

ORDINANCE NO. 18644

**AN ORDINANCE AMENDING CHAPTER 3, ADMINISTRATION
ADJUDICATION OF THE CITY OF JOLIET CODE OF ORDINANCES
(Amending Administrative Adjudication Code)**

WHEREAS, the Mayor and City Council of the City of Joliet, Illinois (City) has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, the Mayor and City Council recognize that the Code of Ordinances should be updated from time to time; and

WHEREAS, the Mayor and City Council recognize that the Code of Ordinances should be organized in a coherent fashion; and

WHEREAS, the City of Joliet is a home rule unit of local government with the authority to exercise any power and perform any function pertaining to its affairs.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF JOLIET, ILLINOIS, PURSUANT TO ITS STATUTORY AND HOME RULE AUTHORITY, AS FOLLOWS:

SECTION 1: The Mayor and City Council hereby find that the recitals contained in the remainder of this Ordinance are true, correct and complete and are hereby incorporated into this Ordinance by reference.

SECTION 2: That Chapter 3, Sections 3-1, 3-4, 3-24, 3-101, 3-102, and 3-106 of the Code of Ordinances shall be amended to read as follows:

[Amended language in bold]

Sec. 3-1. - Purpose.

- (a) The purpose of this chapter is to provide a fair and efficient method of the enforcement of municipal regulations through the administrative adjudication of violations of the municipal code and establish the authority and procedures for the collection of unpaid fines and penalties.
- (b) The city hereby adopts **65 ILCS 5/1-2.1-1**, in its current form and as it may be amended from time to time.
- (c) This chapter does not preclude the city from using other methods to enforce the provisions of its code.
- (d) This Administrative Adjudication Code is hereby enacted pursuant to the Home Rule Authority of the City of Joliet under Section 6 of the Illinois Constitution.

Sec. 3-4. - Notice of violation; administrative fee.

- (a) Notwithstanding any other provision of this Code, any person, firm or corporation accused of violating any provision of this Code (or other ordinance or regulation of the city or other

governmental body whose ordinances or regulations the city has agreed to enforce) may be issued a notice of violation by any authorized official.

- (b) A notice of violation shall be issued as a courtesy to the violator in lieu of arrest or otherwise prosecuted for the alleged violation. Service of the notice of violation shall comply with section 3-11. Unless the notice of violation requires the correction or repair of a condition within a certain period, payment of the fine shall settle and compromise the notice of violation.
- (c) If the person, firm or corporation to whom the notice of violation is issued refuses to comply, including a failure to pay, the city shall have the right to pursue any available remedy to seek collections and compliance, including prosecution in criminal court.
- (d) If the person, firm or corporation accused of the violation fails to settle and pay the fine within the period specified in the notice of violation, (or if the notice of violation is marked as must appear), the person, firm or corporation shall appear on the time and date listed on the notice of violation and be subject to fines and penalties as authorized by law/ordinance, costs and all other applicable provisions of this Code. Such hearing shall be held pursuant to this chapter.

(1) Failing to pay the indicated fine after the determination of liability shall result in the imposition of a late payment penalty in addition to the fine as follows:

A late payment penalty of twenty-five dollars (\$25.00) shall be imposed if the fine is not paid within (25) days following the issuance of the determination of liability. A second late payment penalty of seventy-five dollars (\$75.00) shall be imposed if the fine is not paid within fifty (50) days following the issuance of the determination of liability.

- (e) The city manager is authorized to promulgate administrative regulations to implement the administrative program.
- (f) If a notice of violation requires the correction or repair of a condition within a certain period and the violator fails to correct, repair, or rectify the violation within that period, then the city may issue additional notice of violations or may pursue further prosecution.
- (g) The typical/standard violation lifespan for municipal administrative adjudication cases is as follows:

Violation/First Notice	Violation Date
Second Notice of Violation	Sent within 10 days of the violation or 15 days prior to the hearing date; within 5 days for emergencies
Finding, Decision, & Order entered on Hearing Date	Unless continued, up to 45 days after the violation date
Final Determination of Liability Letter	Not less than 35 days after hearing
Debt due sent to collections	Not less than 30 days after the final determination of liability letter

Sec. 3-24. - Petition to set aside default order.

(a) A petition to set aside a determination of liability may be filed by a person owing an unpaid fine or penalty in the following manner:

(1) A written petition to set aside a determination of liability must be filed in the office of the traffic compliance administrator within **twenty-one (21) days from the date the determination of liability is made.**

(2) The traffic compliance administrator shall act upon a timely petition to set aside determination of liability and promptly set a hearing date.

(3) The grounds for setting aside a determination of liability shall be limited to the following:

- i. The person against whom the determination of liability is made was not the registered owner, operator, or lessee of the cited vehicle on the date the violation notice was issued;
- ii. The person having paid the fine or penalty prior to the determination of liability for the violation(s) in question;
- iii. Excusable failure to appear at or request a new date for a hearing; or
- iv. At any time, if the petitioner establishes that the petitioner was not provided with proper service of process.

(b) Should the determination of liability be set aside, the administrative hearing officer shall proceed with a new hearing on the underlying matter as soon as practical, and the traffic compliance administrator shall:

(1) Notify the registered owner, operator, or lessee, as the case may be, that the determination of liability has been set aside; and/or

(2) Notify the registered owner, operator, or lessee, as the case may be, of a date, time, and place for a hearing on the merits of the violation for which determination of liability has been set aside.

(c) The notices referenced herein shall be sent by first class mail, postage prepaid to the address set forth on the petition to set aside the determination of liability.

(d) Service of the notices shall be complete on the date the notices are deposited in the United States mail.

(e) If any order is set aside under this section, the administrative hearing officer shall have the authority to enter an order extinguishing any lien which has been recorded for any debt due

and owing as a result of the vacated default order and directing the city to refund any fines and/or penalties paid pursuant to the vacated order.

Sec. 3-101. - Emergency review.

The owner of a vehicle which is towed and impounded pursuant to chapter 19, article IV, prior to a post-tow administrative hearing, but within seventy-two (72) hours of the tow and impound, shall have the right to an emergency review, which shall be conducted by a representative of the city legal department within two (2) business days of receipt of a written demand from the person seeking the review or by agreement. **The payment of the administrative fee shall constitute a waiver of the emergency review. The registered owner may request a full administrative hearing to determine whether probable cause existed to tow the vehicle, which will be scheduled on the next available hearing date.** The scope of the review shall be limited to a determination of procedural integrity, and the existence of probable cause to support the violation for which the vehicle was towed and impounded. The emergency review shall be conducted in an informal manner and is not bound by technical rules of evidence. The representative of the legal department shall have the authority to settle the claim. Failure of the registered owner or person who has legal entitlement to possession of the vehicle to request or attend a scheduled emergency review shall be deemed a waiver of the right to such review. After a finding of probable cause, upon a timely filed written request, the owner has the right to appeal the decision to an administrative hearing.

Sec. 3-102. - Administrative hearing.

- (a) The owner of a vehicle which is towed and impounded pursuant to chapter 19, article IV shall be entitled to a post-tow administrative hearing. A post tow administrative hearing shall be conducted pursuant to the terms of section 3-13, administrative hearings. **The payment of the administrative fee and towing and storage fees shall constitute a waiver of this hearing, unless vehicle owner files a written request for an administrative hearing within 30 days of the towing of the vehicle.** Unless otherwise agreed, an administrative hearing shall be scheduled and convened on the next available administrative hearing date or not later than forty-five (45) days after the date of the mailing of the notice of hearing.
- (b) This article shall not apply if the motor vehicle is subject to successful forfeiture proceedings under 725 ILCS 150/1 et seq., the Drug Asset Forfeiture Procedure Act, 720 ILCS 5/36-1 et seq., the Seizure and Forfeiture of Vessels, Vehicles and Aircraft Act, or state or federal forfeiture laws.

Sec. 3-106. - Release of vehicles.

- (a) Except as provided otherwise in this article, a vehicle shall continue to be impounded until:
 - (1) **the administrative fee** and any applicable towing and storage fees are paid to the city, in which case possession of the vehicle shall be given to the person who is legally entitled to possess the vehicle, or
 - (2) the vehicle is sold or otherwise disposed of to satisfy a judgment or enforce a lien as provided by law.
- (b) Any time before a vehicle is sold or disposed of as provided in this section, the owner of the vehicle may reclaim the vehicle by presenting to the police department and the commercial towing service having custody of the vehicle, proof of ownership or proof of

right to possession of the vehicle. No vehicle shall be released until all towing, storage, and administrative fees have been paid unless prohibited by law, or there is a finding of no probable cause.

- (c) Disposal of unclaimed vehicles shall be as set forth in the Illinois Motor Vehicle Code.

SECTION 3: In the event that any provision or provisions, or portion or portions of this ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions or portions of this ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions.

SECTION 4: All ordinances directly in conflict with the terms of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5: This Ordinance shall be deemed severable and the invalidity of any portion hereof shall not invalidate the remainder.

SECTION 6: This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED this 7th day of May, 2024

Terry D'Arcy

MAYOR

Christina Denderio

CITY CLERK

VOTING YES: Councilmen Cardenas, Clement, Guerrero, Hug, Councilwoman Ibarra, Councilman Mudron, Councilwomen Quillman, and Reardon.

VOTING NO: None.

NOT VOTING: Mayor D'Arcy (absent).



City of Joliet

150 West Jefferson Street
Joliet, IL 60432

Memo

File #: 220-24

Agenda Date:5/7/2024

TO: Mayor and City Council

FROM: Beth Beatty, City Manager

SUBJECT:
Ordinance Amending Chapter 3 of the Code of Ordinances (Administrative Adjudication)

BACKGROUND:

A recent Illinois Supreme Court decision has created the need to amend our Administrative Adjudication Code. In that decision, the Supreme Court affirmed our (and other municipalities) power to administratively adjudicate certain violations, including overweight truck enforcement. However, the Court also held that our existing ordinance is too restrictive to allow us to do so. Section 3-1 has been amended to be consistent with the Court's ruling.

Since we were reviewing our adjudication code, our adjudication manager suggested some minor edits; the late penalty fee was amended to be consistent with other ordinances, the timetable and procedure for an emergency tow hearing has been amended, the word "fine" was replaced with "fee" in Section 3-106, as we do not assess a fine for towing a vehicle.

RECOMMENDATION:

It is recommended that the Mayor and City Council authorize the amendments to Chapter 3.



City of Joliet

150 West Jefferson Street
Joliet, IL 60432

Approver Report

File Number: 220-24

File ID: 220-24

Type: Ordinance

Status: Agenda Ready

In Control: City Council Meeting

File Created: 04/26/2024

Department: Legal

Final Action:

Title: Ordinance Amending Chapter 3 of the Code of Ordinances (Administrative Adjudication)

Agenda Date: 05/07/2024

Attachments: Amending Chapter 3 Ordinance

Approval History

Version	Seq #	Action Date	Approver	Action	Due Date
1	1	4/30/2024	Christopher Regis	Approve	5/2/2024
1	2	5/2/2024	Beth Beatty	Approve	5/2/2024