

Agenda
Village of Glen Ellyn
Village Board Workshop
Monday, March 15, 2010
Following the Conclusion of the 6 P.M. Special Board Meeting
Galligan Board Room
Glen Ellyn Civic Center

1. Call to Order
 - Motion to allow Trustee Hartweg to attend the meeting electronically due to personal illness or disability. (*Trustee Comerford*)
2. Public Comments?
3. Review of agenda for Monday, March 22 Regular Village Board Meeting
4. Administrative Adjudication and Vehicle Seizure and Impounding Discussion
 - Phil Norton (**Pages 2 - 30**)
5. Other items?
6. Adjournment

MEMO

TO: Phil Norton, Chief of Police

FROM: Robert Acton, Deputy Chief of Police

DATE: March 10, 2010

SUBJECT: **DRAFT ORDINANCES FOR VILLAGE BOARD CONSIDERATION:
ADMINISTRATIVE ORDINANCE HEARING DEPARTMENT AND
VEHICLE SEIZURE & IMPOUNDMENT**



The Department has prepared two new ordinances for consideration before the Village Board. The first will establish a code hearing department and system of local adjudication for the purpose of expediting the adjudication of all eligible violations of Village Code. The second ordinance will establish a fee for recovering reasonable costs associated with towing and impounding motor vehicles. These ordinances have been drafted and reviewed by Village attorneys and administration.

In establishing a system of local adjudication, the Village will provide the opportunity to attend a monthly hearing to all individuals who are cited under specified municipal code. A hearing officer will preside and make final determinations of liability, including the assignment of fines and costs when applicable. The role of the hearing officer, also known as a local law judge, will be filled by a qualified attorney with training and experience in municipal code. A code administrator, also established under the ordinance, will operate and manage the system, including the sending of notices and collection of fines and fees. The code administrator will also be authorized to maintain a computer software program designed to input and track violation notices, establish hearing dates and record the collection of fines. The code administrator responsibilities will be assigned to a current Department employee, as will the remainder of the ancillary roles and tasks described in the ordinance.

The second ordinance provides for vehicle seizure and impoundment. In the routine course of their duties, police officers frequently arrest individuals for a variety of offenses while they are operating a motor vehicle. In these circumstances, the Department is obligated to spend time securing the arrestee's vehicle to make certain it is not a danger to traffic, left in a condition that may subject it to vandalism or otherwise impact established parking regulations. This ordinance will establish a fee to cover the costs associated with impounding vehicles under these conditions. This ordinance will also apply to the impounding of vehicles that are subject to immediate tow under the provisions set forth under the system of local adjudication.

Please contact me if you have any questions.

VILLAGE OF GLEN ELLYN

ORDINANCE NO. _____ -VC

AN ORDINANCE TO ADD TO TITLE 9, "TRAFFIC CODE" A NEW CHAPTER 6
OF THE VILLAGE CODE OF THE
VILLAGE OF GLEN ELLYN, ILLINOIS

REGARDING VEHICLE SEIZURE AND IMPOUNDMENT

ADOPTED BY THE
PRESIDENT AND THE BOARD OF TRUSTEES
OF THE
VILLAGE OF GLEN ELLYN
DUPAGE COUNTY, ILLINOIS

THIS _____ DAY OF _____, 20____.

Published in pamphlet form by the authority
of the President and Board of Trustees of the
Village of Glen Ellyn, DuPage County,
Illinois, this _____ day of
_____, 20____.

ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR
VEHICLE SEIZURE AND IMPOUNDMENT.**

WHEREAS, the Police Department of the Village of Glen Ellyn has experienced numerous instances in which individuals are not able to continue to drive vehicles within the Village because they have been placed under arrest for certain offenses or they are observed by the police or other Village officials or employees in a condition where it would not be safe for them to drive a vehicle or a proper license permit or privilege to operate a vehicle is not within their possession or receipt; and

WHEREAS, under such circumstances, the police and other Village officials are required to expend time and effort in seeing to it that the vehicle is impounded so that it does not constitute a danger to traffic, an impediment or distraction for traffic or remain abandoned for an extensive period of time and become subject to vandalism, mischief or otherwise detract from the regulated parking restriction provisions in force within the community; and

WHEREAS, a substantial period of time can be devoted by municipal officials in providing security for the vehicle, attempting to determine whether some other person is lawfully capable of driving the vehicle, so that no impoundment is necessary, and, in some cases, providing assistance to the passengers in the vehicle, including minors, where the vehicle is to be impounded; and

WHEREAS, the Corporate Authorities have determined that it is prudent and within its power and authority to establish a standard fee for the actions and services required by the municipality where the Police Department or other Village personnel has reasonable cause to

believe that the driver of a vehicle is operating that vehicle in violation of a number of State statutes and local governmental ordinances; and

WHEREAS, the Village wishes to establish an Administrative and Public Safety Fee to cover the costs of the Village in carrying out this important activity, which is crucial to the public health, safety and welfare within the Village; and

WHEREAS, the Village believes that a fee of \$300.00 bears a reasonable relationship to the actual costs which have been incurred or are likely to be incurred by the Village during the variety of circumstances under which the impoundment of a vehicle is found to be necessary; and

WHEREAS, the Corporate Authorities recognize that, in some instances, the actual cost to the Village, incurred in the impoundment of the vehicle, may be less than the amount of the fee established, but, in other cases, it is anticipated that the cost of the service will greatly exceed the amount of the fee; and

WHEREAS, the goal of the Village in establishing a fee is to be able to actively carry out the impoundment service and to reasonably recover its costs and is not instituted for the purpose of taxation or income generation;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DU PAGE COUNTY, ILLINOIS, in the exercise of its home rule powers, as follows:

SECTION 1: There shall be added to Title 9, "Traffic Code," of the Village of Glen Ellyn Code of Ordinances, a new Chapter 6, "Vehicle Seizure and Impoundment," which shall read, as follows:

CHAPTER 6. VEHICLE SEIZURE AND IMPOUNDMENT

- 9-6-1 **DEFINITIONS.**
- 9-6-2 **ACTS SUBJECTING VEHICLE TO SEIZURE AND IMPOUNDMENT;
ADMINISTRATIVE AND PUBLIC SAFETY FEE.**
- 9-6-3 **SEIZURE AND IMPOUNDMENT PROCEDURES.**
- 9-6-4 **RELEASE OF MOTOR VEHICLE.**
- 9-6-5 **RIGHT TO A HEARING; POSTING OF BOND.**
- 9-6-6 **NOTICE OF SEIZURE AND IMPOUNDMENT.**
- 9-6-7 **COLLECTION OF UNPAID ADMINISTRATIVE AND PUBLIC SAFETY
FEE.**
- 9-6-8 **LIEN HOLDERS.**
- 9-6-9 **RELEASE OF MOTOR VEHICLE NOT ALLOWED.**
- 9-6-10 **MULTIPLE OWNERS.**

§ 9-6-1: **DEFINITIONS:**

For the purposes of this Chapter, the following definitions shall apply unless the context clearly indicates a different meaning.

BUSINESS DAY means any day in which the office of the village clerk of the Village of Glen Ellyn is open to the public for a minimum of seven hours.

MOTOR VEHICLE OR VEHICLE means every vehicle which is self-propelled, including, but not limited to, automobiles, trucks, vans, motorcycles and motor scooters, and shall include every vehicle defined by Section 1-146 of the Illinois Vehicle Code.

OWNER means a person who holds legal title of a vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of such vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner. Any person may, with the owner's express permission, perform any act that the owner is authorized to perform.

§ 9-6-2: **ACTS SUBJECTING VEHICLE TO SEIZURE AND IMPOUNDMENT; ADMINISTRATIVE AND PUBLIC SAFETY FEE:**

(A) A motor vehicle: (i) that was driven, used, or operated, by a person who is reasonably charged or could be charged with; or (ii) for which there is a reasonable factual basis for finding it was used or operated in the commission of; any of the following violations may be seized and impounded by the Village:

1. Driving a motor vehicle under the influence of alcohol, other drug or drugs, intoxicating compound(s), or a combination thereof;

2. Driving a motor vehicle while the driver's license, permit or privilege to operate a motor vehicle is suspended or revoked, regardless of whether the revocation or suspension was of an Illinois driver's license or the driver's license from another state;
3. Driving a motor vehicle without ever having been issued a valid driver's license; or
4. Driving a motor vehicle when the driver's license has been expired for more than six months, or the driver's permit, restricted driver's permit or other driving privilege has expired, regardless of whether such expired license, permit, restricted driver's permit or other driving privilege was previously issued by the State of Illinois or another state.
5. A person against whom a warrant has been issued by any court of competent jurisdiction for any reason;
6. Driving by a person who is less than seventeen years of age when in violation of the lawfully established curfew;
7. Fleeing or attempting to elude;
8. Drag racing;
9. Reckless driving;
10. Speeding forty miles per hour (40 MPH) in excess of applicable limit;
11. Any of the following firearms offenses:
 - a. Unlawful use of weapons;
 - b. Aggravated discharge of a firearm;
 - c. Aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm;
 - d. Reckless Discharge of a firearm; and
 - e. Aggravated unlawful use of a weapon.
12. Any of the following drug offenses:
 - a. Possession of cannabis more than 30 grams
 - b. Unauthorized possession of controlled substances,
13. Any other misdemeanor or felony of the Vehicle Code where a custodial arrest is initiated; and
14. Any other misdemeanor or felony where a motor vehicle is used to attempt an escape from the crime scene or where a custodial arrest is initiated.

(B) No vehicle shall be seized and impounded pursuant to paragraphs (a)(3) and (4), above, if the driver was driving pursuant to certain exceptions to the licensing requirements, as allowed in the exemption provision, Section 5/6-102, of the Illinois Vehicle Code.

(C) In the event a motor vehicle is seized and impounded pursuant to this Chapter, the owner of the motor vehicle shall be liable to the Village for an administrative and public safety fee of three hundred dollars (\$300.00), in order to cover the costs incurred by the village in ensuring that the motor vehicle is properly removed from the scene of the incident and the vehicle, and personal property enclosed therein, is secured and safeguarded, and any passengers in the vehicle, including children are assisted. All owners of a motor vehicle shall be jointly and severally liable for the administrative and public safety fee.

(D) Upon demonstration that it has the right to possession of a seized motor vehicle, a lessor, whether a rental agency or otherwise, or lien holder of a motor vehicle shall have the right to pay the administrative and public safety fee and be issued a release from the Glen Ellyn Police Department authorizing it to gain possession of the vehicle.

(E) The administrative and public safety fee is separate and distinct from, and in addition to, any fine assessed upon being found liable or culpable for the underlying offense and fees or costs owed by the owner to a private towing company for the towing and storage of the vehicle.

§ 9-6-3: SEIZURE AND IMPOUNDMENT PROCEDURES:

(A) Whenever a police officer has reason to believe that a motor vehicle is subject to seizure and impoundment pursuant to §9-6-2, above, the police officer may order that the vehicle be seized and impounded. The Glen Ellyn Police Department shall utilize the services of a private towing company. If towed, the motor vehicle must be impounded and stored in a secure facility owned, leased, or operated by the Village or a private towing company.

(B) The police officer shall inform the person being arrested for the offenses identified in §9-6-2, or any owner of the vehicle at the scene of the arrest, of the circumstances, rights and obligations related to the:

1. Seizure and impoundment of the vehicle;
2. Owner's right to retrieve the vehicle by payment of the administrative and public safety fee to the Village and towing and storage fees and costs to the private towing company; and
3. Availability of posting a bond in the full amount of the administrative and public safety fee and to request a hearing before an administrative hearing officer to determine whether or not the seizure and impoundment was proper.

(C) The police officer shall allow for another properly licensed and otherwise fit person to drive the vehicle, if insured, from the scene of the arrest if that person is the owner, or is authorized by

the owner, and such person is present at the scene prior to the arrival of the tow truck. The police officer shall not be under any duty or requirement to:

1. Inform the person being arrested that he or she may contact another person to remove the vehicle from the scene of the incident;
2. Allow a driver being arrested to make or send a telephone call, electronic message or other attempt to contact a person to drive the vehicle from the scene of the arrest; and
3. Initiate such call, message or contact another person on behalf of the arrestee.

(D) Upon the arrest of a driver for violations referenced in §9-6-2 above, the vehicle shall not be removed from the scene by any owner, or another person authorized by the owner, if the police officer determines that the vehicle should not be released due to the applicability of §9-6-9, below.

(E) The imposition of the administrative and public safety fee shall not apply if the vehicle driven by a person arrested in connection with the offenses identified in §9-6-2, was stolen at that time and the theft was reported to the appropriate police authorities within twenty-four (24) hours after the theft was discovered or reasonably should have been discovered.

§ 9-6-4: RELEASE OF MOTOR VEHICLE:

(A) Any owner, or lien holder or lessor of record of a motor vehicle that is seized and impounded pursuant to this Chapter may regain possession of the vehicle by: (i) paying to the Village the \$300.00 administrative and public safety fee; or (ii) posting a bond in the full amount of the fee, pursuant to §9-6-5; and (iii) providing proof of appropriate insurance. The fee or bond shall be paid at the Glen Ellyn Police Department. The fee or bond shall only be paid with cash, credit card, cashier's or certified check, or other type of payment acceptable to the Village that has the legal effect of being equivalent to the aforementioned methods of payment.

(B) Upon payment of the fee or bond, the Department shall provide the payor with a document authorizing the release of the vehicle from the private towing company. The owner, or any authorized lessor or lien holder, may present the Department-issued document authorizing release to the private towing company, and upon payment of any fees and costs to company for towing and storage of the vehicle, shall regain possession of the vehicle.

§ 9-6-5 RIGHT TO A HEARING; POSTING OF BOND:

(A) Any owner, or lien holder or lessor of record, shall have the right to a hearing before a hearing officer to contest whether the seizure and impoundment was proper. All requests for a hearing shall be made in writing to the Code Administrator identified in Title 1, Chapter 12 of the Village Code of Glen Ellyn. If a request for a hearing is made, a bond in the amount of three hundred dollars (\$300.00) must be posted with the Glen Ellyn Police Department and it shall be held by the Village until the hearing officer makes a final decision.

(B) Hearings shall be held at the time and date provided for hearings under §1-12-13 of the Village Code of Glen Ellyn. If a request for a hearing is not made at the time the administrative and public safety fee is paid or the bond is posted, the owner shall be deemed to have waived the right to a hearing. No party shall have a right to a hearing unless requested within 10 days of the date of the notice referenced in §1-12-13.

§ 9-6-6: COLLECTION OF UNPAID ADMINISTRATIVE AND PUBLIC SAFETY FEE:

If an administrative and public safety fee is imposed pursuant to this Chapter the fee shall constitute a debt due and owing the Village of Glen Ellyn. The Village may collect on the debt using all means permitted by law, including, without limitation, obtaining a judgment on the debt and enforcing such judgment against the owner, or disposing of the vehicle as an unclaimed vehicle. The Village may commence legal proceedings to collect an unpaid administrative and public safety fee, or take actions to dispose of the impounded vehicle: (i) 35 days after a determination was made at the requested hearing that the seizure and impoundment was proper, and no petition was filed in the Circuit Court seeking judicial review of the administrative hearing officer's determination or other review; (ii) 30 days after a final order is rendered by a judge of the Circuit Court whenever a petition seeking judicial review was filed by a party; or (iii) 15 days after the notice provided in §1-12-13 was mailed and no administrative hearing was requested.

§ 9-6-8: LIEN HOLDERS:

Except as may otherwise be provided by law, no owner, lien holder, lessor, or other person, shall be legally entitled to take possession of a vehicle impounded under this Chapter, until the administrative and public safety fee has been paid or a bond is posted. However, whenever a lien holder against the impounded vehicle has commenced foreclosure proceedings, then possession of the vehicle shall be given to lien holder without the requirement that the administrative and public safety fee be paid or bond posted, conditioned upon the lien holder agreeing in writing to pay to the Village the fee from the net proceeds of any foreclosure sale.

§ 9-6-9: RELEASE OF MOTOR VEHICLE NOT ALLOWED:

The provisions of this Chapter authorizing an owner, or other party, to regain possession of a motor vehicle are not applicable when vehicle or asset forfeiture proceedings have been instituted under state or federal drug asset forfeiture laws or Article 36 of the Illinois Criminal Code of 1961. In such case, the Village shall not release, or dispose of, the vehicle to any person, except as consistent with those proceedings.

In the event the Glen Ellyn Police Department determines that the vehicle seized and impounded pursuant to this Chapter should not be released to its owner or other persons, or disposed of as an unclaimed vehicle, due to the need to retain the vehicle as part of a continuing criminal investigation, or as evidence in a crime, then the Village shall notify the owner no later than five (5) days after the seizure and impoundment that the vehicle will be retained and not released except as required by law.

§ 9-6-10: MULTIPLE OWNERS:

Whenever in this Chapter the word Owner is used, it shall apply to all owners. This Chapter presumes that all owners have equal rights to a seized and impounded vehicle. In instances of multiple owners of a vehicle, the Village shall not have any duty or responsibility to inquire or determine whether all owners concur with, or object to, any action taken, or omissions, by any one owner in relation to the vehicle seized and impounded.

SECTION 2: This Chapter shall be printed in the Glen Ellyn Village Code.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

PASSED this _____ day of _____, 2010.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2010.

Village President

ATTEST:

Village Clerk

VILLAGE OF GLEN ELLYN

ORDINANCE NO. _____ -VC

AN ORDINANCE TO ADD TO TITLE 1, "ADMINISTRATIVE" A NEW CHAPTER 12
OF THE VILLAGE CODE OF THE
VILLAGE OF GLEN ELLYN, ILLINOIS

REGARDING ADMINISTRATIVE ORDINANCE HEARING DEPARTMENT

ADOPTED BY THE
PRESIDENT AND THE BOARD OF TRUSTEES
OF THE
VILLAGE OF GLEN ELLYN
DUPAGE COUNTY, ILLINOIS
THIS _____ DAY OF _____, 20____.

Published in pamphlet form by the authority
of the President and Board of Trustees of the
Village of Glen Ellyn, DuPage County,
Illinois, this _____ day of
_____, 20____.

**VILLAGE OF GLEN ELLYN
DUPAGE COUNTY, ILLINOIS**

ORDINANCE NO. _____

**AN ORDINANCE PROVIDING FOR
ADMINISTRATIVE ORDINANCE HEARING DEPARTMENT.**

WHEREAS, the Village of Glen Ellyn (“Village”) is an Illinois home rule municipality organized and operating under the Constitution and Laws of the State of Illinois, including but not limited to Article 1, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, et seq. (the “Code”); and

WHEREAS, the Village is granted the authority under the Code to establish a code hearing unit and operate a system of administrative adjudication for the purpose of expediting the prosecution and correction of municipal code violations; and

WHEREAS, the system of administrative adjudication may be given jurisdiction to hear cases alleging a violation of any municipal ordinance, except for (i) proceedings not within its home rule authority; and (ii) any offense under the Illinois Vehicle Code or a similar offense 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; and

WHEREAS, the Corporate Authorities finds it to be in the best interest of the Village and the residents thereof to establish a code hearing department and system of administrative adjudication for the purpose of expediting the prosecution and correction of all eligible violations of the Glen Ellyn Village Code.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF GLEN ELLYN, DU PAGE COUNTY, ILLINOIS, IN THE EXERCISE OF ITS HOME RULE POWERS, as follows:

SECTION 1: There shall be added to Title 1, "Administrative," of the Glen Ellyn Village Code, a new Chapter 12, "Administrative Ordinance Hearing Department," which shall be as described in Exhibit A to this ordinance, which shall be incorporated as though fully set forth herein and made a substantive portion hereof.

CHAPTER 12

ADMINISTRATIVE ORDINANCE HEARING DEPARTMENT

ARTICLE 1. GENERAL PROVISIONS

- 1-12-1: PURPOSE.
- 1-12-2: DEFINITIONS.
- 1-12-3: NON-EXCLUSIVITY.
- 1-12-4: CODE HEARING DEPARTMENT; ESTABLISHMENT; JURISDICTION.
- 1-12-5: CODE HEARING DEPARTMENT; ORGANIZATION.
- 1-12-6: COMPENSATION OF CODE HEARING PERSONNEL.
- 1-12-7: COMMENCEMENT OF HEARINGS.
- 1-12-8: HEARING PROCEDURES.
- 1-12-9: ENFORCEMENT OF JUDGMENT.

ARTICLE II. ADDITIONAL PROVISIONS RELATING TO MOTOR VEHICLE CITATIONS AND ADMINISTRATIVE TOWING/IMPOUNDMENT SERVICES

- 1-12-10: ENFORCEMENT OF MOTOR VEHICLE VIOLATIONS; CITATIONS.
- 1-12-11: DETERMINATION OF LIABILITY; MOTOR VEHICLE CITATIONS.
- 1-12-12: LESSOR OF VEHICLE--LIABILITY.
- 1-12-13: NOTICE OF FINAL DETERMINATION OF LIABILITY.
- 1-12-14: IMMOBILIZATION PROGRAM.
- 1-12-15: DRIVER'S LICENSE SUSPENSION.

ARTICLE 1. GENERAL PROVISIONS

§1-12-1: PURPOSE:

The purpose of this Chapter is to provide for a fair and efficient system of enforcement of Village ordinances as may be allowed by law and directed by ordinance, through the administrative adjudication of violations of such Village ordinances and by establishing a schedule of fines and penalties, and authority and procedures for collection of unpaid fines and penalties.

§1-12-2: DEFINITIONS:

For the purpose of this Chapter, the words described below shall have the meanings ascribed to them herein unless the context in which such terms are used requires otherwise:

CODE: Any municipal ordinance, law, rule, regulation or code set forth in Titles 3 through 9, inclusive, except (i) such ordinances for which the potential penalty described therein includes a period of incarceration, and (ii) any offense under the Illinois Vehicle Code or a similar offense

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.

OWNER: (1) For the purpose of a violation relating to real property, 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. Any person so described herein may present 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.

HEARING OFFICER: A person appointed by the Village President to preside over Administrative Hearings, as set forth in this Chapter.

§1-12-3: NON-EXCLUSIVITY:

The provisions of this Chapter shall not preclude the Village from using other methods or proceedings to enforce the Village Code, including, but not limited to, the institution of any action in the Circuit Court of DuPage County, Illinois, or any administrative proceeding.

§1-12-4: CODE HEARING DEPARTMENT; ESTABLISHMENT; JURISDICTION:

There is hereby created within the Village of Glen Ellyn a Code Hearing Department, which is authorized to provide for and operate a “system of administrative adjudication,” as more fully described herein, which shall have jurisdiction over the adjudication and enforcement of any violation of the Code.

§1-12-5: CODE HEARING DEPARTMENT; ORGANIZATION:

The Code Hearing Department shall be comprised of a Hearing Officer, a Code Administrator, the Chief of Police, or his designee, and any other duly appointed person or persons deemed necessary for the efficient administration of the Code Hearing Department, with the following powers and authority:

(A) Hearing Officer.

1. All adjudicatory hearings shall be presided over by a Hearing Officer. Prior to conducting administrative adjudication hearings, the Hearing Officers shall have successfully completed a training program which includes the following:
 - a. Instruction on the rules of procedure of the administrative adjudication hearings that they will conduct and preside over;
 - b. Orientation to each subject area of the Code for which they may adjudicate a violation;

- c. Observation of administrative adjudication hearings; and
 - d. Participation in hypothetical cases, including ruling on evidence and issuing final orders.
2. In addition, a Hearing Officer must be an attorney in good standing licensed to practice law in the State of Illinois for at least three (3) years. A Hearing Officer may not be an inspector or law enforcement officer employed by the Village.
 3. Hearing Officers are hereby authorized, empowered and directed to:
 - a. Hear testimony and accept evidence that is relevant to the existence of an ordinance violation;
 - b. Issue subpoenas directing witnesses to appear and give relevant testimony or tangible items at an administrative adjudication hearing, upon the request of the parties or their representatives.
 - c. Preserve and authenticate the record of the administrative adjudication hearings, including all exhibits and evidence introduced at the hearing;
 - d. Issue a determination, based on the evidence presented at the administrative adjudication hearing, of whether a Code violation occurred or exists. The Hearing Officer's determination shall be in writing and shall include written findings of fact and law and an order, including the fine, penalty or other action with which the defendant must comply; and
 - e. Impose penalties consistent with the applicable Code and assess costs upon finding a party liable for the charged violation, except, however, that in no event shall the Hearing Officer have authority (i) to impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000.00. The maximum monetary fine under this item (e) shall be exclusive of costs of enforcement or costs incurred by the Village to secure compliance with the Code or an order issued under this Chapter and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the Village.

(B) Code Administrator: The Code Administrator shall either be an employee of the Village of Glen Ellyn appointed by the Village Manager based on the recommendation of the Chief of Police, an independent contractor or agency contracted by the Village to perform such duties as enumerated herein. The Code Administrator shall serve as the traffic compliance administrator described in Chapter 11, Article II of the Illinois Vehicle Code, 625 ILCS 5/11-208.3. The Code Administrator is hereby authorized, empowered and directed to:

1. Operate and manage the system of administrative adjudication of all Code violations as may be permitted by law;

2. Adopt, distribute and process all notices as may be required under this Chapter or as may reasonably be required to carry out the purpose of this Chapter;
3. Collect moneys paid as fines and/or penalties assessed after a final determination of liability;
4. Certify copies of final determinations of all Code violations adjudicated pursuant to this Chapter, and any factual reports verifying the final determinations of liability which were issued in accordance with this Chapter or the laws of the State of Illinois, including 625 ILCS 5/11-208.3, as from time to time amended.
5. Certify reports to the Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and those of 625 ILCS 5/6-306.5;
6. Promulgate rules and regulations reasonably necessary for the efficient operation and maintenance of the system of administrative adjudication hereby established; and
7. Collect unpaid fines and penalties through private collection agencies that may be retained by the Village or by requesting the Village Prosecutor to act on behalf of the Village in pursuing all post-judgment remedies available under current law.

(C) Automation. The Code Administrator is hereby further authorized, empowered and directed to operate and maintain a computer program for the system of administrative adjudication hereby established, on a day-to-day basis, including, but not limited to:

1. Inputting of violation notice information;
2. Establishing hearing dates and notice dates;
3. Recording fine and penalty assessment and payments;
4. Issuing payment receipts;
5. Issuing all notices required by this Chapter and the Illinois Vehicle Code. Nothing in this section is intended to preclude the Code Administrator from including one or more notices in the same notice report; and
6. Keeping accurate records of appearances and non-appearances at administrative adjudication hearing, pleas entered and fines and other penalties assessed and paid.

(D) Police Personnel. The Chief of Police shall appoint and/or designate a police officer to provide security for the administrative adjudication hearings, and such officers are hereby authorized and directed to:

1. Maintain hearing room decorum;

2. Execute authority as granted to courtroom deputies of the Circuit Court; and
3. Perform such other duties or acts as may be reasonably required and as directed by the Hearing Officer or the Code Administrator.

§1-12-6: COMPENSATION OF CODE HEARING DEPARTMENT PERSONNEL:

Authorization for compensation for each of the above-stated positions shall be made by the Village Board through the annual budget or appropriation process. Compensation shall be determined by the Village Manager within approved appropriation limitations.

§1-12-7: COMMENCEMENT OF HEARINGS:

(A) A proceeding before a Hearing Officer shall be instituted upon the filing with the Code Administrator of a written sworn pleading, complaint or citation by any authorized official of the Village, including police officers, code enforcement officers, and such other employees as authorized.

In the event a complaint causing the initiation of a hearing is filed by a tenant or occupant of a dwelling who is not also the owner thereof, no action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding, whether it be civil or criminal, shall be threatened or instituted against such tenant or occupant solely because such tenant or occupant files such complaint or agrees to testify or present tangible evidence at an administrative adjudication hearing. The foregoing sentence shall not apply if the owner proves by a preponderance of the evidence that such tenant or occupant is the proximate cause of the violation for which the hearing is commenced.

(B) Defendants shall be served with a copy of the written sworn pleading, complaint or citation along with a notice of hearing in a manner reasonably calculated to give them actual notice of the proceeding instituted against them, by one or more of the following means:

1. Personal service upon a party or its employees or authorized agents;
2. Service by certified mail, return receipt requested, at the party's last known address;
3. Service by first class mail, postage prepaid, at the party's last known address; or
4. If the party's last known address cannot be ascertained after a diligent search, by posting a copy of the sworn pleading, complaint or citation in a conspicuous place upon the property or motor vehicle where the violation is found when the party is the Owner of the property or motor vehicle.
5. Any notice presented by first class or certified mail, or by posting, shall be deemed served upon the deposit of such notice in the U.S. Mail or the posting of such notice.

(C) Notices of hearing shall include:

1. The type and nature of the ordinance violation to be adjudicated, including a citation to the appropriate section of the Code;
2. The date and time of the administrative adjudication hearing or, for violations described in Article II, of the opportunity to request a hearing;
3. The fines and/or penalties which may be assessed upon a finding of liability for the cited violation;
4. The penalties for failure to appear at the hearing and late payment penalties, if any; and
5. Any witnesses or complainants who may be called to testify for the Village who are not employees or officers thereof.
6. For violations described in Article II, warnings that (a) failure either to pay the indicated fine and any applicable penalty, or to appear at a hearing on the merits in the time and manner specified, will result in a final determination of liability for the cited violation in the amount of the fine or penalty indicated, and (b) upon the occurrence of a final determination of liability and the failure, 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 municipality.

(D) Administrative adjudication hearings shall be scheduled and docketed by the Code Administrator no less than 15 and no more than 30 days after the notice of hearing is served on the defendant.

§1-12-8: HEARING PROCEDURES:

(A) Parties shall be provided with an opportunity for a hearing before or during which they may exercise any or all of the following rights:

1. Be represented by counsel, although defendants shall not be entitled to have an attorney appointed to represent them;
2. Present and cross-examine witnesses;
3. Request the Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses or the production of relevant tangible evidence.

(B) Rules of Evidence Shall Not Govern. The formal and technical rules of evidence shall not apply in an administrative adjudication hearing authorized under this Chapter. Evidence,

including hearsay, may be admitted only if it is the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(C) Standard of Proof. Administrative adjudication hearings are civil in nature. The Village shall bear the standard of proof to prove by a preponderance of the evidence the occurrence or existence of a violation of the Code. For violations described in Article II of this Chapter, a sworn, written pleading, complaint or citation shall constitute prima facie evidence of the violation.

(D) Recording of Hearings. The Code Administrator shall cause all hearings conducted under this Chapter to be audio recorded. Notwithstanding whether any person elects to audio or video record any hearing conducted under this Chapter, the recording preserved by the Code Administrator shall be the official record of the proceedings.

(E) Defenses. It shall be a defense to a Code violation charged under this Chapter if the Owner, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

1. The Code violation alleged in the notice did not in fact exist at the time of the citation, pleading or complaint;
2. The Code violation has been caused by the current property occupants and that in spite of reasonable attempts by the Owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations; or
3. An occupant or resident of the dwelling has refused entry to the Owner or his agent to all or a part of the dwelling for the purpose of correcting the Code violation(s).
4. The Code violation alleged in the notice occurred before the Owner became the owner of the real or personal property. Notwithstanding the foregoing sentence, any existing order to correct a Code violation and/or sanctions imposed by the Village as a result of a finding of a Code violation under this Chapter 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 the property takes the same subject to the findings, decision and order of a Hearing Officer under this Chapter.

(F) Continuances. No continuances shall be authorized by a Hearing Officer for any administrative adjudication hearing commenced under this Chapter except in cases where a continuance is necessary to protect the due process rights of the defendant or Owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a Hearing Officer shall not extend beyond the next scheduled hearing date.

(G) Judicial Review. Any final decision by a Hearing Officer that a Code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law, 735 ILCS 5/3-101 et seq., or as hereinafter amended. Any person filing for judicial review under the Administrative Review

Law shall be subject to the assessment of costs for the preparation and certification of the record of proceedings before the Hearing Officer. Such cost shall be assessed to recompense the Village's for its actual cost of producing and certifying the record of proceedings. Any failure to pay such fee shall subject the party seeking review to the provisions of 735 ILCS 5/3-109, including dismissal of the complaint on motion of the Village.

§1-12-9: ENFORCEMENT OF JUDGMENT:

(A) Any fine, other sanction or costs imposed, or part of any fine, other sanction or cost imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the Village of Glen Ellyn and may be collected in accordance with applicable law.

(B) Failure of the defendant to pay such fine or penalty after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law may result in, if applicable: (1) the immobilization of the person's vehicle for failure to pay fines or penalties for five or more parking violations and (2) the suspension of the person's driver's license for failure to pay fines or penalties for ten or more parking violations.

(C) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of an 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.

(D) In any case in which a defendant has failed to comply with a judgment ordering that 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 entered against that defendant, 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 of Glen Ellyn and may be collected in accordance with applicable law.

Prior to any expenses being fixed by the a Hearing Officer pursuant to this subsection (D), the Code Administrator shall serve a notice to the defendant that states that 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 forth the date for such hearing, which shall not be less than seven (7) days from the date service is effective, as provided in Section 1-12-7.

(E) Upon being recorded in the manner required by Article XII of the Illinois Code of Civil Procedure (735 ILCS 5/11-121 et seq.), or by the Uniform Commercial Code (810 ILCS 5/1-101 et seq.), a lien shall be imposed on the real estate or personal property, or both, of the defendant 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.

(F) The Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed by the defendant within twenty-one (21) days after the issuance of the order of default, if the Hearing Officer determines that the defendant's failure to appear at the hearing was for good cause, or at any time if the defendant establishes, by a preponderance of the evidence, that the Village did not provide proper service of process. The petitioner shall appear with appropriate evidence, so that if the petition is granted, he is prepared to proceed immediately with a hearing on the merits.

For the purpose of violations described in Article II of this Chapter, the grounds for the petition may include: (1) the person not having been the owner or lessee of the cited vehicle on the date the violation notice was first issued; or (2) the person having already paid the fine or penalty for the parking violation in question.

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 Village as a result of the vacated default judgment.

(G) In any hearing conducted under this Chapter for which the Hearing Officer determines it is appropriate to assess costs, the costs shall be for not more than \$35.

ARTICLE II.
ADDITIONAL PROVISIONS
RELATING TO MOTOR VEHICLE CITATIONS
AND ADMINISTRATIVE TOWING/IMPOUNDMENT SERVICES

1-12-10: ENFORCEMENT OF MOTOR VEHICLE VIOLATIONS; CITATIONS:

(A) Whenever any vehicle is parked, maintained, used or operated in violation of any provision of Title 9 of the Code, the Owner shall be prima facie responsible for the violation and subject to the penalty therefor.

(B) Whenever any vehicle is parked, maintained, used or operated in violation of any provision of Title 9 of the Code, any police officer, community service officer, other designated member of the police department or other person designated by the Code Administrator observing such violation may issue a violation notice, and serve the notice on the Owner of the vehicle by handing it to the operator of the vehicle, if he is present, or by affixing it to the vehicle in a conspicuous place.

(C) The violation notice shall contain the identification number of the issuing officer, the particular regulation allegedly violated, the make and state registration number of the cited vehicle, and the place, date, time and nature of the alleged violation. In addition, all notices shall state the applicable fine as provided herein, the monetary penalty which shall be automatically assessed for late payment, that vehicle immobilization and driver's license suspension may be imposed if fines and penalties are not paid in full, that payment of the indicated fine, and of any applicable penalty for late payment, shall operate as a final disposition of the violation, and information as to the availability of an administrative adjudication hearing in which the violation

may be contested on its merits and the manner in which such hearing may be had. The officer issuing the violation notice shall certify the correctness of the specified information by signing his name as provided in Section 11-208.3 of the Illinois Vehicle Code, 625 ILCS 5/11-208.3, as amended.

(D) The officer issuing the violation shall deliver the original or a copy of the violation notice to the Code Administrator so that the Code Administrator may send the notice of hearing described in Section 1-12-7(C); provided the Code Administrator shall not serve a notice of hearing related to a violation described in this Article II less than seven (7) days after the violation notice was served in the manner described in paragraph (B).

(E) It shall be unlawful for any person, other than the owner of the vehicle or his designee, to remove from a vehicle a violation notice affixed pursuant to this Chapter.

(F) The Code Administrator shall distribute violation notices to the Police Department community service officers, police officers and other persons authorized to issue parking violating notices for issuance pursuant to these provisions. The Chief of Police shall be responsible for the distribution of the notice forms within the Police Department, shall maintain a record of each set of notices issued to individual members of the Department and shall retain a receipt for every set so issued.

(G) The Code Administrator shall compile and maintain complete and accurate records relating to all violation notices issued and the dispositions thereof, whether by payment of the fine or by final determination of the Hearing Officer. In addition, the Code Administrator shall make certified reports to the Secretary of State pursuant to Section 6-306.5 of the Illinois Vehicle Code.

§1-12-11: DETERMINATION OF LIABILITY; MOTOR VEHICLE CITATIONS:

(A) Any person on whom a violation notice has been served in the manner described in Section 1-12-10 shall within seven days from the date of the notice of hearing described in Section 1-12-7(C): (1) pay the indicated fine; or, (2) request an administrative adjudication hearing as provided by this Chapter to contest the charged violation. A response by mail shall be deemed timely if postmarked within seven days of the issuance of the notice of violation.

(B) If the respondent requests an administrative hearing to contest the cited violation, the Code Administrator shall notify the Owner in writing of the location and time available for a hearing in accordance with provisions of Section 1-12-7(C) of this Chapter.

(C) Where a respondent who has requested an administrative hearing either fails to pay the indicated fine prior to the hearing or fails to appear at a hearing a final determination of liability shall be entered in the amount of the fine indicated on the notice of violation. Failure to pay the fine within 21 days of issuance of a Hearing Officer's final determination of liability will result in the imposition of a late payment penalty pursuant to subsection (D) herein.

(D) Failure by any respondent to pay or mail payment of the fine for a parking violation within 21 days of the issuance of the final determination of liability will automatically subject the respondent to a penalty for late payment. The penalty for late payment shall be \$50.00. Failure to pay or mail payment of a fine within each subsequent 21 day period after the issuance of the determination of liability will automatically subject the respondent to an additional penalty of \$30.00.

(F) Defenses. In addition to the defenses described in Section 1-12-8(D), a person charged with a violation of Title 9 of the Code may contest the charge on one or more of the following grounds with appropriate evidence to support:

1. That the respondent was not the Owner or lessee of the cited vehicle at the time of the violation;
2. That the cited vehicle or its state registration plates were stolen at the time the violation occurred;
3. That the relevant signs prohibiting or restricting parking were missing;
4. That the relevant parking meter was inoperable or malfunctioned through no fault of the respondent;
5. That the facts alleged in the violation notice are inconsistent or do not support a finding that the specified regulation was violated.

§1-12-12: LESSOR OF VEHICLE--LIABILITY:

In accordance with Section 11-1306 of the Illinois Vehicle Code, 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 he shall, within 60 days thereafter, provide to the Code Administrator the name and address of the lessee. Upon receipt of a lessor's notification of the name and address of his lessee, pursuant to Section 11-1305 or 11-1306 of the Illinois Vehicle Code, the Code Administrator shall cause a notice of violation to be sent to the lessee as provided herein. If the lessor fails to provide the Code Administrator with the name and address of the lessee within 60 days of receiving notice, the lessor shall, upon a determination of liability by the Hearing Officer, be liable for the full amount of the violation and late penalties, and a final determination will be issued.

§1-12-13: NOTICE OF FINAL DETERMINATION OF LIABILITY:

A notice of final determination of liability shall be sent to the Owner and lessee, if applicable, following a final determination of liability and the conclusion of judicial review procedures taken under this Chapter. The notice shall state that the unpaid fine or penalty is a debt due and owing the municipality. The notice shall contain warnings that failure to pay any fine or penalty due and owing the Village within the time specified may result in the Village filing of a petition

in the Circuit Court of DuPage County to have the unpaid fine or penalty rendered a judgment as provided by this Chapter, or may result in the immobilization and towing of the Owner's vehicle for failure of pay fines and penalties for 5 or more violations or the suspension of the Owner's drivers license for failure to pay fines or penalties for 10 or more violations.

§1-12-14: IMMOBILIZATION AND TOWING PROGRAM:

- A. The Code Administrator is hereby authorized to direct and supervise a program of vehicle immobilization and towing for the purpose of enforcing the parking, seizure and impoundment regulations set forth in Title 9 of the Code. The terms and conditions of this Chapter are supplemental and complementary to, and not mutually exclusive with, the provisions of Title 9, Chapter 6.

If a vehicle is parked or left in violation of any provision of Title 9 for which such vehicle is subject to an immediate tow, or in any place where it constitutes an obstruction or hazard, or where it impedes Village workers during such operations as snow removal, the Code Administrator or the Police Chief, or their respective designees, may cause the eligible vehicle to be towed to a vehicle pound or relocated to a legal parking place and there restrained.

The program of vehicle immobilization shall provide for immobilizing any eligible vehicle, as defined in subsection (B) below, by placement of a restraint in such a manner as to prevent its operation.

- B. When the registered owner of a vehicle has accumulated five or more final determinations of liability for which the fines and penalties, if applicable, have not been paid in full, the Code Administrator shall cause a notice of impending vehicle immobilization to be sent as prescribed in this Chapter.

The notice of impending vehicle immobilization shall state the name and address of the registered owner, the state registration number of the vehicle or vehicles registered to such owner, and the serial numbers of violation notices which have resulted in final determination of liability for which the fines or penalties remain unpaid. Failure to request a hearing or pay the fines and penalties owed within 21 days from the date of the notice will result in the inclusion of the state registration number of the vehicle or vehicles of such owner on an immobilization list. A person may challenge the validity of the notice of impending vehicle immobilization by requesting a hearing and appearing in person to submit evidence which would conclusively disprove liability. Placement of the state registration number of the vehicle or vehicles of such owner on an immobilization list shall be tolled pending the hearing only if one is timely requested. Upon a request for a hearing, the Code Administrator shall schedule the hearing for the next regular hearing date. Documentary evidence which would conclusively disprove liability shall be based on the following grounds:

1. That all fines and penalties for the parking violations cited in the notice have been paid in full; or
 2. That the registered owner has not accumulated five or more final determinations of liability which were unpaid at the time the notice of impending vehicle immobilization was issued.
- C. 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 shall also provide information specifying how release of the immobilizing restraint may be had, and how the registered owner may obtain an immobilization hearing. If the restraint has not been released within 24 hours of its placement, the restraint shall be released and the vehicle towed and impounded.
- D. The Code Administrator shall, within five (5) business days after a vehicle is seized and impounded pursuant to either paragraph C, above, or Chapter 9-6, send a written notice by first class mail to all owners of the vehicle listed in the State records as the owner. Copies of the notice shall be sent to any lien holder or lessee or lessor, if determinable using reasonable efforts.
- (1) The notice shall: (i) state that the motor vehicle was seized and impounded; (ii) contain all pertinent facts relating to the date, time and reason for the seizure and impoundment; (iii) specify the procedures by which possession of the vehicle may be regained; (iv) state that the failure to regain possession of the vehicle shall result in the vehicle being disposed of pursuant to law; and (v) explain the right to request a hearing. In the event a hearing has previously been requested, then the notice shall provide the date and time of the scheduled hearing and the identity of the person requesting the hearing.
 - (2) The notice shall not be mailed if: (i) the administrative and public safety fee described in §9-6-4 has been paid, and possession of the vehicle has been regained by an owner, within five (5) business days after the vehicle is seized and impounded; or (ii) possession of the vehicle may not be regained due to the vehicle being retained by the Glen Ellyn Police Department pursuant to the provisions of §9-6-9.
- E. The owner of an immobilized vehicle or other authorized person may secure the release of the vehicle by paying the immobilization, towing and storage fees provided in subsection (G) herein, and all fines and penalties remaining due on each final determination of liability issued to such person. The owner of a vehicle seized under Chapter 9-6 may secure the release of the vehicle in the manner described therein.
- F. The owner of any vehicle which has been immobilized, seized and/or towed, either under this Chapter or Chapter 9-6, shall have the right to a prompt post-deprivation hearing to

determine whether the immobilization, seizure and/or towing and impoundment was erroneous, if the owner files a written request for a hearing with the Code Administrator within 10 days after the notice sent pursuant to subsection (D) herein. Any hearing sought under this paragraph shall take place no longer than 15 days after the demand therefor and shall take priority over all other hearings provided for under this Chapter. Administrative hearing procedures shall be as follows:

1. All parties shall be given a reasonable opportunity to present testimony and evidence at the hearing. Continuances of the hearing date must be made in person before the hearing officer and may be granted upon a showing of good cause. The formal rules of evidence will not apply at the hearing, and hearsay evidence shall be admissible in the same manner described in §1-12-8(B).

2. The Village shall not be required to produce any police officer or other witness at the hearing. The Village may file any and all documents, records or other tangible items prepared or maintained in the normal course of business that it desires the hearing officer to consider at the hearing. The filing of the documents, records or items shall be accompanied by a certification from a Glen Ellyn Police Officer, certifying that the records, documents or items were prepared or maintained in the normal course of business. Any records, documents or items filed and certified, shall be admitted as evidence at the hearing, and the facts and contents contained therein shall be presumed true and correct without the need for any additional foundation.

3. If an owner appears at the hearing and the hearing officer determines that the seizure and impoundment was proper, the case will be disposed of at that time. If the owner does not appear at the hearing, then the hearing officer, upon a review of the file, shall make a determination on the question of whether the seizure and impoundment was proper.

4. If the hearing officer determines by a preponderance of evidence that the seizure and impoundment was proper, the hearing officer shall enter a final order finding the owner of the vehicle liable to the Village for the applicable fees provided for under subsection (G). In the event a bond was posted, it will be retained by the Village as final payment of the administrative and public safety fee. If the hearing officer finds that the seizure and impoundment was not proper, the bond will be returned to the owner and the Police Department shall issue a release for the vehicle, if still impounded. A finding that the seizure and impoundment was not proper shall not have any bearing on whether the owner is obligated to pay the towing and storage fees and costs, and the owner must pay all fees and costs owed to the private towing company.

5. The decision by the hearing officer on the issue of whether the seizure and impoundment was proper, shall constitute a final determination for purposes of judicial review and shall be subject to review pursuant to the Illinois Administrative Review Act, 735 ILCS 5/3-101 *et seq.*, as now or hereafter amended. A party must exhaust its administrative remedies prior to seeking judicial review. In the event that the Administrative Review Act shall not apply, the decision of the hearing officer may be appealed to the circuit court under any available method.

- G. The fee for immobilization shall be \$50.00. The fee for seizure and towing arising from the immobilization, as described in this Section, shall be \$300. The administrative and public safety fee for any seizure and towing arising under Chapter 9-6 shall be as provided for therein. No Village fees shall be assessed for any immobilization, seizure or tow which has been determined to be erroneous. All immobilization and towing fees are separate and distinct from, and in addition to, any fine assessed upon being found liable or culpable for the underlying offense and fees or costs owed by the owner to a private towing company for the towing and storage of the vehicle.
- H. It shall be unlawful to relocate or tow any vehicle restrained by an immobilization device without the approval of the Code Administrator or his designee. The registered owner of the immobilized vehicle and any person who relocates an immobilized vehicle in violation of this subsection shall each be subject to a penalty of \$750.00 for such violation.

§1-12-14: DRIVER'S LICENSE SUSPENSION:

- A. When a person has failed to pay any fine or penalty due and owing on final determinations of liability for ten or more parking violations, the Code Administrator shall cause a notice of impending driver's license suspension to be sent in the form as required by the Secretary of State. The notice shall state that failure to pay the amount owing within 45 days of the date of the notice will result in the Village's notifying the Secretary of State that the person is eligible for initiation of suspension proceedings pursuant to Section 6-306.5 of the Illinois Vehicle Code.
- B. If a person sent a notice pursuant to subsection (a) fails to pay the amount owing within the time stated on the notice, the Code Administrator may file with the Secretary of State, a certified report, in accordance with Section 6-306.5(c) of the Illinois Vehicle Code, that the person is eligible for initiation of suspension proceedings. The Code Administrator shall assess a \$20.00 filing fee against the person named in the certified report to reimburse the Village for the expense of preparing and filing the certified report with the Secretary of State.
- C. A person named in a certified report filed pursuant to subsection (b) may, within 21 days of the date of the notice sent by the Secretary of State pursuant to Section 6-306.5(b) of the Illinois Vehicle Code, file with the Code Administrator a written statement and supporting documentation to challenge the report; provided, however, the grounds for such challenge shall be limited to (1) the person not having been the owner or lessee of the vehicle or vehicles receiving ten or more parking violations notices on the date or dates such notices were issued or (2) the person having already paid the fine and penalty for the ten or more violations indicated on the report. The Code Administrator shall send notice of the decision on the challenge of the report after receipt thereof.
- D. If a person named in a certified report has paid the previously reported fine or penalty or if the report is determined by the Code Administrator to be in error, the Code

Administrator shall notify the Secretary of State in accordance with Section 6-306.5(d) of the Illinois Vehicle Code. A certified copy of such notification shall be given, upon request and at no charge, to the person named therein.

- E. An administrative hearing to contest an impending suspension or suspension may be had upon filing a written request with the Secretary of State. The filing fee for this hearing shall be \$20.00, to be paid at the time the request is made. The Village shall reimburse the Secretary of State for all reasonable costs incurred by the Secretary as a result of filing a certified report, including but not limited to the costs of providing the required notice and the costs incurred by the Secretary in any hearing conducted with respect to the report and any appeal from such a hearing.

SECTION 2: This new Chapter 12 shall be printed in the Glen Ellyn Village Code.

SECTION 3: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

PASSED this _____ day of _____, 2010.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2010.

Village President

ATTEST:

Village Clerk