

Chapter 29 – Administrative Hearings

2901 Purpose; Reservations of Rights; Authority

The purpose of this chapter is to provide a fair and efficient method of enforcing the Village's regulations through administrative adjudication of charges of non-vehicular violations of the Village ordinances. All provisions of the Village ordinances may be enforced through the administrative adjudication system, provided the system shall have no authority to impose a penalty of incarceration or adjudicate an offense under the Illinois Motor Vehicle Code which is a traffic regulation governing moving vehicles, or to impose a fine in excess of \$50,000, exclusive of costs of enforcement, costs imposed to secure compliance, costs of abatement and any other costs which may be provided for by the municipal ordinance of this Village. The Village reserves its right to employ all other means and methods available under the law to enforce its Village ordinances, including direct application to the courts.

Section 1-2.2 of the Illinois Municipal Code (65 ILCS 5/1-2.2-2) allows non-home rule municipalities to provide by ordinance for a system of administrative adjudication of municipal ordinance violations to the extent permitted by the Illinois Constitution.

2902 Administrative Adjudication Division

The system of administrative adjudication of non-vehicular regulations violations shall be composed of an Administrative Adjudication Division, which shall be comprised of an Administrative Law Judge and may include any one or more of the following: an administrator, a computer operator/system coordinator and hearing room personnel (deputy), with the power, authority and limitations as are hereinafter set forth.

2902.1 Powers of the Administrative Law Judge

- A. The Administrative Law Judge shall have all of the powers granted to Administrative Law Judges under state law, set forth at 65 ILCS 5/1-2.2-5, the provisions of which are incorporated herein by this reference, including the power to:
1. Preside over all administrative hearings as the adjudicator.
 2. Administer oaths.
 3. Hear testimony and accept evidence that is relevant to the existence of the ordinance violation.

4. Issue subpoenas to secure the attendance of witnesses and the production of relevant papers or documentation upon the request of the parties or their representative.
5. Hold conferences for the simplification or settlement of issues.
6. Rule upon objections and the admissibility of evidence.
7. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing.
8. Issue a determination, based on the evidence presented at the hearing, of whether a Village ordinance violation exists. The determination shall be in writing and shall include a written finding of fact, decision, and order setting forth the fine, penalty, or action with which the person found liable must comply.
9. Impose penalties consistent with applicable Village ordinance provisions and assess costs upon finding a party liable for the charged violation. The Administrative Law Judge shall have the authority to impose fines and penalties up to \$50,000, exclusive of costs of enforcement, costs imposed to secure compliance, costs of abatement and any other costs, which may be provided for by the municipal ordinance of this Village.
10. Impose a term of community service.

B. In no event shall an Administrative Law Judge have the authority to:

1. Impose a penalty of incarceration.
2. Impose a fine in excess of \$50,000.

C. The maximum monetary fine under Section 2902.1.B.2 shall be exclusive of costs of enforcement or costs imposed to secure compliance with the municipality's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the municipality.

2902.2

Powers of the Administrator. The Village President's designee, who shall serve as the administrator, shall be empowered and is authorized and directed to:

- A. Operate and manage this system of administrative adjudication of non-vehicular Village ordinance violations.
- B. Adopt, distribute and process Village ordinance violation notices and other notices as may be required to carry out the purpose of this Article.
- C. Collect monies paid as fines and/or penalties assessed after a final determination of a Village ordinance violation.
- D. Promulgate rules and regulations reasonably required to operate and maintain this administrative adjudication system.
- E. Collect unpaid fines and penalties and otherwise pursue all post-judgment remedies available under law.
- F. Compromise or otherwise settle violation notices prior to a hearing date. However, any such compromise should be made of record by the administrator on the date the violation notice was scheduled to appear for hearing, with an explanation by the administrator as to the reasons for such compromise. The Administrative Law Judge is also required to approve any such compromise or settlement at the hearing.

2902.3

Powers of the System Coordinator. The system coordinator shall operate and maintain computer programs for the administrative adjudication system created hereunder, on a day-to-day basis, including, but not limited to:

- A. Input of violation notice information.
- B. Input of hearing and notice dates.
- C. Input of fine and penalty assessments and payments.
- D. Issuance of receipts for payment.
- E. Issuance of succeeding notices of hearing dates or court dates and/or final determination of liability as directed by the administrator or by the Administrative Law Judge in accordance with the provisions hereinafter set forth.

- F. Maintenance of accurate records of hearing dispositions, fines and penalties assessed and paid.

2902.4 **Powers of the Hearing Room Personnel.** The hearing room personnel shall be full-time, part-time or auxiliary police officers. The hearing room personnel shall:

- A. Maintain hearing room decorum.
- B. Have and carry out such authority as is granted by law.
- C. Perform such other duties or acts as may reasonably be required to maintain hearing room decorum.

2902.5 **Selection and Appointment of Personnel.** The persons who shall hold the positions of Administrative Law Judge, administrator, system coordinator and hearing room personnel under this Article shall be selected and appointed according to the following procedures:

- A. The Village President is hereby authorized to appoint a person(s) to hold the position of Administrative Law Judge.
- B. In making selections, the Village President shall consider all pertinent information, including, at a minimum:
 - 1. The candidate's ability to comply with the job descriptions as set forth herein; and
 - 2. Background and performance data on file with the Village, or otherwise obtained by the Village; and
 - 3. Whether the candidate meets the statutory criteria as an attorney licensed to practice law in the State of Illinois for at least three years.
- C. **Administrator, System Coordinator and Hearing Room Personnel.** The Village President shall assign the duties of administrator, system coordinator and hearing room personnel to Village employees.

2902.6 **Compensation.** Compensation to be paid for any of the above-stated positions shall be established annually by the Village Board through the annual budget approval.

2902.7 **Training of Personnel.** Prior to an Administrative Law Judge conducting these administrative adjudication proceedings, the Administrative Law Judge must successfully complete a formal training program pursuant to 65 ILCS 5/1-2.2-40.

2903 Procedure

The system of administrative adjudication of non-vehicular regulations violations shall be conducted in accordance with the following procedures to assure defendants are afforded due process of law:

2903.1 **Issuance of Violation Notices.** Village ordinance violation notices ("violation notices") may be issued by any authorized person and shall contain information and shall be served, certified and have evidentiary value as hereinafter stated. Certain violation notices may be issued in the form of a "VO" ticket (Village Ordinance ticket), which may allow the recipient to pay the stated fine prior to any hearing. If the recipient fails to pay the required fine within the allotted time under the ordinance violation ticket, the violation notice will be processed through the administrative adjudication system as otherwise provided for in this Article.

2903.2 **Authorization.** All police officers and other specifically appointed individuals, including, but not limited to, the Village's Building and Zoning Officer and his/her designees, shall have the authority to issue violation notices.

2903.3 **Detection of Violations.** Any individual authorized to issue a violation notice, within his/her scope of responsibility, who detects a violation of any non-vehicular regulation may issue a notice of violation thereof and shall serve the violation notice as herein provided.

2903.4 **Content.** Violation notices shall contain, at a minimum:

- A. The date, time and place of the alleged violation occurrence;
- B. The particular Village ordinance section or regulation violated;
- C. The common address of the building or property alleged to be in violation (the "cited property"), if applicable;
- D. The name of the individual alleged to be liable for the violation (the "respondent"), including the respondent's date of birth, address, and telephone number, if applicable;

- A. Signing his/her name to the violation notice at the time of issuance; or
- B. In the case of a violation notice produced by a computer device, by signing a single certificate, to be kept by the administrator, attesting to the correctness of all violation notices produced by the device while under his/her control.

2903.7 **Business Records.** The original or complete copy of the violation notice shall be retained and kept as a record in the ordinary course of Village business.

2903.8 **Prima Facie Evidence.** Any violation notice issued, signed and served in accordance herewith, or a complete copy of the notice, shall be deemed prima facie correct and shall be considered prima facie evidence of the facts alleged therein.

2903.9 **Admissibility.** The violation notices shall be admissible in any subsequent administrative or legal proceeding.

2904 Administrative Hearings

Hearings shall be held to adjudicate alleged violations of all Village ordinance sections, except those that are excluded by law from the Village's administrative adjudication system, pursuant to the following standards:

2904.1 **Time and Date.** Hearings shall be on the date, time and place as set forth in the violation notice issued and served.

2904.2 **Recording.** Hearings shall be tape recorded.

2904.3 **Default Judgment.** Respondents who do not appear on their scheduled hearing date may have a default judgment entered against them. A notice of judgment 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 judgment may be set aside by the Administrative Law Judge if, within 21 days of issuance of the judgment, a motion is filed and received by the administrator stating good cause for failure to appear or timely respond to the violation notice. The default judgment shall state that it shall constitute a final determination of liability if such motion is not timely received; a hearing on the motion shall be scheduled within 21 days of receipt of the filed motion. If at the hearing on the motion the Administrative Law Judge determines that good cause has been established by the respondent, the default judgment shall be set aside and a new hearing shall proceed on the merits of the violation notice. If the motion is denied or if the respondent fails to appear for a hearing on the motion, the default judgment shall constitute a final determination of liability.

- 2904.4 **Rules of Evidence.** The formal and technical rules of evidence shall not apply in an administrative hearing conducted in compliance with this Article. Evidence, including hearsay, may be admitted pursuant to state law set forth at 65 ILCS 5/1-2.2-35, only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- 2904.5 **Hearing Rights.** Persons appearing to contest an alleged Village ordinance violation may be represented by counsel of their own choice at their own expense, may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.
- 2904.6 **Evidentiary Standard.** No violation may be established except by proof by a preponderance of the evidence.
- 2904.7 **Conclusion of Hearing.** Upon the conclusion of a hearing, the Administrative Law Judge shall make a determination of liability or no liability. If a hearing results in a determination of liability, the Administrative Law Judge shall assess fines and penalties in accordance with this Article and applicable fine provisions of the municipal ordinance of this Village. The Administrative Law Judge may also order the respondent to take corrective action. Further, in lieu of imposing a fine, the Administrative Law Judge may order a respondent to perform a term of community service.
- 2904.8 **Finding, Decision and Order.** The decision of the Administrative Law Judge regarding liability and any applicable penalties made at the conclusion of a hearing shall be written and serve as a final determination. The order shall also contain, at a minimum, the following information and warnings:
- A. A statement that the unpaid fine and any penalty assessed is a debt due and owing the Village.
 - B. A date by which the violation must be brought into compliance with the Village Ordinance, if applicable.
 - C. A statement that the respondent may appeal the decision to the Circuit Court within 35 days, pursuant to the Illinois Administrative Review Act set forth in 735 ILCS 5/3-101 et seq.

2904.9 **Final Determination.** The determination of liability shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law as set forth in 735 ILCS 5/3-101, et seq.

2905 Administrative Review

Administrative review of final determinations issued by the Administrative Law Judge under this Article shall be subject to the provisions of the Administrative Review Law as set forth in 735 ILCS 5/3-101 et seq. of the Illinois Ordinance of Civil Procedure, which sections are incorporated herein by reference.

2906 Judgment and Collection

2906.1 **Enforcement.** Upon expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of liability for a Village ordinance violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Administrative Law Judge may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

2906.2 **Court Costs, Attorneys' Fees and Costs of Collection.** In any case in which a person has failed to comply with an Administrative Law Judge's judgment ordering the correction of a Village ordinance violation or imposing any fine or other sanction as a result of a Village ordinance violation, any expenses incurred by the Village to enforce the judgment, including, but not limited to, attorneys' fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or by the Administrative Law Judge, shall be a debt due and owing the Village and may be collected in accordance with applicable law.

A. Prior to any expenses being fixed by the Administrative Law Judge pursuant to this subsection, the Village shall provide notice to the person that states that the person shall appear at a hearing before the Administrative Law Judge to determine whether the person has failed to comply with the judgment. The notice shall set the date for such 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 on the date the notice was deposited in the mail.

- B. Upon being recorded in the manner required by Article 12 of the Ordinance of Civil Procedure (735 ILCS 5/12-101 et seq.) or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the person 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 would be enforced in a court of competent jurisdiction.

2907 Election of Remedies Nonexclusive

Nothing contained in this Article shall prevent the Village from pursuing all available remedies, allowed by law, to collect money judgments.