

TITLE 1: ADMINISTRATION
CHAPTER 18: ADMINISTRATIVE ADJUDICATION SYSTEM

Section:

- 1-18-1: Purpose**
- 1-18-2: Definitions**
- 1-18-3: Creation of an administrative adjudication system**
- 1-18-4: Jurisdiction**
- 1-18-5: Hearing Administrator**
- 1-18-6: Administrative Hearing Officer**
- 1-18-7: Powers and duties of Administrative Hearing Officer**
- 1-18-8: Notices of violations**
- 1-18-9: Requesting an administrative hearing**
- 1-18-10: Administrative hearings**
- 1-18-11: Final determination of violation liability for ordinance violations**
- 1-18-12: Failure to appear at hearing or violation of orders**
- 1-18-13: Schedule of fines and penalties; Collection fees and costs**
- 1-18-14: Enforcement of judgment**
- 1-18-15: Penalty**

1-18-1: PURPOSE

The stated purpose of this chapter is to provide for fair and efficient enforcement of Village ordinances as may be allowed by law and directed by ordinance, through an administrative adjudication of violations of such Village ordinances by an Administrative Hearing Officer and establishing a schedule of fines, penalties, costs, authority and procedures for collection of unpaid fines, penalties, and costs.

1-18-2: DEFINITIONS

**ADMINISTRATIVE
HEARING OFFICER**

A person appointed by the Mayor to adjudicate Administrative Hearings, as set forth in this Chapter.

CODE

Any municipal ordinance, law, rule, regulation or code set forth in Titles 1 through 13, inclusive, except (a) such ordinances for which the potential penalty described therein includes a period of incarceration, (b) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles, and (c) any reportable offense under Section 6-204 of the Illinois Vehicle Code.

OWNER

1) For the purposes of a violation relating to real property, “owner” includes the person to whom the County Collector sent the last ascertainable tax bill, 2) For the purpose of a violation relating to motor vehicles, the person to whom the motor vehicle is registered, as provided by the records of the Secretary of State of Illinois, or 3) Any person so described herein may present clear and convincing evidence to overcome the presumption that such person is the owner of the property and/or motor vehicle for which the person received a notice of violation.

1-18-3: CREATION OF AN ADMINISTRATIVE ADJUDICATION SYSTEM

- A. Pursuant to Illinois Municipal Code, 65 ILCS 5/1-2.1-1, et seq., which authorizes home rule municipalities to implement a system of administrative adjudication, there is hereby created a system of administrative adjudication of violations of the Code. The system will authorize a hearing officer to conduct adjudicatory hearings of cases instituted by Village representatives.
- B. The Village adopts sections of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, et seq., as it may be amended from time to time. In the event of a conflict between said statutes and this chapter, this chapter shall prevail.
- C. The creation and operation of a system of administrative adjudication does not preclude the Village from using other lawful methods to enforce the provisions of the Code. Furthermore, the election to enforce any citation through this system of administrative adjudication will not represent an election with respect to any other citation, even if it is for a violation of the same section of the Code.
- D. The Village adopts Section 625 ILCS 5/11-208.3 of the Illinois Vehicle Code, which authorizes municipalities to implement a system of administrative adjudication for standing, parking and vehicle ordinance citations.

1-18-4: JURISDICTION

Those matters subject to administrative hearings provided by this chapter include violations of the Code and violations of the Illinois Vehicle Code relating to standing, parking, or conditions of vehicles.

1-18-5: HEARING ADMINISTRATOR

There is hereby created the title of Hearing Administrator who shall be appointed by the Village Manager. The Hearing Administrator shall be responsible for maintaining the records of the system, developing forms, preparing notices, scheduling hearings, recording hearings, providing hearing dispositions to participants, preparing liens, enforcing judgments, and any other necessary duties to ensure the efficient operation of administrative hearings. The Village Manager may also appoint such other persons to assist the Hearing Administrator.

1-18-6: ADMINISTRATIVE HEARING OFFICER

- A. The Mayor of the Village of Lincolnshire shall appoint a qualified person to serve as the Administrative Hearing Officer.

- B. Prior to conducting administrative adjudication proceedings under this chapter, the Administrative Hearing Officer shall have successfully met the requirements of section 65 ILCS 5/1-2.1-4(C) regarding training and qualifications of Administrative Hearing Officers.

1-18-7: POWERS AND DUTIES OF ADMINISTRATIVE HEARING OFFICER:

The Administrative Hearing Officer shall preside over all adjudicatory hearings and have the following powers and duties:

- A. Administering oaths, hearing testimony and accepting evidence that is relevant to the existence of the Code violation;
- B. Issuing subpoenas directing the attendance and testimony of relevant witnesses and the production of relevant documents at the hearing, where in each case relevancy is determined in the discretion of the Hearing Officer, upon the request of the parties, their representatives, or on the Administrative Hearing Officer's own motion;
- C. Ordering discovery upon the request of the parties, their representatives, or on the Administrative Hearing Officer's own motion, as justice requires;
- D. Preserving and authenticating the record of the hearing and all exhibits and evidence admitted into the record at the hearing;
- E. Postponing or continuing a hearing to a later date at the request of any party for good cause shown, provided that any continuance will not extend beyond the next scheduled hearing date;
- F. Issuing a Notice of Final Determination based upon a review of the notice of violation, citation, other charging document (hereinafter, "charging document") and/or the evidence admitted. The Notice of Final Determination shall be in writing, shall be designated as Final Determination, and shall include findings, the fine, penalty, cost(s) and/or action with which the respondent must comply, which may include correcting the ordinance violation; and
- G. Upon finding a respondent liable for violating one or more charged violations:
 - 1. Imposing penalties consistent with applicable Code provisions, except however, that in no event shall the Administrative Hearing Officer have authority to impose a penalty of incarceration or impose a fine less than the minimum or in excess of the maximum fine indicated in Title 1 Chapter 17 of the Lincolnshire Village Code. The Administrative Hearing Officer shall take into consideration violators who commit repeated offenses.
 - 2. Imposing, in addition to fines, administrative and/or enforcement costs and, when applicable, imposing costs incurred by the Village for effecting compliance with code provision(s) for which a respondent has been found liable.
 - 3. Ordering forfeiture of bond money deposited by an Owner to retrieve a vehicle impounded under the Code if the Owner is found guilty of or pleads guilty to the violation which gave rise to the impoundment, fails to appear at the hearing, or fails to timely request a hearing.

4. In no event shall the Hearing Officer have authority to impose a fine in excess of \$50,000, provided the maximum monetary fine under this item (4) shall be exclusive of costs of enforcement or costs imposed to secure compliance with the Code and shall not be applicable to cases to enforce the collection of any tax imposed and collected by Village.
- H. Asking questions of the parties and witnesses, if necessary, to ensure the clarity and completeness of the testimony and the record.
- I. Regulating the course of the hearing in accordance with this chapter, the rules adopted by the Hearing Administrator for the conduct of administrative hearing, and other applicable law.

1-18-8: NOTICE OF VIOLATIONS

- A. Notices of ordinance violations shall include the following information:
1. The name and address of the owner or party violating the ordinance, if known.
 2. The date, time and location of the violation.
 3. If the violation involved a motor vehicle, the vehicle description and registration number.
 4. The particular ordinance violated, including Code Section or section of the Illinois Vehicle Code.
 5. The date, time, and place of an administrative hearing at which the violation may be contested in-person on its merits.
 6. Information as to the availability for an adjudication by mail by which the registered owner or lessee may contest by mail the merits of the violation notice without personally appearing and the manner in which such contest by mail may be had.
 7. The fine, the date when the fine is due if no hearing is timely requested, and any penalty that may be assessed for late payment, as well as notice that the payment of the fine and any penalty shall constitute a final disposition of the violation.
 8. The name and identification number of the person issuing the notice. The Village official or person authorized by ordinance to issue and serve ordinance violation notices shall certify as to the correctness of the facts entered on the violation notice by signing his or her 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 Hearing Administrator attesting to the correctness of all notices produced by the device while it was under his or her control.
- B. The lessee of any vehicle cited in the notice of violation shall have the same rights, responsibilities and obligations as the registered owner, as provided for in 625 ILCS 5/11-1306. No person who is the lessor of a vehicle pursuant to a written lease agreement shall be liable for a violation of any standing or parking regulation involving such vehicle during the period of the lease if upon receipt of a notice of violation the lessor shall, within 30 days, provide to the Hearing Administrator the name and address of the lessee. If the lessor fails to provide the name and address of the lessee within 30 days of receiving notice, the lessor shall, upon a

determination of liability by the Administrative Hearing Officer, be liable for the full amount of the fine and costs resulting from the violation.

C. The notice of violation shall be served in one of the following manner:

1. Handing the notice to the owner/operator of the vehicle, or the owner or person responsible for the property where the violation occurred if he or she is present; or
2. Affixing the notice to an unlawfully parked vehicle; or
3. Personal service of process as authorized by the Illinois Code of Civil Procedure, 735 ILCS 5/2-203; or
4. Mailing the notice by first class mail, return receipt requested to the registered owner of the cited vehicle as recorded with the Illinois Secretary of State or department of motor vehicles for the state where the vehicle is registered;
5. Mailing the notice by first class mail, return receipt requested to the owner of the real property where the violation occurred, according to the most recently ascertainable records of the County Assessor; or
6. Posting a copy of the notice of violation in a conspicuous place on the real property where the violation occurred, provided that the Village has first attempted to deliver the notice of violation by the means described in paragraph 1, 3 or 5.

D. The original or a facsimile of the violation notice or, in the case of a notice produced by a computerized device, a printed record generated by the device showing the facts entered on the notice, shall be available to the Hearing Administrator, and shall be a record kept in the ordinary course of business. For any violation of the Illinois Vehicle Code within the jurisdiction of the hearing officer, an ordinance violation notice issued, signed, including electronic signatures, and served in accordance with this section, a copy of the notice, or the computer generated record 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 hearing or legal proceedings.

1-18-9: CONTEST BY MAIL

Persons who have been served vehicular standing, parking, or compliance regulation violation notices, in accordance with this Chapter, may contest the validity of the alleged violation without personally appearing at an administrative hearing by:

- A. Completing the “Contest By Mail Citation Review” form, which includes providing a signature acknowledging his or her personal appearance is waived and submitting to an adjudication based upon the signed statement and other supporting materials (e.g., photos, written statement) filed by him or her and the facts contained in the violation notice. This form must be accompanied with a self-addressed stamped envelope, and must be received by the police department within three days prior to the administrative hearing date.

- B. Upon review of the materials submitted, the Administrative Hearing Officer shall make a determination of liability or non-liability. The Administrative Hearing Officer shall, upon a determination of liability, assess fines in accordance with Title 1 Chapter 17 of the Village Code.
- C. Notice of determination of the Administrative Hearing Officer shall be served upon the person contesting a violation notice by first class mail with the self-addressed stamped envelope at the address set forth in the materials submitted in accordance with subsection A of this section.

1-18-10: ADMINISTRATIVE HEARINGS

- A. Administrative hearings shall be conducted monthly. Hearing dates shall not occur earlier than fifteen (15) days after service of the notice of ordinance violation upon the respondent.
- B. All administrative hearings conducted under this Chapter shall be open to the public and shall be presided over by a duly appointed Administrative Hearing Officer who shall afford the parties due process of law appropriate for administrative proceedings.
- C. Any person under the age of 18 who receives a notice of violation for any mandatory administrative hearing appearance shall appear at the administrative hearing with a parent or legal guardian. A person who is a minor at the time of the incident, but becomes 18 years of age by the time of the hearing, is stilling considered a minor requiring a parent or legal guardian appearance.
- D. All administrative hearings shall be recorded, either by audiotape, videotape, or other appropriate means, on equipment provided by the Hearings Administrator. Any party may provide a certified court reporter, at the requesting party's expense.
- E. Any party may, at his/her expense, be represented by counsel, present witnesses, and (except where the citation is prima facie evidence under this Chapter) cross-examine opposing witnesses. For any violation of the Illinois Vehicle Code within the jurisdiction of the Administrative Hearing Officer, no Village official or attorney need be present, and the administrative hearing may proceed upon a properly executed and served notice of ordinance violation, which shall constitute prima facie evidence of the violation cited in the notice of ordinance violation.
- F. The formal and technical rules of evidence shall not apply in the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- G. The Hearing Officer may assess hearing costs upon finding a respondent liable for a violation of any provision of Village Code; however, in no event shall the costs of the hearing exceed the amount indicated in Title 1, Chapter 15 (Comprehensive Fee Schedule).
- H. No violation may be established except upon proof by a preponderance of the evidence.
- I. At the conclusion of the hearing, the Administrative Hearing Officer shall inform the parties in writing of his or her determination (a Notice of Final Determination), which constitutes a final determination for purposes of judicial review under the Illinois Administrative Review Law. Based on the charging document, the evidence admitted and other State or local records kept in the ordinary course of business, the Administrative Hearing Officer may issue the following determinations: liable or not liable. The Administrative Hearing Officer also may dismiss the case

or grant a properly made motion by the Village voluntarily dismissing the case. No other officer of the Village may dismiss a notice of violation.

- J. If the Administrative Hearing Officer issues a final determination of liability, he or she may impose fines, hearing fees, restitution fees, community service, and make orders to correct the ordinance violations.
1. Each day that the violation continues shall be considered a separate and distinct offense. In a prosecution under this section, it shall not be a defense that a person came into compliance with an order, sought judicial review of it, or made efforts to comply with an order, subsequent to its effective date.
 2. Community service shall only be performed at a not-for-profit organization at the discretion and approval of the Administrative Hearing Officer.
 3. Persons who are assigned to community service shall return proof of completed hours of service on written letterhead bearing the name of the not-for-profit, the dates and hours of service, and contact information for a representative of the organization.
 4. The Hearing Officer may revoke a deferred prosecution agreement if a person granted deferred prosecution does not complete the terms of the signed agreement in the time allotted. As a result, the individual may be found liable and assessed the applicable penalties provided by law.

1-18-11: FINAL DETERMINATION OF LIABILITY FOR ORDINANCE VIOLATIONS

- A. Following a final determination of liability and the exhaustion of the opportunity for appeal under the Illinois Administrative Review Act, a Notice of Final Determination shall be sent to the respondent setting forth the following:
1. The findings, decision, and order of the Administrative Hearing Officer.
 2. A statement that the unpaid fine and any penalty assessed is a debt due and owing to the Village.
 3. A date by which the violation must be brought into compliance with this code.
- B. The respondent has the right to appeal the final determination of violation liability in the Circuit Court of Lake County pursuant to the Illinois Administrative Review Act, 735 ILCS 5/3-101, et seq., by filing a proper lawsuit against the Village of Lincolnshire.

1-18-12: FAILURE TO APPEAR AT HEARING OR VIOLATION OF ORDERS

- A. In cases where the respondent fails to request an administrative hearing or pay the fines and penalty by the due date set forth in the notice of violation, the Village shall send the respondent a Notice of Final Determination with a finding of liable by default.

A notice of judgement entered by default shall be forwarded to any respondent who fails to appear and shall contain the same information as a determination of liability, but shall also state that the judgement may be set aside by the Administrative Hearing Officer if, within twenty-one

(21) days of issuance of the judgement, a motion is filed and received by the administrator stating good cause for failure to appear. The grounds for the request may be limited to:

1. The person having already paid the fine or penalty for the violation in question, and
 2. Excusable failure to appear at or request a new date for a hearing.
- B. After the determination of liability has been set aside upon a showing of just cause, the registered owner shall be provided with an immediate hearing on the merits for that violation.
- C. Failure to take action within twenty-one (21) days will result in a default final determination of liability for the cited violation in the amount of the fine or penalty indicated. Upon the occurrence of a final determination of liability 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 and may be collected by any means authorized as provided in Section 1-18-13(D) of this Chapter.
- D. Any person, having received notice and an opportunity for a hearing as provided in this Chapter, who knowingly fails to comply with an order issued by the Administrative Hearing Officer under this Chapter, including the issuance of a subpoena, shall, if the order is not stayed by a court of competent jurisdiction prior to its effective date, be guilty of contempt. Contempt shall be enforceable only by the judicial system of the circuit court for the 19th Judicial Circuit, Lake County, Illinois, and shall be punishable by applicable law.

1-18-13: SCHEDULE OF FINES AND PENALTIES; COLLECTION FEES AND COSTS

- A. Any person cited for a violation which qualifies for administrative adjudication will be provided an opportunity to either:
1. Submit payment to the Village in the amount listed in Title 1 Chapter 17 of the Village Code, or
 2. Request and appear at an administrative adjudication hearing to contest the violation.
- B. Payment to the Village will serve as proof of satisfaction or resolution of the violation. All fines and other monies to be paid to the Village in accordance with this Chapter shall be remitted to the Village and deposited in the appropriate account as designated by the Village Manager or the Village Manager's designee.
- C. In the event a fine or penalty is assessed pursuant any provision of this Code, a default in the payment of a fine or penalty or any installment of a fine or penalty may be collected by any means authorized for the collection of monetary judgments, as noted in Section 1-18-15 of this Chapter. The Village and its attorney or the finance director or their designees may retain attorneys and private collection agents for the purpose of collecting any default in payment of any fine or penalty imposed by this Code, or any installment of a fine or penalty. Any fees or costs incurred by the Village with respect to attorneys or private collection agents retained by the Village under this action shall be charged to the offender.
- D. To ensure that code violations are remedied in a timely manner, the Hearing Officer, upon issuing a determination of liability that includes an order of compliance, may order the defendant

in the case to obtain a bond to ensure defendant's timely compliance with the code provision(s) found to have been violated.

1. Any bond ordered pursuant to this subsection shall name the Village as beneficiary and shall be in the amount specified by the Administrative Hearing Officer, provided that the amount of the bond shall be reasonably related to the cost of compliance. Any bond issued as a result of the Administrative Hearing Officer's order is subject to review and modification by the Village Manager as to form and amount.
2. If the defendant fails to remedy in a timely manner the code violation(s) for which a bond has been ordered and issued and the Village undertakes remediation or otherwise expends funds related to the code violation(s) for which a bond has been ordered and issued, the Administrative Hearing Officer, after giving the parties notice and opportunity to be heard, may issue an order permitting the Village to draw against the bond in an appropriate amount. The Administrative Hearing Officer shall order the bond amount, less the reasonable costs incurred by the Village, returned to the defendant upon proof of compliance with the code provision(s) found to have been violated.
3. In the event a defendant ordered to secure a bond seeks judicial review of that portion of the Hearing Officer's order requiring a bond and prevails on that issue, the Village shall release the bond, and if the Village has drawn against the bond, the Village shall refund to the defendant the total amount drawn against the bond no later than thirty (30) days of receiving a copy of the reviewing court's mandate.

1-18-14: ENFORCEMENT OF JUDGMENT

- A. After the expiration of the period within which judicial review may be sought for a final determination of violations, the findings, decision and order of the Administrative Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- B. In any case in which the Administrative Hearing Officer finds that a respondent has failed to comply with a judgment ordering a respondent to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by the Village to enforce the judgment including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure after they are fixed by the Administrative 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 Administrative Hearing Officer pursuant to this subsection, the Village shall provide notice to the respondent that states that the respondent shall appear at a hearing before the Administrative Hearing Officer to determine whether the respondent has failed to comply with the judgment and to establish the amount of the costs incurred by the Village. The notice shall set the date for such a hearing, which shall not be less than seven days from the date that notice is served. If notice is served by mail, the seven-day period shall begin to run on the date that the notice was deposited in the mail.
- C. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the respondent in the amount of any debt due and owing the Village under this chapter. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

D. All method of enforcement and collection available to the Village shall be cumulative, provided the Village does not receive more than one complete payment of the fines and costs due and owing under the Code. The election by the Village to exercise one form of enforcement or collection shall not serve to exclude any other means of enforcement or collection.

1-18-15: PENALTY

- A. Any person violating any provisions of this Chapter shall be subject to the fine set forth in the Comprehensive Fine/Penalty Schedule of the Code described in Title 1, Chapter 17.
- B. Late Payment Penalty. Once the Notice of Final Determination has been issued, the respondent will have fifteen (15) days from the Administrative Hearing date to satisfy the payment owed.
1. If after fifteen (15) days the penalty has not been paid, the fine amount will increase as described in Title 1, Chapter 17.
 2. Another late fee as described in Title 1, Chapter 17, will be added if respondent does not satisfy payment after forty-five (45) days from the Administrative Hearing date.
 3. Should payment not be received within sixty (60) days from the Administrative Hearing date, the debt owed will be sent to a collections agency. Additional fees as prescribed in Title 9, Chapter 3 (Police Regulation Fees) will be assessed.