Cherokee, red	777HG90QRW772
— 93DEA000793	Electronic Equipment: IBM PS/1 computer 60 MB hard drive Okidata printer	8833IBM76321 954673021 785432976

Note: This list can also fulfill the requirement to provide a list of all assets seized in a case.



APPENDIX E:

Equitable Sharing and Agreement Annual Certification Report



**Equitable Sharing Agreement and Certification**



OMB Number 1123-0011  
Expires 7-31-2011

- Police Department   
  Sheriff's Office   
  Task Force (Complete Table A, page 2)  
 Prosecutor's Office   
  Other (specify) \_\_\_\_\_

Agency Name: \_\_\_\_\_

NCIC/ORI/Tracking Number:

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact: Title: \_\_\_\_\_ First: \_\_\_\_\_ Last: \_\_\_\_\_

Contact Phone: \_\_\_\_\_ Contact Fax: \_\_\_\_\_

Contact e-mail: \_\_\_\_\_

Last Fiscal Year End (mm/dd/yyyy):

- New Participant:** Read the Equitable Sharing Agreement (page 4) and sign the Affidavit (page 5)  
 **Existing Participant:** Complete the Annual Certification Report, read the Equitable Sharing Agreement (page 4), and sign the Affidavit (page 5).  
 **Change in Administration:** Select to report change to Agency or Governing Body head DURING the current fiscal year. Read the Equitable Sharing Agreement (page 4) and sign the Affidavit (page 5).  
 **Amended Form:** Revise the Annual Certification Report, read the Equitable Sharing Agreement (page 4), and sign the Affidavit (page 5).

**Annual Certification Report**

Summary of Equitable Sharing Activity		Justice Funds	Treasury Funds
1	Beginning Equitable Sharing Funds Balance (must match Ending Equitable Sharing Funds Balance from prior FY)		
2	Federal Sharing Funds Received		
3	Federal Sharing Funds Received from Other Law Enforcement Agencies and Task Forces (complete Table B, page 2)		
4	Other Income		
5	Interest Income Accrued <input type="checkbox"/> Check box if non-interest-bearing account.		
6	Total Equitable Sharing Funds (total of lines 1 - 5)	\$0.00	\$0.00
7	Federal Sharing Funds Spent (total of lines a - n below)	\$0.00	\$0.00
8	Ending Balance (subtract line 7 from line 6)	\$0.00	\$0.00

Summary of Shared Monies Spent		Justice Funds	Treasury Funds
a	Total spent on salaries for new, temporary, not-to-exceed one year, employees		
b	Total spent on overtime		
c	Total spent on informant and "buy money"		
d	Total spent on travel and training		
e	Total spent on communications and computers		
f	Total spent on firearms and weapons		
g	Total spent on body armor and protective gear		
h	Total spent on electronic surveillance equipment		
i	Total spent on building and improvements		
j	Total spent on other law enforcement expenses (complete Table C, page 3)		
k	Total transfers to other state and local law enforcement agencies (complete Table D, page 3)		
l	Total 15% Expenditures in Support of Community-based Programs (complete Table E, page 3)		
m	Total 25% Windfall Transfers to Other Government Agencies (complete Table F, page 3)		
n	Total spent on matching grants (complete Table G, page 3)		
<b>Total</b>		\$0.00	\$0.00

**Miscellaneous Data**

o	Agency's budget for current fiscal year		
p	Jurisdiction's budget for current fiscal year		
q	Appraised Value of Other Assets Received		

**Table A: Members of Task Force**

Agency Name	Address

**Table B: Equitable Sharing Funds Received from other Agencies**

Transferring Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name		
Agency Address		

**Table C: Other Law Enforcement Expenses**

Description of Expense	Justice Funds	Treasury Funds

**Table D: Equitable Sharing Funds Transferred to Other Agencies**

Receiving Agency Name, City, and State	Justice Funds	Treasury Funds
Agency Name		
Agency Address		

**Table E: 15% Expenditures in Support of Community-based Programs**

Recipient	Justice Funds	

**Table F: 25% Windfall Transfers to Other Government Agencies**

Recipient	Justice Funds	Treasury Funds

**Table G: Matching Grants**

Matching Grant Name	Justice Funds	Treasury Funds

**Table H: Civil Rights Cases**

Name of Case	Type of Discrimination Alleged				Status
	<input type="checkbox"/> Race	<input type="checkbox"/> Color	<input type="checkbox"/> National Origin	<input type="checkbox"/> Gender	<input type="radio"/> Settled <input type="radio"/> Pending
	<input type="checkbox"/> Disability	<input type="checkbox"/> Age	<input type="checkbox"/> Other _____		

**Paperwork Reduction Act Notice**

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section, Program Unit, 1400 New York Avenue, N.W., Second Floor, Washington, DC 20005.

## Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the above-stated law enforcement agency ("Agency"), and (3) the governing body, sets forth the requirements for participation in the federal equitable sharing program and the restrictions upon the use of federally forfeited cash, property, proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By its signatures, the Agency agrees that it will be bound by the statutes and guidelines that regulate shared assets and the following requirements for participation in the federal equitable sharing program. Receipt of the signed Equitable Sharing Agreement and Certification (this "Document") is a prerequisite to receiving any equitably shared cash, property, or proceeds.

1. **Submission.** This Document must be submitted to [aca.submit@usdoj.gov](mailto:aca.submit@usdoj.gov) within 60 days of the end of the Agency's fiscal year. This Document must be submitted electronically with the Affidavit/Signature page (page 5) submitted by fax. This will constitute submission to the Department of Justice and the Department of Treasury.

2. **Signatories.** This agreement must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, chairperson, secretary, city attorney, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body's head is the person who allocates funds or approves the budget for the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, director, secretary, administrator, commissioner, and governor.

3. **Uses.** Any shared asset shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern the federal equitable sharing program as set forth in the current edition of the Department of Justice's *Guide to Equitable Sharing (Justice Guide)*, and the Department of the Treasury's *Guide to Equitable Sharing for Foreign Countries and Federal, State, and Local Law Enforcement Agencies (Treasury Guide)*.

4. **Transfers.** Before the Agency transfers cash, property, or proceeds to other state or local law enforcement agencies, it must first verify with the Department of Justice or the Department of Treasury, depending on the source of the funds, that the receiving agency is a federal equitable sharing program participant and has a current Equitable Sharing Agreement and Certification on file.

5. **Internal Controls.** The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury. Funds from state and local forfeitures and other sources must not be commingled with federal equitable sharing funds. The Agency shall establish a separate revenue account or accounting code for state, local, Department of Justice, and Department of the Treasury forfeiture funds. Interest income generated must be accounted for in the appropriate federal forfeiture fund account.

The Agency agrees that such accounting will be subject to the standard accounting requirements and practices employed for other public monies as supplemented by requirements set forth in the current edition of the *Justice Guide* and the *Treasury Guide*.

The misuse or misapplication of shared resources or the supplantation of existing resources with shared assets is prohibited. Failure to comply with any provision of this agreement shall subject the recipient agency to the sanctions stipulated in the current edition of the *Justice* or *Treasury Guides*, depending on the source of the funds/property.

6. **Audit Report.** Audits will be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Circular A-133. The Department of Justice and Department of the Treasury reserve the right to conduct periodic random audits.



## Affidavit

Under penalty of perjury, the undersigned officials certify that **they have read and understand their obligations under the Equitable Sharing Agreement** and that the information submitted in conjunction with this Document is an accurate accounting of funds received and spent by the Agency under the *Justice and/or Treasury Guides* during the reporting period and that the recipient Agency is in compliance with the National Code of Professional Conduct for Asset Forfeiture.

The undersigned certify that the recipient agency is in compliance with the nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity.

**During the past fiscal year, has the Agency been part of any proceedings alleging discrimination by the Agency?  Yes  No**

**If you answered yes, complete Table H. Please disclose (1) all proceedings pending before any court or administrative agency, (2) any nondiscrimination laws the Agency has been found in violation of, and (3) any settlement agreements the Agency has entered into during the last fiscal year.**

**Agency Head**

**Governing Body Head**

Signature: _____	Signature: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

**Final Instructions:**


**Step 1: Click button to save in PDF format for your records** Save as PDF

**Step 2: Click button to save in XML format** Save as XML

**Step 3: E-mail the XML file as attachment to [aca.submit@usdoj.gov](mailto:aca.submit@usdoj.gov)**

**Step 4: Fax a signed copy of THIS PAGE ONLY to (202) 616-1344**

**Note: The Agency will not be in compliance until the e-mail and the fax of this page are received.**

<p>FOR AGENCY USE ONLY</p> <p>Entered by _____</p> <p>Entered on _____</p> <p>FY End: _____</p> <p>NCIC: _____</p> <p>State: _____</p>		
<p>Agency: _____</p> <p>Contact: _____</p>	<p>Phone: _____</p> <p>E-mail: _____</p>	

## Illinois Compiled Statutes

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### Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as [Public Acts](#) soon after they become law. For information concerning the relationship between statutes and Public Acts, refer to the [Guide](#).

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

## CRIMINAL PROCEDURE

### (725 ILCS 150/) Drug Asset Forfeiture Procedure Act.

(725 ILCS 150/1) (from Ch. 56 1/2, par. 1671)

Sec. 1. Short Title. This Act shall be known and may be cited as the Drug Asset Forfeiture Procedure Act.  
(Source: P.A. 86-1382.)

(725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

Sec. 2. Legislative Declaration. The General Assembly finds that the civil forfeiture of property which is used or intended to be used in, is attributable to or facilitates the manufacture, sale, transportation, distribution, possession or use of substances in certain violations of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act will have a significant beneficial effect in deterring the rising incidence of the abuse and trafficking of such substances within this State. While forfeiture may secure for State and local units of government some resources for deterring drug abuse and drug trafficking, forfeiture is not intended to be an alternative means of funding the administration of criminal justice. The General Assembly further finds that the federal narcotics civil forfeiture statute upon which this Act is based has been very successful in deterring the use and distribution of controlled substances within this State and throughout the country. It is therefore the intent of the General Assembly that the forfeiture provisions of this Act be construed in light of the federal forfeiture provisions contained in 21 U.S.C. 881 as interpreted by the federal courts, except to the extent that the provisions of this Act expressly differ therefrom.  
(Source: P.A. 94-556, eff. 9-11-05.)

(725 ILCS 150/3) (from Ch. 56 1/2, par. 1673)

Sec. 3. Applicability. The provisions of this Act are applicable to all property forfeitable under the Illinois Controlled Substances Act, the Cannabis Control Act, the Illinois Food, Drug and Cosmetic Act, or the Methamphetamine Control and Community Protection Act.  
(Source: P.A. 96-573, eff. 8-18-09.)

(725 ILCS 150/3.5)

Sec. 3.5. Preliminary Review.

(a) Within 14 days of the seizure, the State shall seek a preliminary determination from the circuit court as to whether there is probable cause that the property may be subject to forfeiture.

(b) The rules of evidence shall not apply to any proceeding conducted under this Section.

(c) The court may conduct the review under subsection (a) simultaneously with a proceeding pursuant to Section 109-1 of the Code of Criminal Procedure of 1963 for a related criminal offense if a prosecution is commenced by information or complaint.

(d) The court may accept a finding of probable cause at a preliminary hearing following the filing of an information or complaint charging a related criminal offense or following the return of indictment by a grand jury charging the related offense as sufficient evidence of probable cause as required under subsection (a).

(e) Upon making a finding of probable cause as required under this Section, and after taking into account the respective interests of all known claimants to the property including the State, the circuit court shall enter a restraining order or injunction, or take other appropriate action, as necessary to ensure that the property is not removed from the court's jurisdiction and is not concealed, destroyed, or otherwise disposed of by the property owner or interest holder before a forfeiture hearing is conducted.

(Source: P.A. 97-544, eff. 1-1-12.)

(725 ILCS 150/4) (from Ch. 56 1/2, par. 1674)

Sec. 4. Notice to Owner or Interest Holder.

(A) Whenever notice of pending forfeiture or service of an in rem complaint is required under the provisions of this Act, such notice or service shall be given as follows:

(1) If the owner's or interest holder's name and current address are known, then by either personal service or mailing a copy of the notice by certified mail, return receipt requested, to that address. For purposes of notice under this Section, if a person has been arrested for the conduct giving rise to the forfeiture, then the address provided to the arresting agency at the time of arrest shall be deemed to be that person's known address. Provided, however, if an owner or interest holder's address changes prior to the effective date of the notice of pending forfeiture, the owner or interest holder shall promptly notify the seizing agency of the change in address or, if the owner or interest holder's address changes subsequent to the effective date of the notice of pending forfeiture, the owner or interest holder shall promptly notify the State's Attorney of the change in address; or

(2) If the property seized is a conveyance, to the address reflected in the office of the agency or official in which title or interest to the conveyance is required by law to be recorded, then by mailing a copy of the notice by certified mail, return receipt requested, to that address; or

(3) If the owner's or interest holder's address is

not known, and is not on record as provided in paragraph (2), then by publication for 3 successive weeks in a newspaper of general circulation in the county in which the seizure occurred.

(B) Notice served under this Act is effective upon personal service, the last date of publication, or the mailing of written notice, whichever is earlier.

(Source: P.A. 86-1382; 87-614.)

(725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

Sec. 5. Notice to State's Attorney. The law enforcement agency seizing property for forfeiture under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act shall, within 52 days of seizure, notify the State's Attorney for the county in which an act or omission giving rise to the forfeiture occurred or in which the property was seized of the seizure of the property and the facts and circumstances giving rise to the seizure and shall provide the State's Attorney with the inventory of the property and its estimated value. When the property seized for forfeiture is a vehicle, the law enforcement agency seizing the property shall immediately notify the Secretary of State that forfeiture proceedings are pending regarding such vehicle.

(Source: P.A. 94-556, eff. 9-11-05.)

(725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

Sec. 6. Non-Judicial Forfeiture. If non-real property that exceeds \$150,000 in value excluding the value of any conveyance, or if real property is seized under the provisions of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, the State's Attorney shall institute judicial in rem forfeiture proceedings as described in Section 9 of this Act within 45 days from receipt of notice of seizure from the seizing agency under Section 5 of this Act. However, if non-real property that does not exceed \$150,000 in value excluding the value of any conveyance is seized, the following procedure shall be used:

(A) If, after review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure from the seizing agency, the State's Attorney shall cause notice of pending forfeiture to be given to the owner of the property and all known interest holders of the property in accordance with Section 4 of this Act.

(B) The notice of pending forfeiture must include a description of the property, the estimated value of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(C) (1) Any person claiming an interest in property which is the subject of notice under subsection (A) of Section 6 of this Act, may, within 45 days after the effective date of notice as described in Section 4 of this Act, file a verified claim with the State's Attorney expressing his or her interest in the property. The claim must set forth:



(i) the caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(ii) the address at which the claimant will accept mail;

(iii) the nature and extent of the claimant's interest in the property;

(iv) the date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;

(v) the name and address of all other persons known to have an interest in the property;

(vi) the specific provision of law relied on in asserting the property is not subject to forfeiture;

(vii) all essential facts supporting each assertion; and

(viii) the relief sought.

(2) If a claimant files the claim and deposits with the State's Attorney a cost bond, in the form of a cashier's check payable to the clerk of the court, in the sum of 10 percent of the reasonable value of the property as alleged by the State's Attorney or the sum of \$100, whichever is greater, upon condition that, in the case of forfeiture, the claimant must pay all costs and expenses of forfeiture proceedings, then the State's Attorney shall institute judicial in rem forfeiture proceedings and deposit the cost bond with the clerk of the court as described in Section 9 of this Act within 45 days after receipt of the claim and cost bond. In lieu of a cost bond, a person claiming interest in the seized property may file, under penalty of perjury, an indigency affidavit.

(3) If none of the seized property is forfeited in the judicial in rem proceeding, the clerk of the court shall return to the claimant, unless the court orders otherwise, 90% of the sum which has been deposited and shall retain as costs 10% of the money deposited. If any of the seized property is forfeited under the judicial forfeiture proceeding, the clerk of the court shall transfer 90% of the sum which has been deposited to the State's Attorney prosecuting the civil forfeiture to be applied to the costs of prosecution and the clerk shall retain as costs 10% of the sum deposited.

(D) If no claim is filed or bond given within the 45 day period as described in subsection (C) of Section 6 of this Act, the State's Attorney shall declare the property forfeited and shall promptly notify the owner and all known interest holders of the property and the Director of the Illinois Department of State Police of the declaration of forfeiture and the Director shall dispose of the property in accordance with law.

(Source: P.A. 97-544, eff. 1-1-12.)

(725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

Sec. 7. Presumptions. The following situations shall give rise to a presumption that the property described therein was furnished or intended to be furnished in exchange for a substance in violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control

and Community Protection Act, or is the proceeds of such an exchange, and therefore forfeitable under this Act, such presumptions being rebuttable by a preponderance of the evidence:

(1) All moneys, coin, or currency found in close proximity to forfeitable substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of substances;

(2) All property acquired or caused to be acquired by a person either between the dates of occurrence of two or more acts in felony violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, or an act committed in another state, territory or country which would be punishable as a felony under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, committed by that person within 5 years of each other, or all property acquired by such person within a reasonable amount of time after the commission of such acts if:

(a) At least one of the above acts was committed after the effective date of this Act; and

(b) At least one of the acts is or was punishable as a Class X, Class 1, or Class 2 felony; and

(c) There was no likely source for such property other than a violation of the above Acts.

(Source: P.A. 94-556, eff. 9-11-05.)

(725 ILCS 150/8) (from Ch. 56 1/2, par. 1678)

Sec. 8. Exemptions from forfeiture. A property interest is exempt from forfeiture under this Section if its owner or interest holder establishes by a preponderance of evidence that the owner or interest holder:

(A)(i) in the case of personal property, is not legally accountable for the conduct giving rise to the forfeiture, did not acquiesce in it, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur, or

(ii) in the case of real property, is not legally accountable for the conduct giving rise to the forfeiture, or did not solicit, conspire, or attempt to commit the conduct giving rise to the forfeiture; and

(B) had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arms length commercial transaction; and

(C) with respect to conveyances, did not hold the property jointly or in common with a person whose conduct gave rise to the forfeiture; and

(D) does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in the conduct giving rise to the forfeiture; and

(E) that the owner or interest holder acquired the interest:

(i) before the commencement of the conduct giving rise to

its forfeiture and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(ii) after the commencement of the conduct giving rise to its forfeiture, and the owner or interest holder acquired the interest as a mortgagee, secured creditor, lienholder, or bona fide purchaser for value without knowledge of the conduct which gave rise to the forfeiture; and

(a) in the case of personal property, without knowledge of the seizure of the property for forfeiture; or

(b) in the case of real estate, before the filing in the office of the Recorder of Deeds of the county in which the real estate is located of a notice of seizure for forfeiture or a lis pendens notice.

(Source: P.A. 86-1382.)

(725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

Sec. 9. Judicial in rem procedures. If property seized under the provisions of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act is non-real property that exceeds \$20,000 in value excluding the value of any conveyance, or is real property, or a claimant has filed a claim and a cost bond under subsection (C) of Section 6 of this Act, the following judicial in rem procedures shall apply:

(A) If, after a review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure by the seizing agency or the filing of the claim and cost bond, whichever is later, the State's Attorney shall institute judicial forfeiture proceedings by filing a verified complaint for forfeiture and, if the claimant has filed a claim and cost bond, by depositing the cost bond with the clerk of the court. When authorized by law, a forfeiture must be ordered by a court on an action in rem brought by a State's Attorney under a verified complaint for forfeiture.

(B) During the probable cause portion of the judicial in rem proceeding wherein the State presents its case-in-chief, the court must receive and consider, among other things, all relevant hearsay evidence and information. The laws of evidence relating to civil actions shall apply to all other portions of the judicial in rem proceeding.

(C) Only an owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. For purposes of this Section, the owner or interest holder shall be referred to as claimant.

(D) The answer must be signed by the owner or interest holder under penalty of perjury and must set forth:

(i) the caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;

(ii) the address at which the claimant will accept mail;

(iii) the nature and extent of the claimant's interest in the property;

(iv) the date, identity of transferor, and

circumstances of the claimant's acquisition of the

interest in the property;

(v) the name and address of all other persons known to have an interest in the property;

(vi) the specific provisions of Section 8 of this Act relied on in asserting it is not subject to forfeiture;

(vii) all essential facts supporting each assertion;

and

(viii) the precise relief sought.

(E) The answer must be filed with the court within 45 days after service of the civil in rem complaint.

(F) The hearing must be held within 60 days after filing of the answer unless continued for good cause.

(G) The State shall show the existence of probable cause for forfeiture of the property. If the State shows probable cause, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

(H) If the State does not show existence of probable cause or a claimant has established by a preponderance of evidence that the claimant has an interest that is exempt under Section 8 of this Act, the court shall order the interest in the property returned or conveyed to the claimant and shall order all other property forfeited to the State. If the State does show existence of probable cause and the claimant does not establish by a preponderance of evidence that the claimant has an interest that is exempt under Section 8 of this Act, the court shall order all property forfeited to the State.

(I) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding under this Act regardless of the pendency of an appeal from that conviction. However, evidence of the pendency of an appeal is admissible.

(J) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this Act; however, for good cause shown, on a motion by the State's Attorney, the court may stay civil forfeiture proceedings during the criminal trial for a related criminal indictment or information alleging a violation of the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act. Such a stay shall not be available pending an appeal. Property subject to forfeiture under the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act shall not be subject to return or release by a court exercising jurisdiction over a criminal case involving the seizure of such property unless such return or release is consented to by the State's Attorney.

(K) All property declared forfeited under this Act vests in this State on the commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of this Act that the transferee's interest is exempt under Section 8 of this Act.

(L) A civil action under this Act must be commenced within 5 years after the last conduct giving rise to forfeiture became known or should have become known or 5 years after the

forfeitable property is discovered, whichever is later, excluding any time during which either the property or claimant is out of the State or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(Source: P.A. 94-556, eff. 9-11-05.)

(725 ILCS 150/10) (from Ch. 56 1/2, par. 1680)

Sec. 10. Stay of time periods. If property is seized for evidence and for forfeiture, the time periods for instituting judicial and non-judicial forfeiture proceedings shall not begin until the property is no longer necessary for evidence.

(Source: P.A. 86-1382.)

(725 ILCS 150/11) (from Ch. 56 1/2, par. 1681)

Sec. 11. Settlement of Claims. Notwithstanding other provisions of this Act, the State's Attorney and a claimant of seized property may enter into an agreed-upon settlement concerning the seized property in such an amount and upon such terms as are set out in writing in a settlement agreement.

(Source: P.A. 86-1382.)

(725 ILCS 150/12) (from Ch. 56 1/2, par. 1682)

Sec. 12. Nothing in this Act shall apply to property which constitutes reasonable bona fide attorney's fees paid to an attorney for services rendered or to be rendered in the forfeiture proceeding or criminal proceeding relating directly thereto where such property was paid before its seizure, before the issuance of any seizure warrant or court order prohibiting transfer of the property and where the attorney, at the time he or she received the property did not know that it was property subject to forfeiture under this Act.

(Source: P.A. 86-1382.)

(725 ILCS 150/13) (from Ch. 56 1/2, par. 1683)

Sec. 13. Construction. It shall be the intent of the General Assembly that the forfeiture provisions of this Act be liberally construed so as to effect their remedial purpose. The forfeiture of property and other remedies hereunder shall be considered to be in addition, and not exclusive of any sentence or other remedy provided by law.

(Source: P.A. 86-1382.)

(725 ILCS 150/14) (from Ch. 56 1/2, par. 1684)

Sec. 14. Judicial Review. If property has been declared forfeited under Section 6 of this Act, any person who has an interest in the property declared forfeited may, within 30 days of the effective date of the notice of the declaration of forfeiture, file a claim and cost bond as described in subsection (C) of Section 6 of this Act. If a claim and cost bond is filed under this Section, then the procedures described in Section 9 of this Act shall apply.

(Source: P.A. 87-614.)

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## Illinois Compiled Statutes

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## VEHICLES

### (625 ILCS 5/) Illinois Vehicle Code.

(625 ILCS 5/Ch. 16 heading)

CHAPTER 16. ENFORCEMENT, PENALTIES AND DISPOSITION  
OF FINES AND FORFEITURES, AND CRIMINAL CASES

(625 ILCS 5/Ch. 16 Art. I heading)

ARTICLE I. ENFORCEMENT, PENALTIES AND  
DISPOSITION OF FINES AND FORFEITURES

(625 ILCS 5/16-101) (from Ch. 95 1/2, par. 16-101)

Sec. 16-101. Applicability. The provisions of this Chapter shall be applicable to the enforcement of this entire Code, except where another penalty is set forth in a specific Chapter which is applicable to that Chapter or a designated part or Section thereof.

(Source: P.A. 82-1011.)

(625 ILCS 5/16-102) (from Ch. 95 1/2, par. 16-102)

Sec. 16-102. Arrests - Investigations - Prosecutions.

(a) The State Police shall patrol the public highways and make arrests for violation of the provisions of this Act.

(b) The Secretary of State, through the investigators provided for in this Act shall investigate and report violations of the provisions of this Act in relation to the equipment and operation of vehicles as provided for in Section 2-115 and for such purposes these investigators have and may exercise throughout the State all of the powers of police officers.

(c) The State's Attorney of the county in which the violation occurs shall prosecute all violations except when the violation occurs within the corporate limits of a municipality, the municipal attorney may prosecute if written permission to do so is obtained from the State's Attorney.

(d) The State's Attorney of the county in which the violation occurs may not grant to the municipal attorney

permission to prosecute if the offense charged is a felony under Section 11-501 of this Code. The municipality may, however, charge an offender with a municipal misdemeanor offense if the State's Attorney rejects or denies felony charges for the conduct that comprises the charge.

(Source: P.A. 94-111, eff. 1-1-06; 94-740, eff. 5-8-06.)

(625 ILCS 5/16-102.5)

Sec. 16-102.5. Enforcement by municipality.

(a) If a municipality adopts an ordinance similar to subsection (f) of Section 3-413 or Section 11-1304.5 of this Code, any person that a municipality designates to enforce ordinances regulating the standing or parking of vehicles shall have the authority to enforce the provisions of subsection (f) of Section 3-413 or Section 11-1304.5 of this Code or the similar local ordinance. However, the authority to enforce subsection (f) of Section 3-413 or Section 11-1304.5 of this Code or a similar local ordinance shall not be given to an appointed volunteer or private or public entity under contract to enforce person with disabilities parking laws.

(b) To enforce the provisions of subsection (f) of Section 3-413 or Section 11-1304.5 of this Code or a similar local ordinance, a municipality shall impose a fine not exceeding \$25.

(Source: P.A. 90-513, eff. 8-22-97; 90-655, eff. 7-30-98; 91-487, eff. 1-1-00.)

(625 ILCS 5/16-103) (from Ch. 95 1/2, par. 16-103)

Sec. 16-103. Arrest outside county where violation committed.

Whenever a defendant is arrested upon a warrant charging a violation of this Act in a county other than that in which such warrant was issued, the arresting officer, immediately upon the request of the defendant, shall take such defendant before a circuit judge or associate circuit judge in the county in which the arrest was made who shall admit the defendant to bail for his appearance before the court named in the warrant. On taking such bail the circuit judge or associate circuit judge shall certify such fact on the warrant and deliver the warrant and undertaking of bail or other security, or the drivers license of such defendant if deposited, under the law relating to such licenses, in lieu of such security, to the officer having charge of the defendant. Such officer shall then immediately discharge the defendant from arrest and without delay deliver such warrant and such undertaking of bail, or other security or drivers license to the court before which the defendant is required to appear.

(Source: P.A. 77-1280.)

(625 ILCS 5/16-104) (from Ch. 95 1/2, par. 16-104)

Sec. 16-104. Penalties. Every person convicted of a violation of any provision of this Code for which another penalty is not provided shall, for a first or second conviction thereof, be guilty of a petty offense and, for a third or subsequent conviction within one year after the first conviction, be guilty of a Class C misdemeanor.

(Source: P.A. 91-357, eff. 7-29-99.)

(625 ILCS 5/16-104a) (from Ch. 95 1/2, par. 16-104a)

## Sec. 16-104a. Additional penalty for certain violations.

(a) There is added to every fine imposed upon conviction of an offense reportable to the Secretary of State under the provisions of subdivision (a)(2) of Section 6-204 of this Act an additional penalty of \$4 for each \$40, or fraction thereof, of fine imposed. Each such additional penalty received shall be remitted within one month to the State Treasurer to be deposited into the Drivers Education Fund, unless the additional penalty is subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act. Such additional amounts shall be assessed by the court and shall be collected by the Clerk of the Circuit Court in addition to the fine and costs in the case. Such additional penalty shall not be considered a part of the fine for purposes of any reduction made in the fine for time served either before or after sentencing. Not later than March 1 of each year the Clerk of the Circuit Court shall submit to the State Comptroller a report of the amount of funds remitted by him to the State Treasurer under this Section during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in sentencing an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be computed on the amount remaining after deducting from the gross amount levied all fees of the Circuit Clerk, the State's Attorney and the Sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the Circuit Clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if applicable, payable to the county in which the violation occurred pursuant to Section 5-1101 of the Counties Code.

When bail is forfeited for failure to appear in connection with an offense reportable to the Secretary of State under subdivision (a)(2) of Section 6-204 of this Act, and no fine is imposed ex parte, \$4 of every \$40 cash deposit, or fraction thereof, given to secure appearance shall be remitted within one month to the State Treasurer to be deposited into the Drivers Education Fund, unless the bail is subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act.

(b) In addition to any other fine or penalty required by law for a person convicted of a violation of Section 11-503 or 11-601.5 of this Code or a similar provision of a local ordinance, the court may, in its discretion, require the person to pay an additional criminal penalty that shall be distributed in its entirety to a public agency that provided an emergency response related to the person's violation. The criminal penalty may not exceed \$100 per public agency for each emergency response provided for a first violation of Section 11-503 or 11-601.5 of this Code or a similar provision of a local ordinance. The criminal penalty may not exceed \$500 per public agency for each emergency response provided for a second or subsequent violation of Section 11-503 or 11-601.5 of this Code or a similar provision of a local ordinance. As used in this subsection, "emergency response" means any incident requiring a response by a police officer, an



ambulance, a firefighter carried on the rolls of a regularly constituted fire department or fire protection district, a firefighter of a volunteer fire department, or a member of a recognized not-for-profit rescue or emergency medical service provider.

(Source: P.A. 96-1173, eff. 7-22-10.)

(625 ILCS 5/16-104b)

Sec. 16-104b. Amounts for Trauma Center Fund. In counties that have elected not to distribute moneys under the disbursement formulas in Sections 27.5 and 27.6 of the Clerks of Courts Act, the Circuit Clerk of the County, when collecting fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount imposed upon a conviction of or an order of supervision for a violation of laws or ordinances regulating the movement of traffic that amounts to \$55 or more, shall remit \$5 of the total amount collected, less 2 1/2% of the \$5 to help defray the administrative costs incurred by the Clerk, except that upon a conviction or order of supervision for driving under the influence of alcohol or drugs the Clerk shall remit \$105 of the total amount collected (\$5 for a traffic violation that amounts to \$55 or more and an additional fee of \$100 to be collected by the Circuit Clerk for a conviction or order of supervision for driving under the influence of alcohol or drugs), less the 2 1/2%, within 60 days to the State Treasurer to be deposited into the Trauma Center Fund. Of the amounts deposited into the Trauma Center Fund under this Section, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Healthcare and Family Services. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding calendar year.

(Source: P.A. 95-331, eff. 8-21-07.)

(625 ILCS 5/16-104c)

Sec. 16-104c. Court supervision fees.

(a) Any person who receives a disposition of court supervision for a violation of any provision of this Code or a similar provision of a local ordinance shall pay an additional fee of \$29, which shall be disbursed as follows:

(1) if an officer of the Department of State Police arrested the person for the violation, \$20 of the \$29 fee shall be deposited into the State Police Vehicle Fund in the State treasury; or

(2) if an officer of any law enforcement agency in the State other than the Department of State Police arrested the person for the violation, \$20 of the \$29 fee shall be paid to the law enforcement agency that employed the arresting officer and shall be used for the acquisition or maintenance of police vehicles; and

(3) \$9 of the \$29 fee shall be deposited into the Drivers Education Fund.

(b) In addition to the fee provided for in subsection (a), a person who receives a disposition of court supervision for any violation of this Code or a similar provision of a local ordinance shall also pay an additional fee of \$6, if not waived by the court. Of this \$6 fee, \$5.50 shall be deposited

into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court and 50 cents shall be deposited into the Prisoner Review Board Vehicle and Equipment Fund in the State treasury.

(c) The Prisoner Review Board Vehicle and Equipment Fund is created as a special fund in the State treasury. The Prisoner Review Board shall, subject to appropriation by the General Assembly and approval by the Secretary, use all moneys in the Prisoner Review Board Vehicle and Equipment Fund for the purchase and operation of vehicles and equipment.  
(Source: P.A. 95-428, eff. 8-24-07; 96-625, eff. 1-1-10.)

(625 ILCS 5/16-104d)

Sec. 16-104d. Additional fee; serious traffic violation. Any person who is convicted of, pleads guilty to, or is placed on supervision for a serious traffic violation, as defined in Section 1-187.001 of this Code, a violation of Section 11-501 of this Code, or a violation of a similar provision of a local ordinance shall pay an additional fee of \$35. Of that fee, \$15 shall be deposited into the Fire Prevention Fund in the State treasury, \$15 shall be deposited into the Fire Truck Revolving Loan Fund in the State treasury, and \$5 shall be deposited into the Circuit Court Clerk Operation and Administrative Fund created by the Clerk of the Circuit Court.

This Section becomes inoperative 7 years after the effective date of this amendatory Act of the 95th General Assembly.

(Source: P.A. 95-154, eff. 10-13-07; 96-286, eff. 8-11-09; 96-1175, eff. 9-20-10.)

(625 ILCS 5/16-104e)

Sec. 16-104e. Minimum penalty for traffic offenses. Unless otherwise disposed of prior to a court appearance in the same matter under Supreme Court Rule 529, a person who, after a court appearance in the same matter, is found guilty of or pleads guilty to, including any person receiving a disposition of court supervision, a violation of this Code or a similar provision of a local ordinance shall pay a fine that may not be waived. Nothing in this Section shall prevent the court from ordering that the fine be paid within a specified period of time or in installments under Section 5-9-1 of the Unified Code of Corrections.

(Source: P.A. 96-1462, eff. 1-1-11.)

(625 ILCS 5/16-105) (from Ch. 95 1/2, par. 16-105)

Sec. 16-105. Disposition of fines and forfeitures.

(a) Except as provided in Section 15-113 and Section 16-104a of this Act and except for those amounts required to be paid into the Traffic and Criminal Conviction Surcharge Fund in the State Treasury pursuant to Section 9.1 of the Illinois Police Training Act and Section 5-9-1 of the Unified Code of Corrections and except those amounts subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act, fines and penalties recovered under the provisions of Chapters 11 through 16 inclusive of this Code shall be paid and used as follows:

1. For offenses committed upon a highway within the limits of a city, village, or incorporated town or under the jurisdiction of any park district, to the treasurer of

the particular city, village, incorporated town or park district, if the violator was arrested by the authorities of the city, village, incorporated town or park district, provided the police officers and officials of cities, villages, incorporated towns and park districts shall seasonably prosecute for all fines and penalties under this Code. If the violation is prosecuted by the authorities of the county, any fines or penalties recovered shall be paid to the county treasurer. Provided further that if the violator was arrested by the State Police, fines and penalties recovered under the provisions of paragraph (a) of Section 15-113 of this Code or paragraph (e) of Section 15-316 of this Code shall be paid over to the Department of State Police which shall thereupon remit the amount of the fines and penalties so received to the State Treasurer who shall deposit the amount so remitted in the special fund in the State treasury known as the Road Fund except that if the violation is prosecuted by the State's Attorney, 10% of the fine or penalty recovered shall be paid to the State's Attorney as a fee of his office and the balance shall be paid over to the Department of State Police for remittance to and deposit by the State Treasurer as hereinabove provided.

2. Except as provided in paragraph 4, for offenses committed upon any highway outside the limits of a city, village, incorporated town or park district, to the county treasurer of the county where the offense was committed except if such offense was committed on a highway maintained by or under the supervision of a township, township district, or a road district to the Treasurer thereof for deposit in the road and bridge fund of such township or other district; Provided, that fines and penalties recovered under the provisions of paragraph (a) of Section 15-113, paragraph (d) of Section 3-401, or paragraph (e) of Section 15-316 of this Code shall be paid over to the Department of State Police which shall thereupon remit the amount of the fines and penalties so received to the State Treasurer who shall deposit the amount so remitted in the special fund in the State treasury known as the Road Fund except that if the violation is prosecuted by the State's Attorney, 10% of the fine or penalty recovered shall be paid to the State's Attorney as a fee of his office and the balance shall be paid over to the Department of State Police for remittance to and deposit by the State Treasurer as hereinabove provided.

3. Notwithstanding subsections 1 and 2 of this paragraph, for violations of overweight and overload limits found in Sections 15-101 through 15-203 of this Code, which are committed upon the highways belonging to the Illinois State Toll Highway Authority, fines and penalties shall be paid over to the Illinois State Toll Highway Authority for deposit with the State Treasurer into that special fund known as the Illinois State Toll Highway Authority Fund, except that if the violation is prosecuted by the State's Attorney, 10% of the fine or penalty recovered shall be paid to the State's Attorney as a fee of his office and the balance shall be paid over to the Illinois State Toll Highway Authority for remittance

to and deposit by the State Treasurer as hereinabove provided.

4. With regard to violations of overweight and overload limits found in Sections 15-101 through 15-203 of this Code committed by operators of vehicles registered as Special Hauling Vehicles, for offenses committed upon a highway within the limits of a city, village, or incorporated town or under the jurisdiction of any park district, all fines and penalties shall be paid over or retained as required in paragraph 1. However, with regard to the above offenses committed by operators of vehicles registered as Special Hauling Vehicles upon any highway outside the limits of a city, village, incorporated town or park district, fines and penalties shall be paid over or retained by the entity having jurisdiction over the road or highway upon which the offense occurred, except that if the violation is prosecuted by the State's Attorney, 10% of the fine or penalty recovered shall be paid to the State's Attorney as a fee of his office.

(b) Failure, refusal or neglect on the part of any judicial or other officer or employee receiving or having custody of any such fine or forfeiture either before or after a deposit with the proper official as defined in paragraph (a) of this Section, shall constitute misconduct in office and shall be grounds for removal therefrom.

(Source: P.A. 96-34, eff. 1-1-10.)

(625 ILCS 5/16-105.5)

Sec. 16-105.5. Payment to municipality. All revenues derived from the issuance of citations for violations of subsection (f) of Section 3-413 of this Code or a similar local ordinance that are required to be paid to a municipality under this Code shall be deposited into the general fund of the municipality.

(Source: P.A. 90-513, eff. 8-22-97.)

(625 ILCS 5/16-106) (from Ch. 95 1/2, par. 16-106)

Sec. 16-106. For offenses committed under the provisions of this Act or the ordinances of any municipality, park district or county which involve the regulation of the ownership, use or operation of vehicles, the police officers and officials of such municipalities and park districts, and sheriffs shall, when issuing a traffic ticket, other citation, or Notice to Appear in lieu of either, in counties other than Cook, also issue written notice to the accused in substantially the following form:

AVOID MULTIPLE COURT APPEARANCES

If you intend to plead "not guilty" to this charge, or if, in addition, you intend to demand a trial by jury, so notify the clerk of the court at least 5 days (excluding Saturdays, Sundays or holidays) before the day set for your appearance. A new appearance date will be set, and arrangements will be made to have the arresting officer present on that new date. Failure to notify the clerk of either your intention to plead "not guilty" or your intention to demand a jury trial, may result in your having to return to court, if you plead "not guilty" on the date originally set for your court appearance. Upon timely receipt of notice that the accused intends to plead "not guilty", the clerk shall set a new appearance date

not less than 7 days nor more than 49 days after the original appearance date set by the arresting officer, and notify all parties of the new date and the time for appearance. If the accused fails to notify the clerk as provided above, the arresting officer's failure to appear on the date originally set for appearance may, in counties other than Cook, be considered good cause for a continuance.

(Source: P.A. 81-781.)

(625 ILCS 5/16-106.3)

Sec. 16-106.3. Erroneous appearance date. In any case alleging a violation of this Code or similar local ordinance which would be chargeable as a misdemeanor, a case shall not be dismissed due to an error by the arresting officer or the clerk of the court, or both, in setting a person's first appearance date, subject to the right of speedy trial provided under Section 103-5 of the Code of Criminal Procedure of 1963. (Source: P.A. 96-694, eff. 1-1-10.)

(625 ILCS 5/16-106.5)

Sec. 16-106.5. Pilot project; notice of violation to owner.

(a) A pilot project is created that shall be in operation from January 1, 2002 through December 31, 2003 in the counties of DuPage, Kendall, and Sangamon. Under the pilot project, when a traffic citation is issued for a violation of this Code to a person who is under the age of 18 years, who is a resident of the county in which the traffic citation was issued, and who is not the registered owner of the vehicle named in the traffic citation, the circuit clerk of the county in which the traffic citation was issued shall, within 10 days after the traffic citation is filed with the circuit clerk, send notice of the issuance of the traffic citation to the registered owner of the vehicle. The notice must include:

- (1) the date and time the violation was alleged to have been committed;
- (2) the location where the violation was alleged to have been committed;
- (3) the name of the person cited for committing the alleged violation;
- (4) the violation alleged to have been committed; and
- (5) the date and time of any required court appearance by the person cited for committing the alleged violation.

(b) On or before March 31, 2004, the Department of State Police shall report to the General Assembly on the effectiveness of the pilot project.

(Source: P.A. 92-344, eff. 8-10-01.)

(625 ILCS 5/16-107) (from Ch. 95 1/2, par. 16-107)

Sec. 16-107. Appearance of parent or guardian of minor in certain court proceedings - Judicial discretion.

(a) Whenever an unemancipated minor is required to appear in court pursuant to a citation for violation of any Section or any subsection of any Section of this Act specified in subsection (b) of this Section, the court may require that a parent or guardian of the minor accompany the minor and appear before the court with the minor, unless, in the discretion of the court, such appearance would be unreasonably burdensome

under the circumstances.

(b) This Section shall apply whenever an unemancipated minor is charged with violation of any of the following Sections and subsections of this Act:

- 1) Sections 3-701, 3-702 and 3-703;
- 2) Sections 4-102, 4-103, 4-104 and 4-105;
- 3) Section 6-101, subsections (a), (b) and (c) of Section 6-104, and Sections 6-113, 6-301, 6-302, 6-303 and 6-304;
- 4) Sections 11-203 and 11-204, subsection (b) of Section 11-305, Sections 11-311, 11-312, 11-401, 11-402, 11-403, 11-404, 11-407, 11-409, 11-501, 11-502, 11-503, 11-504, 11-506, subsection (b) of Section 11-601, Sections 11-704, 11-707, 11-1007, 11-1403, 11-1404 and subsection (a) of Section 11-1414.

(Source: P.A. 95-310, eff. 1-1-08.)

(625 ILCS 5/16-108)

Sec. 16-108. Claims of diplomatic immunity.

(a) This Section applies only to an individual that displays to a police officer a driver's license issued by the U.S. Department of State or that otherwise claims immunities or privileges under Title 22, Chapter 6 of the United States Code with respect to the individual's violation of Section 9-3 or Section 9-3.2 of the Criminal Code of 1961 or his or her violation of a traffic regulation governing the movement of vehicles under this Code or a similar provision of a local ordinance.

(b) If a driver subject to this Section is stopped by a police officer that has probable cause to believe that the driver has committed a violation described in subsection (a) of this Section, the police officer shall:

- (1) as soon as practicable contact the U.S. Department of State office in order to verify the driver's status and immunity, if any;
- (2) record all relevant information from any driver's license or identification card, including a driver's license or identification card issued by the U.S. Department of State; and

(3) within 5 workdays after the date of the stop, forward the following to the Secretary of State of Illinois:

- (A) a vehicle accident report, if the driver was involved in a vehicle accident;
- (B) if a citation or charge was issued to the driver, a copy of the citation or charge; and
- (C) if a citation or charge was not issued to the driver, a written report of the incident.

(c) Upon receiving material submitted under paragraph (3) of subsection (b) of this Section, the Secretary of State shall:

- (1) file each vehicle accident report, citation or charge, and incident report received;
- (2) keep convenient records or make suitable notations showing each:
  - (A) conviction;
  - (B) disposition of court supervision for any violation of Section 11-501 of this Code; and

(C) vehicle accident; and

(3) send a copy of each document and record described in paragraph (2) of this subsection (c) to the Bureau of Diplomatic Security, Office of Foreign Missions, of the U.S. Department of State.

(d) This Section does not prohibit or limit the application of any law to a criminal or motor vehicle violation by an individual who has or claims immunities or privileges under Title 22, Chapter 6 of the United States Code.

(Source: P.A. 92-160, eff. 7-25-01.)

(625 ILCS 5/Ch. 16 Art. II heading)

ARTICLE II. PARTIES IN CRIMINAL CASES

(625 ILCS 5/16-201) (from Ch. 95 1/2, par. 16-201)

Sec. 16-201. Parties to a crime.

Every person who commits, attempts to commit, conspires to commit, or aids, or abets in the commission of any act declared to be a crime, whether individually or in connection with one or more other persons or as principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or wilfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this Act is likewise guilty of such offense.

(Source: P.A. 76-1586.)

(625 ILCS 5/16-202) (from Ch. 95 1/2, par. 16-202)

Sec. 16-202. Offenses by persons owning or controlling vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to law.

(Source: P.A. 76-1586.)

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# Village Board

# Agenda Memorandum

Item #

**to:** Mayor Brian K. Reaves  
Village Board of Trustees

**from:** James L. Cainkar, P.E., P.L.S., Acting Village Engineer

**subject:** **Approval of Resolution Authorizing Submittal of the  
2012 Community Development Block Grant (CDBG) Program Year Application  
Porter Street Alley Sanitary Sewer & Water Main Replacement**

**date:** February 7, 2012

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## **BACKGROUND**

The County of Cook annually receives a distribution of Federal Funds for its use in funding capital improvements and social programs. These funds are eligible to be used in areas of the County that have census tracts that exceed a 49% low-to-moderate income level. (Communities over 50,000 population and others that have "opted out" of the County Program are not included.) The 2000 Census indicated that there is one (1) area of the Village that qualifies for CDGB funds with a 56.2% level. Any areas between the 49% and 51% level may submit for above-ground projects only (sidewalks, street lighting, street resurfacing, etc.). Areas that exceed the 51% level are allowed to submit for capital projects that include water main and sewer replacement (underground utility projects). The Village is applying for the funding of one (1) sanitary sewer/water main replacement project, which is located on Porter Street (Alley), between Stephen Street and Fremont Street, and between Porter Street and McCarthy Road, and consists of the replacement of 380-feet of existing 8-inch sanitary sewer with PVC pressure pipe type pipe, and 415 feet of 4-inch water main with new 8-inch ductile iron pipe.

## **PROS/CONS/ALTERNATIVES**

Approval of the Resolution will authorize the submittal of the 2012 CDBG Application with Cook County, which is due on February 17, 2012.

## **RECOMMENDATION**

Passing of the Resolution approving the submittal of the Application with Cook County for the 2012 Community Development Block Grant Program (CDBG), Sanitary Sewer/Water Main Replacement, Porter Street Alley, between Stephen Street and Fremont Street, and between Porter Street and McCarthy Road.

## **ATTACHMENTS**

- Resolution and Clerk's Certificate (Cook County Format)

## **VILLAGE BOARD ACTION REQUIRED**

Passing of Resolution approving the submittal of the Application with Cook County for the 2012 Community Development Block Grant Program (CDBG), Sanitary Sewer/Water Main Replacement, Porter Street Alley, between Stephen Street and Fremont Street, and between Porter Street and McCarthy Road, in order to receive block grant monies.



**RESOLUTION**

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Board of Trustees of the Village of Lemont, Illinois as follows:

Section 1. that a request is hereby made of the County of Cook, Illinois for Community Development Block Grant ("CDBG") funds for Program Year 2012 in the amount of \$175,000.00 for the following project(s):

Porter Street Alley Sanitary Sewer & Water Main Replacement  
\$175,000.00

As identified in the Village's CDBG 2012 Program Year application.

Section 2. That the Village Mayor and Clerk are hereby authorized to sign the application and various forms contained therein, make all required submissions and do all things necessary to make application for the funds requested in Section 1 of this Resolution, a copy of which applications on file with the Secretary.

Section 3. That the Village President is hereby authorized to certify that matching funds which have been identified as supporting its projects as set out within its application will be made available upon the approve of the projects by the County of Cook, Illinois or the prorated share thereof.

Dated this 13<sup>th</sup> day of February, 2012

By: Brian K. Reaves, Village Mayor  
Print Name (President)

\_\_\_\_\_  
Sign / President

By: Charlene M. Smollen  
Print Name (Clerk)

\_\_\_\_\_  
Sign / Clerk

( S E A L )

STATE OF ILLINOIS  
COUNTY OF COOK } SS

**CLERK'S CERTIFICATE**

I, **CHARLENE M. SMOLLEN**, the duly appointed, qualified and acting Village Clerk of the Village of Lemont, Cook County, Illinois, **DO HEREBY CERTIFY** that attached hereto is a true and correct copy of the Resolution 2012 – \_\_\_\_\_ now on file in my office entitled:

***A RESOLUTION EXPRESSING THE VILLAGE'S DESIRE TO  
PARTICIPATE IN PUBLIC WORKS PROJECTS PURSUANT TO THE  
COOK COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM***

which Resolution was passed by the Board of Trustees of the Village of Lemont at a meeting held on the **13<sup>th</sup>** day of **February, 2012**, at which meeting a quorum was present, and approved by the President of the Village of Lemont on **13<sup>th</sup>** day of **February, 2012**.

**I FURTHER CERTIFY** that a fully executed original copy of said Resolution was duly filed in the office of the Clerk on February 13, 2012, and that attached hereto is a copy of said Resolution. That the original Resolution is entrusted to my care for safekeeping and that I am the lawful keeper of same.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Village of Lemont, this **13<sup>th</sup>** day of **February, 2012**.

\_\_\_\_\_  
**Charlene M. Smollen, Village Clerk**

**( S E A L )**





Village of Lemont  
*Planning & Economic Development Department*

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418 Main Street · Lemont, Illinois 60439  
phone 630-257-1595 · fax 630-257-1598

TO: Mayor Brian K. Reaves #10-12  
Village Board of Trustees

FROM: James A. Brown, Planning & Economic Development Director

THRU Ben Wehmeier, Village Administrator

SUBJECT: **Letter of Credit Reduction – Krystyna Crossing**

DATE: 8 February 2012

---

Ann Bell of Castetown Homes, Inc., the new owners of Krystyna Crossing, has requested a reduction in the Letter of Credit deposited with the Village. The Village Engineer has inspected improvements made at the subdivision and finds that a reduction of \$125,600 is warranted. The Village Administrator and I concur and recommend the attached resolution be approved by the Village Board.

Attachment:

A Resolution Authorizing Letter of Credit Reduction for Krystyna Crossing Subdivision

**VILLAGE OF LEMONT**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING LETTER OF CREDIT REDUCTION  
FOR KRYSTYNA CROSSING SUBDIVISION**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2012**

**Published in pamphlet form by  
authority of the President and  
Board of Trustees of the Village of  
Lemont, Cook, Will and DuPage Counties,  
Illinois on this 13<sup>th</sup> day of February, 2012**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING LETTER OF CREDIT REDUCTION  
FOR KRYSTYNA CROSSING SUBDIVISION**

**WHEREAS**, pursuant to the Lemont Unified Development Ordinance of 2008, an owner or developer of a subdivision is required to deposit certain security or evidence thereof with the Village of Lemont to guarantee the installation of subdivision improvements; and

**WHEREAS**, in the matter of the Krystyna Crossing subdivision located at 15070 and 15884 127<sup>th</sup> Street in Lemont, Irrevocable Letter of Credit No. 2011-650 was issued by State Bank of Countryside in the amount of amount of \$469,819.00, and deposited with the Village of Lemont to guarantee completion of subdivision improvements; and

**WHEREAS**, Ms. Ann Bell, representing Castletown Homes, Inc., owner of Krystyna Crossing subdivision, has requested a reduction in the Letter of Credit No. 2011-650 in the amount of \$125,600.00, resulting in a new balance of \$344,219.00; and

**WHEREAS**, the Village Engineer of the Village of Lemont has inspected certain portions of the improvement and has found these portions to have been satisfactorily installed;

**NOW, THEREFORE BE IT RESOLVED** by the President and Board of Trustees of the Village of Lemont that Irrevocable Letter of Credit No. 2011-650 is hereby reduced to the amount of \$344,219.00.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DU PAGE, ILLINOIS**, on this 13th day of February, 2012.

**AYES**

**NAYS**

**PASSED**

**ABSENT**

**Debby Blatzer**

**Paul Chialdikas**

**Clifford Miklos**

**Ron Stapleton**  
**Rick Sniegowski**  
**Jeanette Virgilio**

**APPROVED** by me this 13<sup>th</sup> day of February, 2012

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**BRIAN K. REAVES**, Village President

**ATTEST:**

---

**CHARLENE M. SMOLLEN**, Village Clerk



Village of Lemont  
*Planning & Economic Development Department*

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418 Main Street · Lemont, Illinois 60439  
phone 630-257-1595 · fax 630-257-1598

TO: Mayor Brian K. Reaves #11-12  
Village Board of Trustees

FROM: James A. Brown, Planning & Economic Development Director

THRU

SUBJECT: **Consolidation of Lots 15 and 16, Smith Farm Subdivision**

DATE: 8 February 2012

---

Ann Bell of Castletown Homes, Inc., the new owners of Lots 15 and 16 at Smith Farm subdivision, has requested consolidation of those two lots. An interested buyer wants Castletown to construct a home that would not fit on to only one of the lots.

The consolidation requires (1) a Plat of Vacation for the public utility and drainage easements that run along the property line that separates the two lots, and (2) a Plat of Consolidation. Two resolutions approving these plats are attached. This request for consolidation was brought to the trustees' attention at a recent Committee of the Whole.

Attachments:

1. A Resolution Approving Vacation of Public Utility and Drainage Easements, Lots 15 and 16, Smith Farm
2. A Resolution Approving Consolidation of Lots 15 and 16, Smith Farm



**VILLAGE OF LEMONT**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING VACATION OF PUBLIC UTILITY  
AND DRAINAGE EASEMENT, LOTS 15 AND 16,  
SMITH FARM SUBDIVISION**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2012**

**Published in pamphlet form by  
authority of the President and  
Board of Trustees of the Village of  
Lemont, Cook, Will and DuPage Counties,  
Illinois on this 13<sup>th</sup> day of February, 2012**

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROVING VACATION OF PUBLIC UTILITY  
AND DRAINAGE EASEMENT, LOTS 15 AND 16,  
SMITH FARM SUBDIVISION**

**WHEREAS**, Ann Bell, petitioner, represents Castletown Homes, Inc., the owner of certain property consisting of Lots 15 and 16 of the Smith Farm subdivision, Village of Lemont; and

**WHEREAS**, public utility and drainage easements run along the side and rear lot lines of Lots 15 and 16; and

**WHEREAS**, the petitioner desires to consolidate said property into one lot; and

**WHEREAS**, in conjunction with the consolidation of Lots 15 and 16 the petitioner desires to have vacated the two public utility and drainage easements that run along the internal lot line dividing Lots 15 and 16; and

**WHEREAS**, the petitioner has submitted to the Village of Lemont for approval a Plat of Easement Vacation, prepared by Landtech Consultants, Ltd; and

**NOW, THEREFORE BE IT RESOLVED** by the President and Board of Trustees of the Village of Lemont that the Plat of Easement Vacation, which is attached hereto and made part hereof as Exhibit A, is hereby approved.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DU PAGE, ILLINOIS**, on this 13th day of February, 2012.

**AYES**

**NAYS**

**PASSED**

**ABSENT**

**Debby Blatzer**

**Paul Chialdikas**

**Clifford Miklos**

**Ron Stapleton**

**Rick Sniagowski**  
**Jeanette Virgilio**

**APPROVED** by me this 13<sup>th</sup> day of February, 2012

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**BRIAN K. REAVES**, Village President

**ATTEST:**

---

**CHARLENE M. SMOLLEN**, Village Clerk

THAT PUBLIC UTILITY AND DRAINAGE EASEMENT LYING 7.5 FEET EAST AND WEST OF THE WEST LINE OF LOT 15 (THE EAST LINE OF LOT 16) IN SMITH FARMS SUBDIVISION BEING A PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COMMON ADDRESS: 16672 PASTURE DRIVE, LEMONT, IL

PASTURE DRIVE

R=1566.00  
L=171.70

R=934.00  
L=8.42

25' BUILDING SETBACK LINE

**PROPOSED LOT 1  
CASTLETOWN LORENZ  
SUBDIVISION**

140.00'

LOT 17  
210.32'

**SMITH**

LOT 20  
DRAINAGE  
EASEMENT

70.32'

LOT 16

**FARMS**

209.32'

LOT 15

**SUBDIVISION**

213.43'

LOT 14

7.5' PUBLIC UTILITY AND DRAINAGE EASEMENT

DRAINAGE EASEMENT (HEREBY VACATED)

DRAINAGE EASEMENT (HEREBY VACATED)

7.5' PUBLIC UTILITY AND DRAINAGE EASEMENT

7.5' PUBLIC UTILITY AND DRAINAGE EASEMENT

20' PUBLIC UTILITY AND DRAINAGE EASEMENT

20' PUBLIC UTILITY AND DRAINAGE EASEMENT

90.0'

180.0'

90.0'

SCALE: 1" = 30'

**PLAT OF EASEMENT  
VACATION**

RELEASE OF EASEMENT  
KNOW ALL MEN BY THESE PRESENTS:

THAT THE VILLAGE OF LEMONT, HAVING NO FACILITIES LOCATED THEREON AND ANTICIPATING NO FUTURE NEED THEREOF, HEREBY DISCLAIMS ALL RIGHT, TITLE AND INTEREST IT MAY HAVE IN AND TO THE FOLLOWING DESCRIBED PREMISES UNDER AND BY VIRTUE OF THE PUBLIC UTILITY AND DRAINAGE EASEMENT SET FORTH, GRANTED AND RESERVED BY THE FINAL SUBDIVISION PLAT OF SMITH FARMS SUBDIVISION.

RELEASE OF EASEMENT AS DEPICTED WITH HATCHING AND LABELED "HEREBY VACATED" ON THIS PLAT:

THAT PART OF LOTS 15 AND 16 IN SMITH FARMS SUBDIVISION OF PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 31, TOWNSHIP 37 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING 7.5 FEET ON EITHER SIDE OF THE LINE BETWEEN SAID LOTS 15 AND 16 EXCEPT THAT PART LYING 20 FEET NORTH OF THE SOUTH LINES OF SAID LOTS 15 AND 16, ALL IN COOK COUNTY, ILLINOIS.

THIS DISCLAIMER IS NOT INTENDED TO AND SHALL NOT IN ANY WAY AFFECT THE EASEMENTS SET FORTH AND RESERVED ON THE AFORESAID FINAL SUBDIVISION PLAT OF SMITH FARMS SUBDIVISION, EXCEPT AS TO THE PREMISES HEREINBEFORE SPECIFICALLY DESCRIBED.

APPROVED AND ACCEPTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COOK COUNTY, ILLINOIS AT A PUBLIC MEETING

HELD: THIS \_\_\_ DAY OF \_\_\_\_\_ 2012 AT 418 MAIN ST., LEMONT, ILLINOIS 60439.

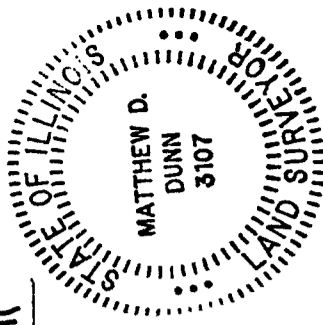
BY: \_\_\_\_\_ PRESIDENT  
ATTEST: \_\_\_\_\_ VILLAGE CLERK

Surveyor's Certificate  
STATE OF ILLINOIS )  
COUNTY OF WILL )

This is to certify that I, MATTHEW D DUNN, Registered, Illinois Land Surveyor No. 3107, have surveyed the above described property as shown on this plat, which is a correct representation of said survey. All boundary dimensions are based on the public records and/or the legal description as provided by the client and must be compared with the deed, title policy or local zoning regulations. Dimensions are shown in feet and decimal parts thereof.

I further certify that this professional service conforms to the current Illinois minimum standards for a boundary survey. By my signature on this certificate, I hereby grant to the Village of Lemont, Castletown Homes or AT&T, their respective successors and assigns, the authority to record this plat.

Given under my hand and seal at HOMER GLEN, Illinois, this 14<sup>th</sup> day of December 2011



Illinois Registered Land Surveyor

This plat pertains to P.I.N. 22-31-113-005-0000 AND 22-31-113-006-0000

PREPARED BY: **Landtech Consultants LTD.**

ENGINEERING • SURVEYING • LAND PLANNING

13711 W. 159th STREET HOMER GLEN, IL. 60491  
PHONE (708)301-6200 FAX (708)301-6204

JOB NO. 111102

**VILLAGE OF LEMONT**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING CONSOLIDATION OF LOTS 15 AND 16,  
SMITH FARM SUBDIVISION**

**ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF LEMONT  
THIS 13<sup>TH</sup> DAY OF FEBRUARY, 2012**

**Published in pamphlet form by  
authority of the President and  
Board of Trustees of the Village of  
Lemont, Cook, Will and DuPage Counties,  
Illinois on this 13<sup>th</sup> day of February, 2012**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION APPROVING CONSOLIDATION OF LOTS 15 AND 16,  
SMITH FARM SUBDIVISION**

**WHEREAS**, Ann Bell, petitioner, represents Castletown Homes, Inc., the owner of certain property consisting of Lots 15 and 16 of the Smith Farm subdivision in the Village of Lemont which is legally described and depicted in a Plat of Consolidation, attached; and

**WHEREAS**, the petitioner desires to consolidate said property into one lot; and

**WHEREAS**, petitioner has submitted to the Village of Lemont for approval a two-lot Plat of Consolidation, prepared by Landtech Consultants, Ltd; and

**WHEREAS**, the Plat of Consolidation is in substantial conformance with the physical development policies and standards of the Village of Lemont; and

**WHEREAS**, pursuant to the Unified Development Ordinance, the Planning and Economic Development Director has recommended approval of the Plat of Consolidation.

**NOW, THEREFORE BE IT RESOLVED** by the President and Board of Trustees of the Village of Lemont that the Plat of Consolidation for Lots 15 and 16, Smith Farm subdivision, which is attached hereto and made part hereof as Exhibit A, is hereby approved.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL, AND DU PAGE, ILLINOIS**, on this 13th day of February, 2012.

**AYES**

**NAYS**

**PASSED**

**ABSENT**

**Debby Blatzer**

**Paul Chialdikas**

**Clifford Miklos**

**Ron Stapleton**

**Rick Sniagowski**  
**Jeanette Virgilio**

**APPROVED** by me this 13<sup>th</sup> day of February, 2012

---

**BRIAN K. REAVES**, Village President

**ATTEST:**

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**CHARLENE M. SMOLLEN**, Village Clerk





**Resolution No. \_\_\_\_\_**

**A Resolution Relating to the Semi-Annual Review  
of Closed Session Minutes**

**WHEREAS**, the Village of Lemont President and Board of Trustees is required to make a semi-annual review of its closed session minutes in accord with the Open Meetings Act.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE BOARD OF THE VILLAGE OF LEMONT, ILLINOIS, pursuant to Section 2.06 of the Open Meetings Act:**

SECTION 1. The Village Board determines that the following sets of closed session minutes of the Village Board no longer require confidential treatment and are available for public inspection:

None at this time.

SECTION 2. The President and Board of Trustees determines that the need for confidentiality still exists as to all closed session minutes not listed in Section 1 above or previously released.

SECTION 3. That this Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LEMONT, COUNTIES OF COOK, WILL AND DUPAGE, ILLINOIS on this**

\_\_\_\_\_ day of \_\_\_\_\_, 2012.

**PRESIDENT AND VILLAGE BOARD MEMBERS:**

	<b>AYES:</b>	<b>NAYS:</b>	<b>ABSENT:</b>	<b>ABSTAIN</b>
<b>Debby Blatzer</b>	_____	_____	_____	_____
<b>Paul Chialdikas</b>	_____	_____	_____	_____
<b>Clifford Miklos</b>	_____	_____	_____	_____
<b>Ron Stapleton</b>	_____	_____	_____	_____
<b>Rick Sniegowski</b>	_____	_____	_____	_____
<b>Jeanette Virgilio</b>	_____	_____	_____	_____

\_\_\_\_\_  
**BRIAN K. REAVES**  
President

ATTEST:

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**CHARLENE M. SMOLLEN**  
Village Clerk