

CHAPTER 5  
ADMINISTRATIVE ADJUDICATION

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9-5-1 ADOPTION OF STATE STATUTE

Administrative Adjudication of Violations of Traffic Regulations Concerning the Standing, Parking or Conditions of Vehicles (625 ILCS 5/11-208.3), as amended, is adopted in its entirety. Any person charged with the violation of a municipal ordinance regulating the standing, parking and condition of vehicles may be prosecuted under and in accordance with the provisions herein.

9-5-2 DEFINITIONS

The terms used herein shall have the following meanings:

**Compliance Administrator:** All sworn police officers, the Building Commissioner, Public Works Superintendent and any other employee appointed by the President to issue Code violation notices.

**Hearing Officer:** An individual who is appointed to serve as the hearing officer for matters set forth under this Chapter. The hearing officer shall be responsible for the operation of an administrative adjudication system and is referred to herein as the hearing officer. The adjudication of all notices of parking, standing and condition of vehicles shall be conducted by the hearing officer in accordance with all the provisions of this Chapter 9.

**Suspension notice:** A notice of impending driver's license suspension issued pursuant to 625 ILCS 5/11-208.3.

**Traffic Compliance Administrator:** The Village's Police Chief or designee.

**Vehicle Code:** The Illinois Vehicle Code, (625 ILCS 5/1-100 *et seq.*, as amended).

Violation notice: A notice issued pursuant to 625 ILCS 5/11-208.3 and the provisions of this Chapter.

### 9-5-3 OFFICE OF TRAFFIC COMPLIANCE ADMINISTRATOR

There is hereby created the position of Traffic Compliance Administrator which position shall be filled by the Police Chief. The Traffic Compliance Administrator shall be authorized to adopt, distribute and process violation notices and other notices required by 625 ILCS 5/11-208.3; collect money paid as fines and penalties for violations of this Code; and operate the Village's administrative adjudication system.

### 9-5-4 NOTICE REQUIREMENTS (VEHICULAR)

A violation notice shall include:

1. The date, time and place of the violation.
2. The particular regulation violated.
3. The fine and any penalty that may be assessed for late payment.
4. The vehicle make and state registration number.
5. The identification number of the person issuing the notice.
6. That the payment of the indicated fine, and any applicable penalty for late payment, shall operate as a final disposition of the violation.
7. Information on the availability of a hearing in which the violation may be contested on its merits.
8. The time and manner in which a hearing will be held.

### 9-5-5 SERVICE (VEHICULAR)

- A. The original or a facsimile of the notice shall be affixed to the vehicle or by handing the notice to the operator of a vehicle if present. Service shall be made by mail to the address of the registered owner of the cited vehicle within 30 days after the Secretary of State notifies the Village of the identity of the vehicle's owner, but in no event later than 90 days after the violation.
- B. When the Traffic Compliance Administrator issues a violation notice he shall certify to the correctness of the facts on the violation notice by signing his name to the notice at the time of service or, in the case of a notice produced by a computerized device, by signing a single certificate to be kept by the Traffic Compliance Administrator attesting to the correctness of all notices produced by the device while it was under his control. The orig-

inal or a facsimile of the violation notice shall be retained by the Traffic Compliance Administrator. A record of the proceeding shall be kept in the ordinary course of business.

- C. A violation notice issued, signed and served in accordance with this Section, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The notice, copy or computer generated record shall be admissible in any subsequent administrative or legal proceedings.
- D. Service of additional notices may be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State, or, under 625 ILCS 5/11-1306, to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease. If notice to that address is returned as undeliverable, service shall be to the last known address recorded in a United States Postal Service database. The service shall be deemed complete as of the date of deposit with the United States Postal Service.
- E. Second Violation Notice: A second notice of violation shall include:
  - 1. The date and location of the violation cited in the violation notice.
  - 2. The particular regulation violated.
  - 3. The vehicle make and state registration number.
  - 4. The fine and any penalty that may be assessed for late payment.
  - 5. The method in which a hearing to contest the violation on its merits may be obtained by the respondent, and the time and manner in which the hearing may be requested.
  - 6. A statement that failure either to pay the fine and any applicable penalty or to appear at the scheduled hearing will result in a final determination of violation liability for the cited violation in the amount of the fine and penalty indicated.
  - 7. A statement that, upon the occurrence of a final determination of violation liability for the failure, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village.
- F. Final Notice of Determination: A notice of final determination of parking, standing or compliance of vehicle violation liability and the conclusion of the judicial review procedure taken pursuant to this Section shall be issued. The notice shall:
  - 1. State the unpaid fine or penalty is a debt due and owing the Village;

2. Contain warnings that failure to pay any fine or penalty due and owing the Village within the time specified may result in the Village filing a petition in the Circuit Court for the 22<sup>nd</sup> Judicial Circuit to have the unpaid fine or penalty rendered a judgment as provided by this Section, or may result in suspension of the person's driver's license for failure to pay fines or penalties for 10 or more parking violations under 625 ILCS 5/6-306.5.

G. Driver's License Suspension: A notice of impending driver's license suspension shall:

1. Be sent to the person liable for any fine or penalty that remains due and owing on 10 or more parking violations;
2. State that failure to pay the fine or penalty owing within 45 days of the notice's date will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under 625 ILCS 5/6-306.5;
3. State that the person may obtain a photostatic copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the Village with a request for a copy; and
4. Be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Postal Service approved database.

#### 9-5-6 HEARING AND EVIDENCE RULES

A registered owner of the vehicle cited in a violation notice shall have an opportunity for a hearing in which the owner may contest the merits of the alleged violation, and during which formal or technical rules of evidence shall not apply; provided, however, that under 625 ILCS 5/11-1306, the lessee of a vehicle cited in the violation notice shall be provided an opportunity for a hearing as afforded the registered owner. Likewise, the lessee of a vehicle cited in a violation notice shall be afforded the opportunity for a hearing of the same kind afforded the registered owner.

#### 9-5-7 DEFENSES

For matters relating to parking, standing or condition of vehicles, the hearing officer may consider in defense of a violation:

1. The motor vehicle, or registration plates, of the motor vehicle was stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation.
2. The relevant required signs prohibiting or restricting parking were missing or obscured.

3. The facts alleged in the parking, standing or compliance violation notice are not correct, are materially inconsistent or do not support a finding that the specified regulation was violated.
4. Any other evidence or issues provided by Village ordinance.

To demonstrate that the motor vehicle, or the registration plates, was stolen before the violation occurred and was not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

#### 9-5-8 FINAL DETERMINATION OF VIOLATION LIABILITY

A final determination of violation liability shall occur following failure to pay the fine and any applicable penalty, or to appear at a hearing on the merits, and upon the exhaustion of the administrative review procedures. When a person fails to appear at his/her scheduled hearing to contest an alleged violation, the hearing officer's determination of violation liability shall become final (i) upon denial of a timely petition to set aside that determination; or (ii) upon expiration of the period for filing the petition without a filing having been made.

#### 9-5-9 APPEALS

A petition to void a determination may be filed by a person owing an unpaid fine or penalty and shall be filed within 30 days of the finding of liability and shall be ruled upon by the hearing officer. The grounds for such a petition are limited to:

1. The person was not the owner or lessee of the cited vehicle on the date the violation notice was issued; or
2. The person had paid the fine or penalty for the violation in question; or
3. Excusable failure to appear at or request a date for a hearing.

When it has been determined there is just cause, the registered owner shall be provided with a hearing on the merits for the violation.

#### 9-5-10 PROCEDURES FOR NON-RESIDENTS

If an alleged violator does not reside within the Village, the violation may be contested in writing pursuant to the notice of violation. In such circumstances, the non-resident may submit his or her position, in writing, signed and under oath, to the hearing officer, setting forth the reasons why a finding of liability should not be entered and why the issuance of the violation was improper. Said written challenge must be submitted not less than 14 days prior to the hearing as noted on the notice of violation.

#### 9-5-11 JUDGMENT OF FINDINGS, DECISION AND ORDER

- A. Any fine, other sanction or costs imposed, or part of any fine, other sanction or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.
  
- B. After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of parking, standing, compliance violation, the Village may commence a proceeding in the Circuit Court of the 22<sup>nd</sup> Judicial Circuit for the purpose of obtaining a judgment on the final determination of violation. Nothing in this Section shall prevent the Village from consolidating multiple final determinations of parking, standing or compliance violations against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy or record of the final determination of parking, standing or compliance violation, which shall be accompanied by a certification that recites facts sufficient to show that the final determination of violation was issued in accordance with this Chapter and the applicable Village ordinance. Service of the summons and a copy of the petition may be made by any method provided for by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines and penalties for final determination of parking, standing, compliance or automated traffic law violations does not exceed \$2,500.00. If the court is satisfied that the final determination of parking, standing or compliance violation was entered in accordance with the requirements of this Chapter and 65 ILCS 5/1-2.2-1 *et seq.*, and that the registered owner or the lessee, as the case may be, had an opportunity for an administrative hearing and for judicial review as provided herein, the court shall render judgment in favor of the Village and against the registered owner or lessee for the amount indicated in the final determination of parking, standing or compliance violation, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for recovery of money.

#### 9-5-12 NOTICE OF VIOLATION (NON-VEHICULAR)

The form and manner of notice for a vehicular parking, compliance or standing violation shall be as provided in Section 9-5-4. All matters, excepting vehicular parking, compliance or standing violations, to be adjudicated shall be commenced against the party alleged to have violated one or more Code provision(s) by issuing and serving upon that party a charging document in accordance with the following procedures:

1. Issuance of Complaint: The charging document for a violation of any provision of this Code subject to the system of administrative adjudication provided in this Chapter, other than vehicular standing, parking, and compliance violations, shall be issued by a Compliance Administrator and served as provided for in paragraph 3 of this Section.
  
2. Contents: The charging document shall contain the following information:
  - a. The name, Village department and identification number, if applicable, of the person issuing the charging instrument;

- b. The name and address of the person or entity being charged with the violation;
  - c. The name and address of the person to whom the charging document is served upon if that person is not the respondent;
  - d. The section(s) of the Code alleged to have been violated;
  - e. The date, time and place of the alleged violation(s);
  - f. A legally sufficient description of the activity or conduct alleged to constitute a violation of each Code section set forth in the charging document; and
  - g. The name of the complaining witness(es) if the violation was not witnessed by the Compliance Administrator issuing the charging document.
3. Certification: The Compliance Administrator issuing the charging document shall certify the correctness of the information required by this Section by signing his or her name to the charging document.
4. Prima Facie Evidence: Charging documents that comply with this Section will be sufficient to establish a prima facie case of liability for the Code violation charged.
5. Hearing Information: A charging document issued pursuant to this Section shall also set forth:
- a. The date, time and place of the adjudication hearing to be held with respect to the violation;
  - b. The legal authority and jurisdiction under which the hearing will be held;
  - c. The penalties for failure to appear at the hearing; and
  - d. The fine to be paid within the time frame set forth in this Code, and/or noting that appearance is required on the hearing date.

9-5-13 SERVICE (NON-VEHICULAR)

- A. The form and manner of service for a vehicular parking, compliance, standing, or automated traffic enforcement violation shall be as provided in Section 9-5-4. A proceeding before the hearing officer shall be instituted upon the filing of a written sworn pleading or complaint by any authorized official of the Village, including police officers, code enforcement officers, and such other employees as authorized by the President.

- B. Respondents shall be served with a copy of the written sworn pleading or complaint along with a notice of the hearing in any manner reasonably calculated to give them actual notice of the proceeding instituted against them including:
1. Personal service upon a party or its employees or agents;
  2. Service by first class mail, certified mail return receipt requested, or express mail at the party's address; or
  3. Service by posting a copy of the sworn pleading or complaint upon the property when a structure is involved where the violation is found if service on the owner cannot be made by mail. Posting shall be on the front door of the structure not less than 20 days before the hearing is scheduled. However, notice by posting shall not be effective notice if the property at issue is a vacant lot or a vacant building.

#### 9-5-14 DEFENSES TO A BUILDING CODE VIOLATION

It shall be a defense to a building code violation charged only under Title 4 of this Code if the owner, their attorney, or any other agent or representative proves to the hearing officer's satisfaction that:

1. The building code violation alleged in the notice does not in fact exist or, at the time of the hearing, the violation has been remedied or removed;
2. The building code violation has been caused by the current property occupants and, in spite of reasonable attempts by the owner to maintain the dwelling free of such violation, including filing civil action to evict current occupants, the current occupants continue to cause the violation;
3. An occupant or resident of the dwelling has refused entry to the owner or their agent to all or part of the dwelling for the purpose of correcting the building code violation.