

**COUNTY OF WARREN
LOCAL LAW NO. 4 OF 2009**

**A LOCAL LAW PROVIDING FOR A STORAGE FEE AND COLLECTION
THEREOF FOR NON-EXEMPT VEHICLES, VESSELS, TRAILERS, AND/OR
HEAVY EQUIPMENT STORED AT THE WARREN COUNTY SHERIFF'S
OFFICE IMPOUND STORAGE AREA**

BE IT ENACTED, by the Board of Supervisors of the County of Warren, New York, as follows:

SECTION 1. TITLE. This Local Law shall be titled "A Local Law Providing for a Storage Fee and Collection Thereof for Non-Exempt Vehicles, Vessels, Trailers, and/or Heavy Equipment Stored at the Warren County Sheriff's Office Impound Storage Area".

SECTION 2. AUTHORITY. The authority for this Local Law is Municipal Home Rule Law §10(1)(i). In addition, authority also exists under Municipal Home Rule Law §10(1)(ii)(a)(9-a) and (14).

SECTION 3. PURPOSE AND INTENT. The purpose of this Local Law is to: (1) impose a reasonable fee for storage of vehicles, vessels, trailers, and/or heavy equipment in the Sheriff's Office impound storage area; and (2) provide a mechanism for the collection of that fee. There are costs associated with the maintenance of such a storage area, such as the capital costs for fencing, administrative costs and labor costs for maintaining the area and handling of the vehicles, vessels, trailers, and/or heavy equipment. Private garages which tow and store vehicles typically charge a storage fee and it seems reasonable for a municipal corporation to do the same for the service being rendered to particular persons and businesses.

SECTION 4. EFFECT OF LOCAL LAWS ON ACTS OF THE STATE LEGISLATURE. In addition to providing for a storage fee, this Local Law provides for a lien and collection thereof. New York State Lien Law §184 provides, under certain instances, a lien for a person who tows and stores a motor vehicle, motor boat or aircraft at the request of a law enforcement officer. It is the

intent of this Local Law to essentially follow New York State Lien Law §184 and provide for a similar garageman's lien for the benefit of the Sheriff's Office, only the Sheriff's Office does not tow but just stores motor vehicles, vessels, trailers, and/or heavy equipment in the instances covered by this Local Law. To the extent that New York State Lien Law §184 does not provide a lien for a person who simply stores a vehicle, vessel, trailer, and/or heavy equipment, or for a Sheriff's Office that stores a vehicle, vessel, trailer, and/or heavy equipment, then this Law shall be interpreted as covering that particular instance. Otherwise, it is the intent to follow the procedures outlined in New York State Lien Law §184 with regard to the establishment of a lien and enforcement of the same in the instances provided for under this Local Law.

SECTION 5. IMPOSITION OF STORAGE FEE AND LIEN FOR STORAGE OF VEHICLES, VESSELS, TRAILERS, AND/OR HEAVY EQUIPMENT AT THE WARREN COUNTY SHERIFF'S IMPOUND STORAGE AREA; PAYMENT PROCEDURE; EXEMPTIONS.

- A. Storage Fee Imposed. On and after December 1, 2009 and except as provided herein, there shall be imposed and there shall be paid a storage fee of Twenty-Five Dollars (\$25) for each twenty-four (24) hour period or any part thereof that a vehicle, vessel, trailer, and/or heavy equipment is situated at and stored at the Warren County Sheriff's impound area due to: (1) an accident; (2) lack of a legally qualified operator; (3) abandonment, other than those motor vehicles stored by reason of being stolen or abandoned, pursuant to New York State Lien Law §184(3); (4) being seized contemporaneously with an arrest; and (5) seizure by reason of the action of a creditor and/or courts, in furtherance of a creditor or lienholder's right in the vehicle, vessel, trailer, and/or

heavy equipment.

- B. Computation of Storage Fee. For purposes of computing the charges imposed, the twenty-four (24) hour period shall commence at 12:01 a.m.
- C. Lien. Any charges imposed by authority of this title shall constitute a lien upon the vehicle, vessel, trailer, and/or heavy equipment. For purposes of enforcing the lien, New York State Lien Law §184 and Article 9 shall apply, except that it shall not be necessary for the Warren County Sheriff to have towed the vehicle, vessel, trailer, and/or heavy equipment, but merely stored the vehicle, vessel, trailer, and/or heavy equipment at the request of a law enforcement officer. It shall also not be necessary for the Warren County Sheriff's Office to be registered as a motor vehicle repair shop.
- D. Payment of Storage Fee. The fee shall be payable to the Warren County Sheriff by the owner, operator or anyone else claiming title to the vehicle, vessel, trailer, and/or heavy equipment before regaining possession of the vehicle, vessel, trailer, and/or heavy equipment. The person paying the fee shall present: (1) an original certificate of a registration and title to the vehicle, vessel, trailer, and/or heavy equipment or such other bona fide proof of ownership, as the Warren County Sheriff shall require; (2) personal identification; and (3) payment of the total storage fees due on the vehicle, vessel, trailer, and/or heavy equipment.
- E. Definition of "Vehicle", "Vessel", "Trailer", and/or "Heavy Equipment" to Which Fee Shall Apply. "Vehicle", as that term is used herein, shall include a vehicle, as defined by Vehicle & Traffic Law §159, and aircraft, as defined by General Business Law §240. "Vessel", as that term is used herein, shall be that defined by Navigational

Law §2. “Trailer”, as that term is used herein, shall consist of hauling trailers, boat trailers or other types of trailers that could be towed on the highway by a vehicle.

“Heavy Equipment”, as that term is used herein, shall consist of equipment with a motor or engine and capable of being ridden, including, but not limited to tractors, bulldozers, backhoes, front-end loaders, and other similar hauling equipment.

- F. Exemption from Storage Fee Charges. Storage fees shall not be assessed: (1) under those circumstances where the vehicle, vessel, trailer, and/or heavy equipment is seized as a result of a search warrant issued pursuant to CPL §690.10 or other similar circumstances where the vehicle, vessel, trailer, and/or heavy equipment is lawfully seized for purposes of the District Attorney and/or the Sheriff’s Office or other police agency having and keeping temporary custody of the same; (2) for County-owned vehicles, vessels, trailers, and/or heavy equipment; (3) for abandoned motor vehicles, as described in New York State Lien Law §184(3); and (4) light power equipment, including, but not limited to lawn mowers, power tools, and/or machinery that can not be ridden by the operator.

SECTION 6. TRANSITIONAL PROVISION. The fees imposed by this Local Law shall be paid on any vehicles, vessels, trailers, and/or heavy equipment for which the storage commencement date occurs on or after December 1, 2009. There shall not be a storage fee imposed upon any vehicle, vessel, trailer, and/or heavy equipment which was stored in the Sheriff’s impound storage area before December 1, 2009 or for which storage commenced before December 1, 2009 and ended thereafter.

SECTION 7. DISPUTES AND JUDICIAL REVIEW.

- A. Administrative Review and Right to be Heard. Any person desiring to dispute,

challenge or bring a court action with regard to payment of the storage fee or amount imposed hereunder must request a review by a Committee of the Warren County Board of Supervisors with oversight of County Sheriff's operations not later than ten (10) business days following the time the fee is paid. This review may be requested whether or not the storage fee is paid at the time the review is requested. The request need not be any particular form, but shall be in legible writing setting forth the following information: (1) date; (2) addressed to the Clerk of the Warren County Board of Supervisors; (3) a position, explanation or argument as to why the fee is not due or not correct; (4) an address to which all communications from the County should be sent; and (5) signed by the person seeking to retrieve the vehicle, vessel, trailer, and/or heavy equipment from the Warren County Sheriff's impound storage area. Failure to include the required information in a review request shall cause the review request to be considered incomplete, and the County may elect not to act upon the same for failure to follow the required procedures. Upon receipt of a complete written review request, the Clerk of the Warren County Board of Supervisors shall notify the Chairman or Deputy Chairman of the Committee of the Warren County Board of Supervisors with oversight of Sheriff's operation, who shall, in turn, call for a meeting of the Committee to review the submitted written request. The meeting shall be held within five (5) business days of the time the Clerk of the Board of Supervisors receives the request. The person making the request shall be notified in writing of the meeting and may attend, and shall be allowed to make any presentation or present evidence as to the reason(s) why the fee is not due or the amount is not correct. Following such review, the Committee shall make a decision with two (2)

business days and either provide a copy of the same to the person requesting the same, if in attendance, or mail the same, by certified mail return receipt requested.

- B. Judicial Review. Any final determination by the Committee of the Warren County Board of Supervisors with oversight of the Warren County Sheriff's operations shall constitute a final determination of the County and shall be reviewable for error, illegality or unconstitutionality or for any other reason whatsoever by a proceeding under Article 78 of the Civil Practice Law and Rules if application therefore is made to the Supreme Court within thirty (30) days after the giving of notice of such final determination.

SECTION 8. DISPOSITION OF STORAGE FEES. All fees received as a result of this Local Law shall be paid by the Warren County Sheriff to the Warren County Treasurer once a month. The Warren County Treasurer shall deposit the same in the General Fund of the County. The Warren County Sheriff shall show the anticipated revenues as part of the budget submitted by the Warren County Sheriff each year.

SECTION 9. SEPARABILITY. If any provision of this Local Law or the application thereof to any person or circumstance shall be held invalid, the remainder of this Local Law and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 10. EFFECTIVE DATE. This Local Law shall take effect December 1, 2009.