
**VILLAGE OF SUGAR GROVE
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: DISCUSSION: ADMINISTRATIVE ADJUDICATION FOR NON-HOME RULE MUNICIPALITIES
AGENDA: JANUARY 16, 2024 VILLAGE BOARD MEETING
DATE: JANUARY 10, 2024

ISSUE

Shall the Village Board discuss amending the administrative adjudication procedures to reflect recently approved State legislation.

DISCUSSION

The Circuit Court system is the default process for local ordinance violations. This has proven to be less than effective for both the court system and municipalities.

The administrative adjudication process was established by the legislature to allow municipalities to retain more control over the prosecution of local ordinance violations. Specifically, the administrative adjudication process permits a municipality to use a hearing officer to adjudicate local ordinance violations and assess fines. This process applies to building code and zoning violations, as well as limited vehicular violations (other than moving violations). Bear in mind, “building code violations” is a euphemism for “property maintenance violations.” The original legislation differentiated between home rule and non-home rule municipalities.

The Village has been using administrative adjudication since 2015. In September 2017 the Village Board adopted administrative adjudication rules and procedures pursuant to State law for certain building and zoning code violations. Recently, in 2022 the Village Board expanded the types of violations for administrative adjudication to include violations pertaining to use of public streets (dumping in the street).

On June 30, 2023, Governor Pritzker signed into law Public Act 103-0260 which affords non-home rule municipalities (i.e., Sugar Grove) the opportunity to adopt Section 5/1-2.1-1 *et seq.* of the Illinois Municipal Code (65 ILCS 5/1-2.1-1 *et seq.*) authorizing administrative adjudication of municipal code violations by home-rule municipalities. The differences in the authority and procedures to adjudicate local ordinance violations between home rule and non-home rule municipalities are substantial and the implementation of the home rule statute for code enforcement by non-home rule municipalities can be very beneficial.

Some of the major differences between the Village’s current scheme as a non-home rule unit and the newly authorized combined scheme under Section 1-2.1-1 (previously reserved for home rule units only) include the following changes:

1. Combined authority into single statutory scheme. This means that all of the Village's enforcement actions (municipal code violations and building code violations) are operating in accordance with the same rules.
2. Less onerous notice requirements. Specifically, the new legislation allows for a more streamlined process by reducing the municipality's administrative burdens. It also relaxes notice requirements and allows for service "in any manner reasonably calculated to give notice."
3. Shortened notice period. The legislation also reduces the timeframe that notice must be provided prior to conducting a hearing. Currently, the statute requires that a defendant receive between 30- and 40-days' notice in advance of a hearing. The new legislation eliminates the mandatory notice period. However, it does allow a defendant to request a 15-day wait period to allow time to prepare.
4. Greater flexibility and discretion in addressing continuances. The non-home rule statute currently has limitations on continuances. The newly authorized provision is silent regarding continuances, thereby leaving the parties with greater discretion.
5. More robust fine structure. Currently, non-home rule units are limited to fines and costs of \$2,500 for all code violations. The change adopts the home rule unit cap of \$50,000, which is exclusive of enforcement costs.
6. Eases administrative burdens related to enforcement of judgments. Expands a municipality's ability to enforce a final decision or order of building code violations (this further expands a change made in 2015 with regard to non-home rule enforcement of other judgments).
7. Hearing Officer Training and Standards. Previously, the adjudication of building code violations did not require hearing officer training. The new legislation holds building code hearing officers to higher standards and requires certain minimum qualifications and training.

The Village is not required to change its current system and may continue operating in the same manner that it has been. However, the existing process is piecemealed because each procedure derives its authority from a different statute. Adopting the new adjudication scheme would provide the Village with the benefits enumerated above.

It is also worth noting that even though the building code enforcement statute doesn't require that the individual presiding over building code violations holds any particular qualifications, the Village has been utilizing individuals who meet the heightened training requirements.

Finally, the adoption of the new system does not limit the Village's authority to pursue any and all other legal enforcement avenues that are otherwise available (65 ILCS 5/1-2.1-3).

The proposed Village Code amendment (attached) is based on the model ordinance being circulated by various Council of Governments organizations in the region. It is intended to replace the current adjudication rules and procedures with those permitted by the new legislation and includes terminology consistent with the new legislation.

Village staff supports the proposed administrative adjudication changes. The Village Attorney has reviewed the proposed amendment.

COSTS

There are nominal expenses for the Village Attorney's involvement with the review of the legislation and preparation of the proposed changes to the Village Code. The expenses are budgeted.

ATTACHMENTS

- Proposed Administrative Adjudication Village Code amendment

RECOMMENDATION

That the Board provide direction and input to Village staff in order to prepare an Ordinance for Village Board approval at a future meeting.

Title 1, Chapter 14, is hereby repealed in its entirety and replaced with the following:

1- 14- 1: PURPOSE AND CREATION:

A. Purpose: 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 Village ordinances thereby expediting the prosecution and correction of ordinance violations. To that end, there is hereby adopted Article 1, Division 2.1 of the Illinois Municipal Code. 65 ILCS 5/1-1-1 *et seq.*

B. Creation: There is hereby established a department of the municipal government to be known as the Village of Sugar Grove Ordinance Enforcement Department to have the power to enforce compliance with all municipal ordinances as from time to time are authorized by the Village Board, except for any offense under the Illinois Vehicle Code (adopted by the Village under Title 6 of this Code) that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code. The establishment of the Sugar Grove Ordinance Enforcement Department does not preclude the Village Board from using any legal system or other method to enforce the ordinances of the Village. Unless the context clearly indicates otherwise, any references throughout this chapter to "Village Code", "this code", "code", or "ordinance" shall be a reference to the Village of Sugar Grove Municipal Code, as amended, or to any municipal ordinance as from time to time may be passed by the Village Board.

1-14- 2: DEPARTMENT COMPOSITION:

A. Organization: The Village of Sugar Grove' s Ordinance Enforcement Department shall be composed of a hearing officer, an Ordinance Enforcement Administrator, and such other personnel as deemed necessary and as appointed by the Village President, with the power and authority as hereinafter set forth.

B. Hearing Officer:

1. The hearing officer must be an attorney who has been licensed to practice law in the state of Illinois for at least three (3) years.
2. The hearing officer shall have the following duties:
 - a. Preside over all adjudicatory hearings to determine whether or not a Village ordinance violation exists;
 - b. Administer oaths and affirmations;
 - c. Hear testimony and accept evidence that is relevant to the existence of a Village ordinance violation;
 - d. Rule upon objections and the admissibility of evidence;

- e. Weigh the evidence at hearings based on relevancy and competence, determine the credibility of witnesses, and resolve conflicts in testimony;
 - f. At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of either party, direct witnesses to appear and give testimony at the hearing or produce relevant documents;
 - g. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
 - h. Issue and sign a written finding, decision and order stating whether a Village ordinance violation exists;
 - i. Impose penalties and sanctions or such other relief consistent with applicable provisions of the Village Code and assess costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have the authority to impose a penalty of incarceration or fines in excess of \$50,000;
 - j. Upon a finding of liable a thirty-dollar(\$30.00) penalty is to be imposed by the hearing officer as an administrative adjudication hearing cost. This additional penalty shall not be construed as part of the fine for the purposes of any reduction made in the fine for compliance.
3. Prior to conducting administrative adjudication proceedings under this chapter, the hearing officer shall have successfully completed a formal training program which includes the following:
- a. Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;
 - b. Orientation to each subject area of the ordinance violations that they will adjudicate;
 - c. Observation of administrative hearings; and
 - d. Participation in hypothetical cases, including rules on evidence and issuing final orders.
4. The hearing officer shall be employed as an independent contractor of the Village and shall not be considered an employee of the Village. A hearing officer may be removed with or without cause by the Village President or their designee.
- C. Ordinance Enforcement Administrator: The Ordinance Enforcement Administrator is authorized and directed to:

1. Operate and manage the system of administrative adjudication of Village ordinance violations as may be permitted by law and directed by ordinance.
2. Adopt, distribute and process all notices as may be required under this chapter or as may be reasonably required to carry out the purpose of this chapter.
3. Collect monies paid as fines and/ or penalties assessed after a final determination of liability.
4. Certify copies of final determination of an ordinance violation adjudicated pursuant to this chapter, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this chapter, the laws of the state of Illinois including 625 Illinois Compiled Statutes 5/11-208.3, as from time to time amended.
5. Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.
6. Collect unpaid fines and penalties through private collection agencies and pursuit of all post-judgment remedies available by current law.
7. Other duties as authorized by statute and as may be assigned from time to time.

1-14-3: VIOLATION NOTICES:

A. Issuance of Violation Notices:

1. Violation notice of any ordinance violation shall be issued by the Mayor or Administrator and such persons authorized under this Village Code.
2. All full time, part time and auxiliary police officers as well as Village department heads and their specifically appointed designees shall have the authority to issue violation notices.
3. Any individual authorized hereby to issue violation notices and who detects an ordinance violation authorized to be adjudicated under this chapter or a violation of any section of any Village ordinance, is authorized to issue notice of violation thereof and shall make service thereof as is hereinafter set forth.
4. All violation notices shall contain information and shall be certified and constitute *prima facie* evidence of the violation cited as hereinafter set forth.
5. Parties may request in writing to the hearing officer before the hearing date that the hearing officer issue subpoenas to direct attendance and testimony of witnesses and the production of relevant documents.

B. Violation Notice Requirements:

1. The violation notice shall contain, but not be limited to, the following information:
 - a. The name and address of the party violating the ordinance, if known.
 - b. The date and time of the violation (date of issuance).
 - c. The type and nature of the violation and the ordinance violated, including section or regulation violated and legal authority and jurisdiction under which the hearing is to be held.
 - d. Vehicle make and state registration number(if applicable).
 - e. The names of any witnesses to the violation.
 - f. The signature and identification number of the person issuing the notice.
 - g. The date and location of the adjudication hearing of ordinance violations which date shall be not less than fifteen (15) nor more than sixty (60) days after the date of the violation notice. The legal authority and jurisdiction under which the hearing is to be held and the penalties for failure to appear at the hearing.
 - h. In the case of a violation pertaining to real property, the address of the property where the violation is observed; and,
 - i. If applicable to the violation in question, the amount of the fine that may be paid by a party upon a written admission of a violation and waiver of a hearing, which fine shall be no less than the minimum fine set by this Village Code relative to the violation at issue.
 - j. Penalties for failing to appear at the hearing, including late fees.
2. The correctness of facts contained in any violation notice shall be verified by the person issuing said notice by:
 - a. Signing their name to the notice at the time of issuance; or
 - b. In the case of a notice produced by a computer device, by signing a single certificate, to be kept by the Ordinance Enforcement Administrator, attesting to the correctness of all notices produced by the device while under their control.
3. Parties shall be served with process in a manner reasonably calculated to give them actual notice including, as appropriate, personal service of process upon a party or their employer or agent; service by mail at a party's address; affixing the original or facsimile of the notice to any unlawfully standing or parked vehicle or a vehicle violating any

compliance regulation; or, posting a notice upon the property where the violation is found where the party is the owner, tenant or administrator of the property as follows:

- a. The original or a facsimile of the violation notice shall be retained by the Ordinance Enforcement Administrator where a docket number shall be stamped on all copies and a hearing date noted;
 - b. The notice shall be kept as a record in the ordinary course of business by the Ordinance Enforcement Administrator and shall be a part of the hearing record;
 - c. One copy of the violation notice shall be returned to the person issuing the notice so that he or she may prepare evidence for presentation at the hearing on the date indicated;
 - d. One copy of the violation notice shall be served to the alleged violator along with a summons commanding the alleged violator to appear at the hearing;
 - e. In the case of a violation pertaining to real property, if the name of the property owner cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation notice form on the front door of the structure where the violation is found, not less than fifteen (15) days before the hearing is scheduled.
4. Any violation notice 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 on the notice.

1-14-4: ADMINISTRATIVE HEARINGS:

A. Continuances: No continuances shall be authorized by the hearing officer in proceedings under this chapter except in cases where a continuance is absolutely necessary to protect the rights of the alleged violator. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this chapter shall not exceed thirty (30) days unless requested by the Village.

B. Hearing and Evidence:

1. At the hearing, a hearing officer shall preside, shall hear testimony, and shall accept any evidence relevant to the existence or nonexistence of a Village ordinance violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this chapter.
2. The case for the Village may be presented by an attorney designated by the Village President or by any other Village employee. The case for the alleged violator may be presented by the alleged violator, their attorney, or any other agent or representative of the alleged violator.

3. If on the date set for hearing the alleged violator or their attorney fails to appear, the hearing officer may find the alleged violator in default and shall proceed with the hearing and accept evidence relevant to the existence of an ordinance violation.
4. Upon finding the alleged violator in default, the Ordinance Enforcement Administrator shall send or cause to be sent notices by first class mail, postage prepaid, to the violator who received the notice of an ordinance violation. Service of notices sent in accordance herewith shall be complete as of the date of deposit in the United States mail.
5. A 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 municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection, the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default judgment.

C. Findings, Decision and Order:

1. At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not an ordinance violation exists.
2. The determination shall be in writing and shall be designated as the findings, decision, and order, including the fine, penalty or action with which the violator must comply.
3. The findings, decision, and order shall include:
 - a. The hearing officer's findings of fact;
 - b. A decision of whether or not an ordinance violation exists based upon the findings of fact;
 - c. In the case of an ordinance violation other than a building code violation, an order that states the sanction or dismisses the case if an ordinance violation is not proved.
 - d. In the case of a building code violation only, an order ordering the owner to correct the building code violation or dismissing the case if a building code violation is not proved; and
 - e. In the case of a building code violation, if a building code violation is proved, the order may also impose the sanctions that are provided in the building code for the building code violation proved.

- f. The burden of proof to sustain a finding of a Village ordinance violation shall be by a preponderance of the evidence.
4. A monetary sanction under this chapter shall be consistent with applicable Village Code provisions with a maximum of fifty thousand dollars (\$50,000.00) for all code violations.
5. The maximum monetary fine imposed for an ordinance violation shall be exclusive of costs of enforcement or costs incurred by the Village to secure compliance with the Village Code and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the Village.
6. A copy of any findings, decisions, or orders shall be served on the violator within five (5) days after it is issued. Service shall be made in person or by first class mail.
7. Payment of any penalty or fine and the disposition of any fine money shall be in the manner as set forth in the Village Code.
8. In the case of a building code violation only, the order to correct a building code violation and the sanctions imposed by the Village as the result of a finding of a building code violation under this Chapter shall attach to the property as well as to the property owner so that a finding of a building code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of the property takes subject to the findings, decision and order of a hearing officer under this chapter.

1-14-5: ENFORCEMENT OF JUDGMENTS:

A. Debt Due Village:

1. 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.
2. After expiration of the period within which judicial review under the Administrative Review Law (735 ILCS 5/3-101 *et seq.*) 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.
3. In any case in which a violator has failed to comply with a judgment ordering a violator to correct an ordinance violation or imposing any fine or other sanction as a result of a ordinance 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 a court of competent jurisdiction or a

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 a hearing officer pursuant to this subsection, the Village shall provide notice to the violator that states that the violator shall appear at a hearing before the administrative hearing officer to determine whether the violator 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.

4. 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 violator 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.

- B. Judicial Review: The findings, decision, and order of the hearing officer shall be subject to review in the circuit court of Kane County. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of the findings, decision, and order of the hearing officer under this chapter.

1-14-6: SCHEDULE OF FINES AND PENALTIES:

- A. General Fines for Any Ordinance Other Than Title 6 (Vehicle Code) of This Code: For a violation of any Village ordinance other than a violation under Title 6 (Vehicle Code) of this code, fines and penalties shall be as established from time to time by the Village council but in no event more than fifty thousand dollars (\$50,000.00) or the amount prescribed by the Illinois Supreme Court for the mandatory arbitration system, whichever is greater.
- B. Fines for Violation of Title 6 (Vehicle Code) of This Code Other Than Handicapped Parking and Regulated Parking: For violation of any provision of Title 6 (Vehicle Code) of this Village Code; or any compliance violation; or, violation of any other Village ordinance regulating, restricting or prohibiting the standing or parking of motor vehicles along the streets, byways, alleyways, regulated parking lots or such other locations as may be controlled by off street parking agreements, located within the geographical boundaries of this Village, other than for handicapped parking, the fine shall be a maximum of seven hundred fifty dollars (\$750. 00).
- C. Fines for violations of certain regulated parking and handicapped parking, restricting or prohibiting the standing or parking of motor vehicles along the streets, byways, alleyways, regulated parking lots or such other locations as may be controlled by off street parking agreements, located within the geographical boundaries of this Village for areas specifically designated for handicapped parking shall be a maximum of seven hundred fifty dollars (\$750.00).

1-14-7: VEHICLE IMPOUNDMENT:

- A. Authorization to Impound, Boot or Tow Motor Vehicle: Any motor vehicle whose registered owner has been determined to be liable for ten (10) or more vehicular standing or parking regulation violations, for which the fines or penalties assessed remain unpaid, may be immobilized, booted or towed and impounded if:
1. The Ordinance Enforcement Administrator has determined that a person has been determined to be liable for ten (10) or more ordinance violations, for which the fines or penalties remain unpaid.
 2. The person determined to be liable for ten (10) or more violations is the registered owner of a motor vehicle located within the Village geographical boundaries.
 3. A seizure notice has been sent to the registered owner of the motor vehicle located within the geographical boundaries of the Village which contains, but shall not be limited to, the following:
 - a. That a final determination has been made on ten (10) or more ordinance violations, for which the fines and penalties remain unpaid;
 - b. A listing of the violations for which the person has been determined to be liable, which shall include for each violation:
 - 1) The ordinance violation notice number;
 - 2) Date of issuance; and
 - 3) Total amount of fines and penalties assessed;
 - c. That the motor vehicle owned by the person and located within the Village is subject to immobilization and/ or towing and impoundment if the fines and penalties are not paid within, but not later than, fifteen (15) days of the date of the notice;
 - d. Date of immobilization;
 - e. Date of impending towing and impoundment; and
 - f. That the registered owner may contest the validity of the notice by appearing in person before the Ordinance Enforcement Administrator within fifteen (15) days of the date of the notice and submitting evidence which would conclusively disprove liability, such as the following:
 - 1) The registered owner was not the owner or lessee of the vehicle on the date or dates the notices of violation were issued; or
 - 2) The fines or penalties for the violations cited in the notice were paid in full; or

- 3) The registered owner has not accumulated ten (10) or more ordinance violation notices which are unpaid, not adjudicated or for which no appearance was made.
4. The motor vehicle of the registered owner to whom notice is sent has failed to make payment of the fines or penalties as specified in the notice and has failed to appear with evidence to conclusively disprove liability before the Ordinance Enforcement Administrator to contest the validity of the notice.

B. Criminal Violations Authorizing Seizure/Impoundment: A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty of five hundred dollars (\$500. 00), in addition to costs of prosecution and any towing and storage fees as hereinafter provided:

1. Operation or use of a motor vehicle in the commission or attempted commission of any offense for which a motor vehicle may be seized and forfeited pursuant to 720 Illinois Compiled Statutes 5/36-1.
2. Driving under the influence of alcohol, other drug or drugs, intoxicating compounds, 625 Illinois Compiled Statutes 5111-501.
3. Operation or use of a motor vehicle in connection with the commission or attempted commission of any felony offense or in violation of the provisions of the Illinois cannabis control act, 720 Illinois Compiled Statutes 550/1.
4. Operation or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the Illinois controlled substances act, 720 Illinois Compiled Statutes 570/100.
5. Unlawful use of a weapon in violation of 720 Illinois Compiled Statutes 5/24-1; aggravated discharge of a firearm in violation of 720 Illinois Compiled Statutes 5/24-1.5; unlawful possession of a firearm and firearm ammunition in violation of 720 Illinois Compiled Statutes 5/24-3.1.
6. Driving while license, permit or privilege to operate a motor vehicle is suspended or revoked, 625 Illinois Compiled Statutes 5/6-303; vehicles shall not be subject to seizure/impoundment if the suspension is for unpaid citations, due to failure to comply with emission testing.
7. Operating a motor vehicle without a valid driver's license, 625 Illinois Compiled Statutes 5/6-101 in combination with operation of motor vehicle with no insurance 625 Illinois Compiled Statutes 5/3-707.
 - a. Except a person that had a valid driver's license that is expired for less than six (6) months.

- b. Except a person who is less than seventeen (17) years of age operating a motor vehicle on any street or highway when in violation of the child curfew act.
- C. Request For Hearing in Case of Impoundment and Towing of Motor Vehicle: Upon the receipt of the request for hearing to contest the validity of the immobilization or towing and impoundment, the Ordinance Enforcement Administrator shall schedule an administrative hearing to contest the validity of the immobilization or towing and impoundment on the next scheduled hearing date or, if sooner, scheduled by the Ordinance Enforcement Administrator for good cause shown, but in no case shall the hearing be scheduled later than thirty (30) days after the request for hearing is filed and shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid, to the address as is set forth on the request for hearing. Service of the notice shall be complete on the date it is placed in the United States mail.
- D. Notice Affixed to Vehicle in Cases of Immobilization: Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous place. Such notice shall warn that the vehicle is immobilized and that any attempt to move the vehicle may result in its damage. The notice shall also state that the unauthorized removal of or damage to the immobilizing restraint is a violation of sections 16-1 and 21-1 of the Illinois Criminal Code. The notice also shall provide the following information specifying that a release of the immobilizing restraint may be had by:
 - 1. Paying all the fines and penalties, if any, on the outstanding complaints for which notice has been sent prior to the date of the immobilization; or
 - 2. Completing appearance forms on all outstanding parking violation complaints for which notice had been sent prior to the date of the immobilization and depositing collateral in the amount of fifty percent (50%) of the total fines for these outstanding parking violation complaints, or five hundred dollars (\$500.00), whichever is less.
- E. Towing Of Immobilized Vehicle: Except where the vehicle is otherwise subject to towing, if the immobilizing restraint has not been released as hereinabove provided within seventy-two (72) hours of its placement, the vehicle shall be towed and impounded.
- F. Post- impoundment Notice: Within ten (10) days after a vehicle has been impounded, notice of impoundment shall be sent by certified mail, return receipt requested, to the registered owner of the vehicle. The notice shall state that the owner has the right to a post-immobilization and post- towing hearing as provided in subsection G of this section and that if the vehicle is not claimed within thirty (30) days from the date of the notice, the vehicle may be sold or otherwise disposed of in accordance with the Illinois Vehicle Code.
- G. Hearing In Case Of Vehicle Immobilization: The owner of an immobilized vehicle or other interested person shall have the right to a hearing to determine whether the immobilization or any subsequent towing was erroneous or whether the vehicle was properly included on an immobilization list, if the owner files a written demand for a hearing before the Ordinance

Enforcement Administrator within fourteen (14) days after issuance of the notice specified in subsection F of this section or within fourteen (14) days of immobilization, whichever is later. A hearing shall be conducted on any business day within forty-eight (48) hours of receipt of a written demand for hearing, unless otherwise mutually agreed by the parties. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of such failure, any amount deposited pursuant to subsection D of this section shall be forfeited. A hearing provided by this subsection shall not determine the validity of or otherwise adjudicate any citation or notice of ordinance violation issued relative to the immobilized vehicle, but shall only relate to whether the vehicle was properly immobilized or towed by determining whether the owner previously submitted evidence required by this chapter.

- H. Fines and Fees for Immobilization: The fine for immobilization shall be five hundred dollars (\$500.00) and the fine for impoundment and towing shall be an amount not to exceed six hundred fifty dollars (\$650.00). The owner of the vehicle shall also be charged reasonable storage and towing fees should the vehicle be removed to a private storage facility, provided that no fees shall be assessed for any immobilization or tow which has been determined to be erroneous.
- I. Towing Services: The Ordinance Enforcement Administrator shall appoint or retain the services of an individual agency or company to tow and impound vehicles in accordance herewith, provided that that individual, agency or company is fully insured and licensed according to local or state law and has available a secured impound area within which to retain vehicles impounded hereunder. For the purpose of this subsection a "secured area" shall mean an area bounded by a fence, chainlink or otherwise, of a sufficient height and with locking gates so as to minimize or prevent unauthorized entry into the impounded vehicles.

1-14-8: IMPOSITION OF COLLECTION COSTS ON UNPAID FINES:

The Village and the Village 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 Village Code, or any installment of a fine or penalty. The Village shall add a thirty-five percent (35%) cost of collections to any outstanding balance that requires the Village to retain the services of a collection agency. This thirty-five percent (35%) cost includes any default in a fine or penalty or any installment of a fine or penalty that was previously referred to an attorney or private collection agency and the payment of which remains outstanding.