

CHAPTER 30.

ADMINISTRATIVE ADJUDICATION

(Established by Ord. 08-35)

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Article I. Code Hearing Department

Sec. 30-101. Department Established.

- (A) There is hereby established a Code Hearing Department, the function of which is to expedite the adjudication of code and ordinance violations in the manner set out in State statutes and in this Chapter.
- (B) The adoption of this Chapter does not preclude the Village from using other lawful methods to enforce the provisions of its codes and ordinances.

Sec. 30-102. Appointments.

The Village Manager is hereby authorized to appoint persons to hold the Hearing Officer and other positions set forth in Articles II, III and IV hereof and such other positions as may be necessary or desirable for the efficient operation of the Code Hearing Department. One person may hold and fulfill the requirements of one or more of said positions. Hearing Officers shall meet the requirements of 65 ILCS 5/1-2.1-4(c) and shall have successfully completed a formal training program which includes the following:

- (1) Instruction on the rules of procedure of the administrative hearings which he/she will conduct;
- (2) Orientation to each subject area of the code violations he/she will adjudicate;

- (3) Observation of administrative hearings; and
- (4) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, every Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

Sec. 30-103. Compensation.

Compensation to be paid for the positions established within this Chapter shall be as determined by the Village Board.

**Article II. Administrative Adjudication of Vehicular
Standing, Parking And Compliance Violations**
(Amended in its Entirety by Ord. 24-12)

Sec. 30-201. Purpose.

The purpose of this Article is to provide a means for fair and efficient enforcement of Village vehicular standing, parking, and condition of vehicle regulation violation(s) and other Village regulation violation(s) as may be allowed by law, through an administrative adjudication of such violation(s) within the geographic boundaries of the Village and a schedule of uniform fines and penalties and authority and procedures for collection of unpaid fines and penalties pursuant to Section 11-208.3 of the Motor Vehicle Code (625 ILCS 5/11-208.3).

Sec. 30-202. Definitions.

For the purposes of this Article, the following words or phrases shall have the meanings respectively ascribed to them by this Section:

Compliance violation means a violation of a Village regulation governing the condition or use of equipment on a vehicle or governing the display of a municipal vehicle tax license.

Non-moving traffic violation means

- (1) a violation of any vehicular standing or parking ordinance or regulation of the Village or
- (2) a compliance violation.

Sec. 30-203. Administration.

The system of administrative adjudication of vehicular standing, parking, and compliance regulation violations shall provide for a Traffic Compliance Administrator with the power, authority and limitations as are hereinafter set forth to:

- (A) Operate and manage the system of administrative adjudication of vehicular standing, parking and compliance regulation violation(s).
- (B) Adopt, distribute and process standing, parking, and compliance violation notices and other notices as may be required under this Article II or as may be reasonably required to carry out the purpose of this Chapter.
- (C) Collect monies paid as fines and/or penalties assessed after a final determination of vehicular standing, parking, or compliance regulation violation(s) liability.
- (D) Certify copies of final determination(s) of standing, parking, and compliance regulation violation(s) liability and factual report(s) verifying that the final determination of standing, parking, and compliance regulation violation(s) liability issued in accordance with this Article and with 625 ILCS 5/11-208.3.
- (E) Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.
- (F) Collect unpaid fines and penalties by directing the Village Attorney to file complaints in the Circuit Court seeking judgments for unpaid fines or penalties and pursuit of all post-judgment remedies available by law.

Sec. 30-204. Procedures.

The system of administrative adjudication of vehicular standing, parking, and compliance regulation violations shall be in accordance with the following procedures. Final determinations of vehicular standing, parking, and compliance regulation violation(s) liability, validity of notice of impending impoundment, validity of notice of impending drivers license suspension, and collections shall be made only in accordance with the provisions set forth below:

- (A) Non-Moving Traffic Violation Notice. Vehicular standing, parking, and compliance regulation violations notice(s) ("non-moving traffic violation notice(s)") shall be issued by the person(s) authorized herein and shall contain information and shall be served, certified and have evidentiary admissibility as is hereinafter set forth.
- (B) Authorization. All full-time, part-time, and auxiliary police and community service officers, as well as other specifically appointed individuals, shall have the authority to issue non-moving traffic violation notices.
- (C) Detection of Non-Moving Traffic Violations. Any individual authorized herein to issue violation notices and who detects a non-moving traffic violation of any section of any applicable Village ordinance, shall issue a notice of non-moving traffic violation thereof and shall make service thereof as hereinafter set forth.
- (D) Contents of Non-moving Traffic Violation Notice. The non-moving traffic violation notice shall contain, but shall not be limited to, the following information:
 - (1) The date, time and place of the violation (date of issuance).
 - (2) The particular vehicular standing, parking, or compliance regulation violated.

- (3) Either the vehicle make and state registration number or the license number of the vehicle.
 - (4) The fine and any penalty which may be assessed for late payment prior to the hearing date.
 - (5) The signature and identification number of the person issuing the notice.
 - (6) A section entitled "Request for Hearing" which shall clearly set forth that the registered owner or lessee may request, within ten (10) days of the date of the violation notice issuance, and may appear at the initial administrative hearing to contest the validity of the violation notice on the date and at the time and place as specified in the violation notice by:
 - (a) A telephone request for a hearing made during normal business hours to the office of the Traffic Compliance Administrator (630/543-3080); or
 - (b) An e-mail request for a hearing made to the office of the Traffic Compliance Administrator by e-mail at "Parking @Addison-IL.org"; or
 - (c) An in-person request for a hearing made during normal business hours at the office of the Traffic Compliance Administrator at 3 Friendship Plaza, Addison, Illinois. (Ord. 08-66)
 - (7) That payment of the indicated fine and any late payment penalty shall operate as a final disposition of the violation.
- (E) Initial Service of Violation. Service of violation(s) notice(s) shall initially be made by the person issuing such notice by:
- (1) Affixing the original or a facsimile of the notice to an unlawfully standing or parked or non-complying vehicle, or
 - (2) Handing the notice to the registered owner, operator or lessee to the vehicle, if present.
- (F) Certification. The correctness of facts contained in the vehicular standing, parking, or compliance regulation violation notice(s) shall be certified by the person issuing said notice by:
- (1) Signing his/her name to the notice(s) at the time of service, or
 - (2) In the case of a notice produced by a computer 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 under his/her control.
- (G) Record of Notice. The original or a facsimile of the violations notice(s) shall be retained by the Traffic Compliance Administrator and kept as a record in the ordinary course of business.

- (H) Prima Facie Evidence of Correctness. Any violations notice(s) issued, signed and served in accordance herewith, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown the notice.
- (I) Admissibility. The violations notice(s) or a copy(s) shall be admissible in any subsequent administrative or legal proceeding.
- (J) Administrative Hearing. Upon receipt of a request for a hearing, the Traffic Compliance Administrator shall schedule a date for the hearing and shall provide written notice of the hearing date to the registered owner or lessee of the vehicle who has requested the hearing.
- (K) A nonresident registered owner or lessee may appear at the initial administrative hearing to contest the validity of the violation notice without personally appearing by following the procedures set forth in Section 30-209.
- (L) If the registered owner or lessee of the vehicle either fails to request a hearing or fails to pay the fine, the Traffic Compliance Administrator shall send a Final Parking/Code Violation Notice to the registered owner or lessee of the vehicle as provided in Section 30-205 hereof.

Sec. 30-205. Second Notice.

Upon the failure of the registered owner or lessee of the “cited vehicle” to request a hearing as set forth in the vehicular standing, parking, or compliance regulation violations notice(s), or pay the fine, a second notice:

- (A) Shall be sent to the registered owner or lessee of the “cited vehicle” at the address as is recorded with the Secretary of State. If any notice to that address is returned as undeliverable, notice shall be resent to the registered owner or lessee of the “cited vehicle” at the last known address recorded in a United States Post Office approved database.
- (B) Shall be sent to the lessee of the “cited vehicle” at the address last known to the lessor of the “cited vehicle” at the time of the lease.
- (C) Shall be sent by first class mail, postage prepaid.
- (D) Service of the second notice sent in accordance herewith shall be complete as of the date of deposit in the United States mail.
- (E) The second notice sent in accordance herewith shall contain, but not be limited to, the following information:
 - (1) Date and location of violation cited in the vehicular standing, parking, or compliance regulation violations notice(s).
 - (2) Particular standing, parking, or compliance regulation violated.
 - (3) Vehicle make and state registration.
 - (4) Fine and any penalty that may be assessed for late payment.

- (5) Notice to the registered owner or lessee of their current status, other than paid in full.
- (6) Date, time and place of the administrative hearing at which the alleged violation may be contested on its merits.
- (7) Statement that failure to either pay fine and any applicable penalty or failure to appear at the hearing on its merits on the date and at the time and place specified will result in a final determination of vehicle standing, parking, or compliance regulation violations liability for the "cited" violation in the amount of the fine and penalty indicated, which final determination shall constitute a debt due and owing the Village.

Sec. 30-206. Final Determination of Liability.

A final determination of vehicular standing, parking, or compliance regulation violations liability shall occur:

- (A) Following the failure to pay the total assessed fine or penalty after the Hearing Officer's determination of vehicular standing, parking, or compliance regulation violation(s) liability and the exhaustion of or the failure to exhaust the administrative petition procedure set forth in Sec. 30-207, or
- (B) Where a person fails to appear at the administrative hearing provided to contest the alleged violations on the date and at the time and place specified in a prior served or mailed notice, the Hearing Officer's determination of vehicular standing, parking, or compliance regulation violation(s) liability shall become final:
 - (1) Upon denial of a timely petition to set aside that determination, or
 - (2) Upon the expiration of the period for filing petition without a filing having been made.

Sec. 30-207. Petition to Set Aside Determination of Liability.

A petition to set aside a determination of vehicular standing, parking, or compliance regulation violations liability may be filed by a person owing an unpaid fine or penalty in the manner and subject to the restrictions and grounds hereinafter set forth:

- (A) A written petition to set aside a determination of liability must be filed in the office of the Traffic Compliance Administrator within, but not later than, fourteen (14) days from the date the determination of vehicular standing, parking, or compliance regulation violation(s) liability is made.
- (B) The Traffic Compliance Administrator shall act upon the petitions timely filed and render a decision thereon within fourteen (14) days of the date filed.
- (C) The grounds for setting aside a final determination of liability shall be limited to the following:

- (1) The person against whom the determination of liability is made was not the owner or lessee of the "cited vehicle" on the date the vehicular standing, parking, or compliance regulation violations notice(s) were issued.
 - (2) The person's having already paid the fine or penalty for the violations in question.
 - (3) Excusable failure to appear at or request a new date for a hearing.
- (D) Should the final determination of liability be set aside, the Traffic Compliance Administrator shall:
- (1) Notify the final registered owner, or lessee, as the case may be, that the determination of liability has been set aside.
 - (2) Notify the registered owner, or lessee, as the case may be, of a date, time and place, for a hearing on the merits of the violation for which final determination of liability has been set aside, as appropriate.
 - (3) Notice of setting aside of the final determination of liability and the notice of the hearing date shall be by first class mail, postage prepaid, to the address set forth on the petition to set aside the final determination of liability.
- (4) Service of the notice shall be complete on the date the notice(s) are deposited in the United States mail.

Sec. 30-208. Notice of Final Determination.

- (A) A notice of final determination of vehicular standing, parking, or compliance regulation violations liability shall be sent following a final determination of liability, as forth in Sec. 30-206. The notice shall contain, but not be limited to, the following information and warnings:
- (1) A statement that the unpaid fine and any penalty assessed is a debt due and owing the Village.
 - (2) A warning that failure to pay the fine and any penalty due and owing the Village within the time specified may result in the Village's use of a collection agency or the Village's filing a Complaint in the Circuit Court to have the unpaid fine or penalty rendered a Judgment in accordance with 625 ILCS 5/11-208.3(f), incorporated herein by reference.

Sec. 30-209. Non-resident Procedures.

Non-residents of the Village who have been served vehicular standing, parking, or compliance regulation violations notice(s) or Code or ordinance violation notices in accordance with this Chapter may contest the alleged violation on its merits, as could a resident pursuant to Section 30-204, or may contest the validity without personally appearing at an administrative hearing by:

- (A) Requesting a "Non-Resident Request for Hearing" form from the Traffic Compliance Administrator within ten (10) days of the date of the violation notice issuance by:

- (1) A telephone request for a hearing form made during normal business hours to the office of the Traffic Compliance Administrator (630/543-3080); or
 - (2) An e-mail request for a hearing form made to the office of the Traffic Compliance Administrator by e-mail at "Parking @Addison-Il.org"; or
 - (3) An in-person request for a hearing form made during normal business hours at the office of the Traffic Compliance Administrator at 3 Friendship Plaza, Addison, Illinois.
- (B) Filing a completed "Non-Resident Request for Hearing" form and a notarized statement of facts specifying the grounds for challenging the violation notice or citation which must be filed with the Traffic Compliance Administrator and postmarked within 10 days of the date of issuance of the Non-Resident Request for Hearing form. The request shall be deemed filed upon receipt by the Code Hearing Department.
- (C) The Hearing Officer shall make an adjudication based upon the facts set forth in the notarized statement of facts filed by the non-resident and the facts as contained in the violation notice or citation.
- (D) Notice of the determination of the Hearing Officer shall be served upon the non-resident by first class mail, postage prepaid, addressed to the non-resident at the address set forth in the statement of facts submitted.
- (E) Service of the notice shall be complete on the date the notice is placed in the United States mail.
- (F) All other provisions of this Chapter shall apply equally to non-residents of the Village.

Sec. 30-210. Fines/Penalties.

The fines and penalties which shall be imposed for the violation of vehicular standing, parking, or compliance regulation violations shall be as set forth in the codes and ordinances of the Village.

Sec. 30-211. Enforcement of Judgment.

- (A) Any fine, penalty, or part of any fine or any penalty remaining unpaid after the exhaustion of, or the failure to exhaust, administrative remedies under this Article and the conclusion of any judicial review procedures shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law. Payment in full of any fine or penalty resulting from a standing, parking, or compliance violation shall constitute a final disposition of that violation.
- (B) After expiration of the period within which a petition for judicial review under Sec. 30-504 may be sought for a final determination of the parking, standing or compliance violation, the Village may commence a proceeding in the Circuit Court for purposes of obtaining a judgment on the final determination of violation. Nothing in this Chapter shall prevent the Village from consolidating multiple final determinations of parking, standing, or compliance violation against a person in a proceeding. Upon commencement of the action, the Village

shall file a certified copy 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 applicable state law. Service of the summons and a copy of the petition may be by any method provided 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 or compliance violations does not exceed two thousand five hundred dollars (\$2,500.00).

Article III. Administrative Adjudication of Building and Housing Violations

Sec. 30-301. Purpose.

The purpose of this Article is to provide a means for fair and efficient enforcement of construction, plumbing, heating, electrical, fire prevention, sanitation and other health and safety code violations as may be allowed by law, through an administrative adjudication of violation(s) of Village ordinances within the geographic boundaries of the Village and a schedule of uniform fines and penalties and authority and procedures for collection of unpaid fines and penalties. The Village hereby adopts Division 31.1 of Article XI of the Illinois Municipal Code (65 ILCS 5/11-31.1-1 *et seq.*).

Sec. 30-302. Definitions.

For the purposes of this Article, the following words or phrases shall have the meanings respectively ascribed to them by this Section:

Code means any Village ordinance, law, housing, building code or other ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures within the Village, including without limitation Chapters 6, 9, 12 and 24 of the Addison Village Code.

Building inspector means a Village employee whose duties include the inspection or examination of structures or property in the Village to determine if Code violations exist.

Building owner means the legal or beneficial owner of a structure. (Ord. 09-03)

Sec. 30-303. Procedures.

The system of administrative adjudication of Code violations shall be in accordance with the following procedures, and final determinations of Code violation(s) liability shall be made only in accordance with the provisions set forth below:

- (A) Detection of Violations. When a building inspector finds a Code violation while inspecting a property, he/she shall note the violation on a multiple copy violation notice and report form.
- (B) Contents of Violation Notice and Report Form. The violation notice and report form shall contain, but shall not be limited to, the following information:
 - (1) The name and address of the building owner.
 - (2) The type and nature of the violation.

- (3) The date and time the violation was observed.
 - (4) The names of witnesses to the violation.
 - (5) The address of the structure where the violation is observed.
- (C) Docket and Assignment of Hearing Date. The violation report form shall be forwarded by the building inspector to the Code Hearing Department where a docket number shall be stamped on all copies of the report and a hearing date noted in the blank spaces provided for that purpose on the form.
- (D) Service. One (1) copy of the report form shall be served by first class mail on the building owner along with a summons commanding the building owner to appear at the hearing. If the name of the building owner of the structure cannot be ascertained or if service on the building owner cannot be made by mail, service may be made on the building owner by posting or nailing a copy of the violation report form on the front door of the structure where the violation is found, not less than twenty (20) days before the hearing is scheduled.
- (E) Record. One (1) copy of the violation report form shall be maintained in the files of the Code Hearing Department and shall be part of the record of hearing and one (1) copy of the report form shall be returned to the building inspector so that he/she may prepare evidence of the Code violation for presentation at the hearing.
- (F) Administrative Hearing.
- (1) An administrative hearing to adjudicate the alleged Code violation on its merits shall be granted to the owner of record pursuant to 65 ILCS 5/11-31.1-1 *et seq.* incorporated by reference herein, and shall be conducted in accordance with the provisions of Article V of this Chapter 30.
 - (2) The case for the Village may be presented by the building inspector or by an attorney designated by the Village. However, in no event shall the case for the Village be presented by an employee of the Code Hearing Department. The case for the building owner may be presented by the owner, his attorney, or any other authorized agent or representative.
 - (3) No continuances shall be authorized by the hearing officer in proceedings under this Article except in cases where a continuance is absolutely necessary to protect the rights of the owner. Lack of preparation shall not be grounds for continuance. Any continuance authorized by a hearing officer under this Article shall not exceed twenty-five (25) days.

Sec. 30-304. Default.

If, on the date set for hearing the building owner or his attorney fails to appear, the Hearing Officer may find the building owner in default and shall proceed with the hearing and accept evidence relevant to the existence of a Code violation.

Sec. 30-305. Evidence at Hearing.

At the hearing, the Hearing Officer shall preside and shall hear testimony and accept any evidence relevant to the existence or nonexistence of a Code violation relating to the structure indicated.

Sec. 30-306. Retaliatory Action Against Occupants Prohibited.

No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at an administrative hearing.

Sec. 30-307. Defenses to Code Violations.

It shall be an owner's defense to a Code violation charge under this Article if the building owner, his attorney, or any other authorized agent or representative proves to the Hearing Officer's satisfaction that:

- (A) The Code violation alleged in the notice does not in fact exist;
- (B) The Code violation has been caused by the current property occupants and that in spite of reasonable attempts by the building owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations; or
- (C) An occupant or resident of the dwelling has refused entry to the building owner or his agent to all or a part of the dwelling for the purpose of correcting the Code violation.

Sec. 30-308. Decision.

At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of evidence presented at the hearing whether or not a Code violation exists. The determination shall be in writing and shall be designated as findings, decision and order. The findings, decision and order shall include the Hearing Officer's findings of fact, a decision whether or not a Code violation exists based upon the findings of fact, and an order imposing a penalty or dismissing the case in the event a violation is not proved.

A copy of the findings, decision, and order of the Hearing Officer shall be served on the person charged with a violation and the building owner within five (5) days after they are issued. Service shall be in the same manner as the report form and summons are served pursuant to Subsection 30-303(D). Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Code unless the corporate authorities provide otherwise.

Sec. 30-309. Fines and Sanctions.

If a Code violation is proved, the Hearing Officer may impose the sanctions that are provided in the Code for the violation proved, including fines, license revocation or suspension, permit suspension or revocation, etc. The Village adopts by reference all current and future local ordinances and those provisions of 65 ILCS 5/11-1.1-1 et seq., governing Codes, as herein defined, applicable to structures relative to construction, plumbing, heating, electrical, fire prevention, sanitation and health and safety standards in the Village, for its enforcement and adjudication within the geographical boundaries of the Village.

Sec. 30-310. Enforcement of Judgment.

- (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 (735 ILCS 5/3-101 *et seq.*) 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 the Code violation, the Village may commence a proceeding in the Circuit Court for purposes of obtaining a judgment on the hearing officer's findings, decision and order. Nothing in this Chapter shall prevent the Village from consolidating multiple findings, decisions and orders against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy of the findings, decision and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision and order were issued in accordance with this Article and applicable state law. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amounts of fines, other sanctions and costs imposed by the findings, decision and order does not exceed two thousand five hundred dollars (\$2,500.00). If the court is satisfied that the findings, decision and order were entered in accordance with the requirements of this Chapter and the applicable Village ordinance, and that the building owner had an opportunity for a hearing under this Chapter and for judicial review as provided in this Chapter: (1) the court shall render judgment in favor of the Village and against the building owner for the amount indicated in the findings, decision and order, plus costs. Such judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money; and (2) the court may also issue such other orders and injunctions as are requested by the municipality to enforce the order of the hearing officer to correct a code violation.

Sec. 30-311. Sanctions Applicable to Owner, Property.

The order to correct a Code violation and the sanctions imposed by the Village as the result of finding of a Code violation under this Article shall attach to the property as well as to the owner of the property, so that a finding of a Code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision and order of the Hearing Officer under this Article.

Sec. 30-312. Federal Government Contracts Maintenance of Property Penalties.

- (A) A person who contracts with the federal government or any of its agencies, including without limitation the Department of Housing and Urban Development, to care for vacant residential real estate shall be responsible for maintaining the property to prevent and correct municipal health and safety code violations.
- (B) A person who intentionally violates this Section is guilty of a business offense and shall be fined not less than five hundred one dollars (\$501.00) and nor more than one thousand dollars (\$1,000.00).

Article IV. Administrative Adjudication of Ordinance Violations

Sec. 30-401. Procedures.

- (A) Issuance of Citation. When a Village enforcement officer determines that an Ordinance Violation has been committed, the enforcement officer shall issue a citation therefor.
- (B) Contents of Citation. The citation shall include notice of:
 - (1) The nature of the Ordinance Violation to be adjudicated.
 - (2) The date and location of the adjudicatory hearing.
 - (3) A citation to the Chapter as the legal authority and jurisdiction under which the hearing is to be held.
 - (4) The penalties for failure to appear at the hearing.
- (C) Docket and Notation of Hearing Date. One copy of the citation shall be forwarded by the Village enforcement official to the Code Hearing Department where a docket number shall be stamped on the citation and the hearing date on the citation shall be noted and docketed.
- (D) Service. The citation shall be deemed as service of process when either (1) served on the party or its employee or agent; (2) served by certified mail, return receipt requested; or (3) served by posting a notice and the citation upon the property where the violation is found when the party is the owner or manager of the property.
- (E) Record. One (1) copy of the citation shall be maintained in the files of the Code Hearing Department and shall be part of the record of hearing and one (1) copy of the citation shall be returned to the Village enforcement official so that he/she may prepare evidence of the Code violation for presentation at the hearing.
- (F) Administrative Hearing.
 - (1) An administrative hearing to adjudicate the alleged Ordinance Violation on its merits shall be granted to the owner of record pursuant to 65 ILCS 5/1-2.1-1 *et seq.* incorporated by reference herein, and shall be conducted in accordance with the provisions of Article V of this Chapter 30. The hearing date shall not be less than fifteen (15) days after service of process as provided in Section 30-401(D) except in case of emergency. If service is provided by mail, the fifteen (15) day period shall begin to run on the day that the notice is deposited in the mail.
 - (2) No continuances shall be authorized by the Hearing Officer in proceedings under this Article except in cases where a continuance is absolutely necessary to protect the rights of the owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a Hearing Officer under this Article shall not exceed twenty-five (25) days.
 - (3) The case for the Village may be presented by the Village enforcement officer or by an attorney designated by the Village. However, in no event shall the case for the Village be presented by an employee of the Code Hearing Department. The case for

the party charged may be presented by the party charged, his attorney, or any other authorized agent or representative.

Section 30-402. Purpose.

The purpose of this Article is to provide a means for fair and efficient enforcement of any Ordinance Violation as defined within this Article IV through an administrative adjudication of such violation(s) and procedures for collection of unpaid fines and penalties.

Section 30-403. Definitions.

For the purposes of this Article, the following words or phrases shall have the meanings respectively ascribed to them by this Section:

Ordinance violation means the violation of any code or ordinance of the Village, excepting only such codes or ordinances (1) for which administrative adjudication is otherwise provided in Articles II, III or VI of this Chapter 30 or (2) for which other adjudicatory procedures are specifically mandated either by Village ordinance or by state or federal law.

Code hearing unit means the Code Hearing Department established pursuant to Article I of this Chapter.

Sec. 30-404. Default.

If on the date set for hearing the party charged with the Ordinance Violation or his attorney fails to appear, the Hearing Officer may find the party in default and shall proceed with the hearing and accept evidence relevant to the existence of an Ordinance Violation.

Sec. 30-405. Evidence at Hearing.

At the hearing, the Hearing Officer shall preside and shall hear testimony and accept any evidence relevant to the existence or nonexistence of an Ordinance Violation.

Sec. 30-406. Decision.

At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of evidence presented at the hearing whether or not an Ordinance Violation exists. The determination shall be in writing and shall be designated as findings, decision and order. The findings, decision and order shall include the Hearing Officer's findings of fact, a decision whether or not an Ordinance Violation exists based upon the findings of fact, and an order imposing a penalty or dismissing the case in the event a violation is not proved.

A copy of the findings, decision, and order of the Hearing Officer shall be served on the party within five (5) days after they are issued. Service shall be in the same manner as the citation is served pursuant to Subsection 30-401(D). Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the ordinance for which the Ordinance Violation was issued.

Sec. 30-407. Enforcement of Judgment.

- (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 (735 ILCS 5/3-101 *et seq.*) 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 the Ordinance Violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- (C) In any case in which a defendant has failed to comply with a judgment ordering said defendant to correct an Ordinance Violation or imposing any fine or other sanction as a result of an Ordinance Violation, any expenses incurred by the Village to enforce the judgment, including, but not limited to, attorney's fees, court costs and lien foreclosure costs, after they are fixed by a court of competent jurisdiction or by the Hearing Officer, shall be a debt due and owing the Village and may be collected in accordance with applicable law. Prior to any expenses being fixed by the Hearing Officer pursuant to this Section, the Village shall provide notice to the defendant that states that the defendant shall appear at a hearing before the Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven (7) days from the date that notice is served. If notice is served by mail, the seven (7) day period shall begin to run on the date that the notice was deposited in the mail.
- (D) In addition to any other legal remedies, upon being recorded in the manner required by Article XII of the Code of Civil Procedure or the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the Village under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.
- (E) The Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within twenty-one (21) days after the issuance of the order of default, if the Hearing Officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the Village did not provide proper service of process. If any judgment is set aside pursuant to this Subsection (E), the Hearing Officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Village as a result of the vacated default judgment.

Sec. 30-408. Community Service.

Whenever, at the conclusion of the hearing, the hearing officer's decision finds that an ordinance violation has been proven, in lieu of immediate payment of a portion, or the entire amount, of the fine otherwise due under the ordinance violated, the hearing officer may impose community service as a penalty, if deemed appropriate. During the period of community service, the judgment shall be suspended and, upon completion of the community service and the payment of the fine (if any), the judgment shall be deemed satisfied. Failure of the violator to satisfactorily complete the community service in a timely manner shall result in the reinstatement of the fine in the full amount. (Ord. 17-06)

Article V. Administration

Sec. 30-501. Applicability.

The provisions of this Article shall apply to all administrative adjudications conducted pursuant to the provisions of this Chapter 30.

Sec. 30-502. Hearing Officer.

The Hearing Officer shall be empowered and is hereby authorized and directed to:

- (A) Preside over the administrative hearings, established in this Chapter, as the adjudicator.
- (B) Administer oaths.
- (C) Issue subpoenas to secure the attendance of witnesses and production of relevant papers or documentation.
- (D) Assess fines and penalties for the violation of vehicular standing, parking, or compliance regulation violations, Code violations and Ordinance violations as are established in this Chapter 30.
- (E) Provide for the accurate recordation of the administrative hearing(s).
- (F) In his discretion, approve the expungement/sealing of citations based upon a motion and petition to expunge/seal filed by the party subject to the citation. The motion and petition to expunge/seal shall be substantially in the form used by the Appellate Defender's office. (Ord. 16-29)

Sec. 30-503. Administrative Hearings.

- (A) Hearing Dates shall be at the date, time and place as is set forth in the violation notice or citation issued and served in accordance with Article II, III, IV or VI of this Chapter or such additional notices issued in accordance with this Chapter.
- (B) All administrative hearings shall be tape recorded.
- (C) Persons appearing to contest the alleged standing, parking, or compliance violation, Code violation or Ordinance Violation on its merits may be represented by counsel at their own expense and may present evidence and cross-examine opposing witnesses.
- (D) The Hearing Officer shall consider testimony and other evidence without the application of the formal or technical rules of evidence.
- (E) Administrative hearings shall culminate in a determination of the Hearing Officer as set forth in Article II, III, IV or VI.
- (F) The Hearing Officer shall, upon a determination of liability, assess fines and penalties as set forth in Article II, III, IV or VI hereof.

Sec. 30-504. Administrative Review Law to Apply.

The finding, decision and order of the Hearing Officer shall be subject to review in the Circuit Court of the appropriate county, and the provisions of the Administrative Review Law (735 ILCS 5/3-101 *et seq.*), and all amendments and modifications thereto, and the rules adopted pursuant thereto are adopted and shall apply to and govern every action for the judicial review of the findings, decision and order of a Hearing Officer under this Chapter, except as otherwise provided by law.

Sec. 30-505. Administrative Remedies Not Exclusive.

The administrative remedies contained in Articles I through V of this Chapter 30 are not exclusive, and the Village shall have the right to pursue any other legally available remedies, including but not limited to (i) an action pursuant to Section 1-5.1 of the Addison Village Code for failure to pay a fine, penalty or forfeiture or (ii) an action to abate, enjoin or prevent violations of the Village's codes and ordinances, including but not limited to license or permit revocation or suspension proceedings or injunctive relief or (iii) any other legal or equitable remedies as allowed by law. (Ord. 14-12)

Sec. 30-506. Adjudication Costs.

Any respondent who pleads liable or is found to be liable after a hearing pursuant to this Chapter shall pay an administrative adjudication cost in the amount of fifty dollars (\$50.00). This administrative adjudication cost shall be in addition to any other penalty imposed by the hearing officer.

In addition to the above, any respondent who pleads liable or is found to be liable after a hearing pursuant to this Chapter shall pay to the Village the costs of the hearing, including, but not limited to, court reporter fees, the costs of transcripts or records, attorney fees, the costs of preparing and mailing notices and orders, interpreter fees and all other miscellaneous expenses incurred by the Village or such lesser sum as determined by the hearing officer. These administrative adjudication costs shall be in addition to any other penalty imposed by the hearing officer. (Ord. 22-38; 24-69)

Article VI. Automated Traffic Law Enforcement Adjudication

Sec. 30-601. Definitions.

As used in this Article, words or terms shall have the following meanings unless the context or usage clearly indicates that another meaning is intended:

Administrator means the Village's Traffic Compliance Administrator.

Automated traffic law violation means a violation described in Section 11-208.6 of the Code or similar Village ordinance, including Section 11-98 of Chapter 11.

Automated traffic law enforcement system means a device with one (1) or more motor vehicle sensors working in conjunction with a red-light signal to produce Recorded Images of motor vehicles entering an intersection against a red-light signal in violation of Section 11-306 of the Code or a similar provision of a Village ordinance or similar Village ordinance, including Section 11-98 of

Chapter 11.

Certified report means a report concerning five (5) or more unpaid fines or penalties for Automated Traffic Law Violations made by the Village to the Secretary in accordance with Section 6-306.5 of the Code.

Village means the Village of Addison, DuPage County, Illinois.

Code means the Illinois Vehicle Code, 625 ILCS 5/1-100 *et seq.*

Determination notice means a notice of final determination of automated traffic law violation liability issued pursuant to Section 11-208.3 of the Code and pursuant to the provisions of this Article.

Recorded images means images showing the time, date and location of an automated traffic law violation recorded by an automated traffic law enforcement system on: (i) two (2) or more photographs, (ii) two (2) or more microphotographs, (iii) two (2) or more electronic images or (iv) a video recording showing the motor vehicle and, on at least one (1) image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

Secretary means the Illinois Secretary of State.

Suspension notice means a notice of impending driver's license suspension issued pursuant to Section 11-208.3 of the Code and pursuant to the provisions of this Article.

System, individually, means an automated traffic law enforcement system or, collectively, means automated traffic law enforcement systems established in the Village pursuant to this Article.

Violation notice means an automated traffic law violation notice issued pursuant to Sections 11-208.3 and 11-208.6 of the Code and pursuant to the provisions of this Article.

Sec. 30-602. System Locations.

The Village hereby determines to establish Systems at the following intersections located within the corporate limits of the Village:

Addison / Factory/Blecke	DuPage County
Addison / Lincoln	DuPage County
Addison / Moreland	DuPage County
Army Trail / Meadows	DuPage County
Army Trail / Swift	DuPage County
Army Trail / I-355 N.B. Exit	DuPage County
Army Trail / I-355 S.B. Exit	DuPage County
Army Trail / Rohlwing Rd (Route 53)	DuPage County
Villa / Fullerton	DuPage County
Fullerton / Rohlwing Rd (Route 53)	I.D.O.T.
Lake / Addison	I.D.O.T.
Lake / Greenbriar Dr	I.D.O.T.
Lake / I-355 W. Ramp	I.D.O.T.
Lake / I-355 E. Ramp	I.D.O.T.

Lake / Kennedy	I.D.O.T.
Lake / Medinah	I.D.O.T.
Lake / Rohlwing Rd (Route 53)	I.D.O.T.
Lake / Route 83 – W. Ramp	I.D.O.T.
Lake/ Swift	I.D.O.T.
Lake / Villa / Wood Dale	I.D.O.T.
North / Westwood	I.D.O.T.
Rohlwing Rd (Route 552) / Mitchell	I.D.O.T.
Addison / Fullerton	Addison
Addison / Green Meadow Dr.	Addison
Army Trail / Lincoln	Addison
Army Trail / Lombard Rd.	Addison
Army Trail / Mill Rd.	Addison
Fullerton / Fairbanks St.	Addison
Fullerton / Grace St. / La Londe Ave.	Addison
Fullerton / Hale St. / Westgate Dr.	Addison
Fullerton / Lombard Rd.	Addison
Lake St. / Itasca Rd.**	Addison
Lake St. / Lombard Rd.**	Addison
Lake St. / Marcus Dr.**	Addison
Lake St. / Mill Rd.**	Addison
Swift Rd. / Collins**	Addison
Swift Rd. / Pampered Chef Ln.	Addison
Swift Rd. / Pinehurst Blvd.	Addison
Army Trail Signal System	I.D.O.T & DuPage County
Swift Rd. to Rohlwing Rd. (Route 53)	I.D.O.T & DuPage County
Master Controller	I.D.O.T & DuPage County

Sec. 30-603. Duties of the Administrator.

The Administrator or his designee shall be authorized to adopt, distribute and process Violation Notices and other notices as provided by Article II of this Chapter for the administrative adjudication of Automated Traffic Law Violations, collect money paid as fines and penalties for Automated Traffic Law Violations and operate an administrative adjudication system for Automated Traffic Law Violations. The Administrator is also authorized to make a Certified Report to the Secretary pursuant to Section 6-306.5 of the Code, and any such Certified Report shall contain the information required under Section 6-306.5(c) of the Code.

Sec. 30-604. Violation Notices.

A Violation Notice, the contents of which shall comply with the requirements of Article II of this Chapter and with Section 11-208.6 of the Code, as amended, shall be served by mail to the address of the registered owner of a vehicle cited for an automated traffic law violation as recorded with the Secretary within thirty (30) days after the Secretary notifies the Village of the identity of the owner of the vehicle, but in no event later than ninety (90) days after the violation. Service of a Violation Notice shall be deemed complete as of the date of deposit in the United States mail. The original or a facsimile of a Violation Notice or, in the case of a Violation Notice produced by a computerized device, a printed record generated by the device showing the facts entered on the

Violation Notice, shall be retained by the Administrator, and shall be a record kept in the ordinary course of business. A Violation Notice issued, signed and served in accordance with this Article, a copy of the Violation Notice or the computer-generated record shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the Violation Notice. The Violation Notice, copy or computer-generated record shall be admissible in any subsequent administrative or legal proceedings.

Sec. 30-605. Determination of Violations.

Before a citation may be issued for any automated traffic law violation, a determination must be made by a technician employed or contracted by the Village that, based on inspection of recorded images generated by the system, the motor vehicle was being operated in violation of Section 11-208.6 of the Code or an ordinance of the Village. If the technician determines that the vehicle entered the intersection as part of a funeral procession or in order to yield the right-of-way to an emergency vehicle, a citation shall not be issued.

All determinations by a technician that a motor vehicle was operated in violation of this Article must be reviewed and approved by a law enforcement officer or retired law enforcement officer employed by the Village. (Ord. 11-05)

Sec. 30-606. Hearing Procedures.

The registered owner of the vehicle cited in a Violation Notice shall have the opportunity for a hearing in which said owner may contest the merits of the alleged violation as provided in Article II of this Chapter. The lessee of a vehicle cited in a Violation Notice likewise shall be afforded the opportunity for a hearing of the same kind afforded the registered owner.

Sec. 30-607. Final Determination of Violations.

A determination shall become final as provided in Article II of this Chapter. A final determination notice, the contents of which shall comply with the requirements of Article II of this Chapter, shall be sent following a final determination of automated traffic law violation liability. A final determination notice shall be hand delivered or 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 or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database or, under Section 11-1306 of the Code, to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office database. Service of the final determination notice shall be deemed complete as of the date of deposit in the United States Mail. Judicial review of the final determination of automated traffic law violation liability shall be available in accordance with the Administrative Review Law (735 ILCS 5/3-101 *et seq.*). (Ord. 11-05)

Sec. 30-608. Petition for Review.

A person owing an unpaid fine or penalty for automated traffic law violation penalty may file a petition to set aside a final determination of such liability within fourteen (14) days after mailing

by the Village of a Determination Notice. Such a petition shall be filed by sending the same, together with any documentation in support thereof, to the Administrator by certified mail, return receipt requested, or by personal delivery to the Administrator. The grounds for such a petition shall be limited to: (a) the person not having been the owner or lessee of the cited vehicle on the date the Violation Notice was issued, (b) the person having already paid the fine or penalty for the violation in question, and (c) excusable failure to appear at or request a new date for a hearing. A hearing on such a petition shall be held within thirty (30) days after the filing of same. In the event that such a petition is granted upon a showing of just cause, and the subject determination of Automated Traffic Law Violation liability is thereby set aside, the registered owner shall be provided with a hearing on the merits for that violation.

Sec. 30-609. repealed by Ord. 21-24.

Sec. 30-610. repealed by Ord. 21-24.

Sec. 30-611. Non-resident Procedures.

As provided in Section 30-209 of this Chapter, non-residents of the Village who receive Violation Notices may contest the merits of the alleged automated traffic law violation without attending a hearing by sending a signed statement, under oath, together with any supporting documentation, to the Administrator via certified mail, return receipt requested, within fourteen (14) days after service of the Violation Notice. Such a statement shall set forth the reasons why a finding of liability should not be entered. The hearing officer shall rule on such a statement within thirty (30) days after receipt of same, and shall inform the non-resident of his decision within fourteen (14) days thereafter. (Ord. 11-05; 21-24)

Sec. 30-612. Penalty.

Unless the driver of the motor vehicle cited for an Automated Traffic Law Violation received a Uniform Traffic Citation from a police officer at the time of the violation, the owner of the motor vehicle is subject to a penalty of one hundred dollars (\$100.00) per violation. In the event that such penalty is not paid within twenty-five (25) days after service of a Final Determination of Liability, the penalty shall increase to two hundred dollars (\$200.00). (Ord. 11-05)