

ORDINANCE NO. 17853

AN ORDINANCE UPDATING THE PROCEDURE FOR ADMINISTRATIVE ADJUDICATION SET FORTH IN CHAPTER 3 & THE FINE SCHEDULE SET FORTH IN CHAPTER 1, SECTION 1-8 (d) OF THE CITY OF JOLIET CODE OF ORDINANCES

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 protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois; and

WHEREAS, pursuant to 65 ILCS 5/1-2.2-10 and its home-rule authority, the City previously established a code hearing department to expedite the prosecution and correction of ordinance violations; and

WHEREAS, pursuant to 65 ILCS 5/11-31.1 et seq. and its home-rule authority, the City is authorized and enabled to establish an administrative hearing procedure to enforce the provisions of its Code; and

WHEREAS, pursuant to 65 ILCS 5/11-31.1-2 and its home-rule authority, the City may establish a code hearing department to expedite the prosecution and correction of City, building code and zoning ordinances, the cutting of weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, and the abatement of nuisances from private property; and

WHEREAS, pursuant to 625 ILCS 5/11-208.3 and its home-rule authority, the City may provide for a system of administrative adjudication for vehicular standing and parking violations and vehicle compliance, to fairly and efficiently enforce City regulations; and

WHEREAS, it is deemed to be in the best interests of the citizens of the City to modify its administrative adjudication process for consistency and clarify and simplify the Code of Ordinances; and

WHEREAS, the City of Joliet is a home rule unit of local government.

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 Section 1-8, *Penalty for violation of code; continuing violations*, sub-paragraph (d), Fine Schedule is amended to add the following:

Sec. 1-8. - Penalty for violation of code; continuing violations.

...

(d) Fine Schedule:

Description	Code No.	Fine
Restrictions on transfers or sales	6-33	\$750.00
Puppy mills and unlicensed breeders	6-34	\$750.00
Unlawful storage/collection and placement of municipal waste	14-4	\$50.00
Width, height, length and overweight vehicles	19-21	\$500.00; see also fine schedule in 19-25
Parking - fire lane	19-139(a)(21)	\$75.00
Prohibited parking; parking in front yard or lawn of residence	19-139(a)(24)	\$75.00
Truck, semitrailer, recreational vehicle, and bus parking without parking permit	19-150	\$250.00
Curfew	21-18	\$150.00

SECTION 3: That Section 3-4 shall be renamed *Notice of violation; administrative fine*, and deleted and replaced with the following:

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

- (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 Sec. 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. **Parking Violations:** A late payment penalty of thirty dollars (**\$30.00**) shall be imposed if the fine is paid more than twenty-five (25) days following the issuance of the determination of liability but within fifty (50) days following the issuance of the determination of liability. A late payment penalty of one-hundred dollars (**\$100.00**) shall be imposed if the fine is paid more than (50) days following the issuance of the determination of liability.

b. **All other violations:** A late payment penalty of one hundred dollars (**\$100.00**) shall be imposed if the if the fine is paid more than twenty-five (25) days following the issuance of the determination of liability but within fifty (50) days following the issuance of the determination of liability. A late payment penalty of two-hundred fifty (**\$250.00**) shall be imposed if the fine is paid more than 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 (if applicable)	Sent within 10 days of the violation or 15 days prior to the hearing date; within 5 days for emergencies
Hearing/Finding, Decision and Order (FDO) Issued	Unless continued, up to 45 days after the violation date
Final Determination Letter	Not less than 35 days after Hearing
Debt Due Sent to Collections	Not less than 30 days after Final Determination Letter

SECTION 4: That Section 3-12 shall be renamed *Additional notices/ procedure* and deleted and replaced with the following:

Sec. 3-12. - Additional Notices/ Procedure.

(a) **Second Notice for Vehicular Violations.** A second notice of violation shall be sent to the violator 15 days prior to the initial hearing date. The notice shall contain, in addition to the information contained in Section 3-10, the following information and warnings:

1. The failure 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 determination of violation liability for the cited violation in the amount of the fine or penalty indicated in addition to hearings costs; and
2. Upon the occurrence of a final determination of liability, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, or any unpaid fine or penalty, or both, will constitute a debt due and owing the municipality

(b) **Determination of Liability (Findings, Decision, & Order).** Upon conclusion of a hearing, the administrative hearing officer shall issue a determination of liability or no liability pursuant to Section 3-14 and must contain the following information:

1. The Hearing Officer's decision of liability, including the amount of fines and costs assessed (if applicable).
2. The time frame for fine escalations if left unpaid (if applicable).
3. Notice that the City may use all lawful means of collecting, including but not limited to suspension of driver's license or impound and boot of vehicle. In addition, a collection fee may be added to the outstanding fines/costs.
4. Notice of appeal rights

(c) **Final Determination of Liability.** A final determination of liability shall be sent no less than 35 days after the hearing or initial determination of liability, and the notice shall contain, in addition to the information contained in Sec. 3-10, the following information and warnings:

1. A statement that the unpaid fine and any penalty assessed is a debt due and owing the City of Joliet;
2. A warning that the failure to pay the fine and any penalty due and owing the City of Joliet within the time specified may result in the City's filing a complaint in the circuit court to have the unpaid fine or penalty rendered a judgment in accordance with 625 ILCS 5/11-208.3 (f), incorporated herein by reference; and
3. A warning that the person's driver's license may be suspended for failure to pay fines or penalties for ten or more vehicular standing, parking, or compliance violations under 625 ILCS 5/6-306.5, incorporated herein as reference.

(d) **Notice of impending suspension of a person's driver's license.**

1. A notice of impending suspension of a person's driver's license shall be sent to any person determined to be liable for the payment of any fine or penalty that remains due and owing on ten or more vehicular standing, parking, or compliance violations.
2. The notice shall state that the failure to pay the fine or penalty owing within 45 days of the date of notice will result in the City of Joliet notifying the Secretary of State that the

person is eligible for initiation of suspension proceedings under 625 ILCS 5/6-306.5, incorporated herein as reference. The notice shall also state that the person may obtain a copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the municipality or county along with a request for the copy. The notice of impending driver's license suspension shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office approved database.

SECTION 5: That Section 3-15, *Vehicular standing, parking, or compliance violation; additional administrative hearings*, shall be deleted in its entirety.

SECTION 6: That Section 3-16, *Non-personal appearance procedures*, shall be deleted and replaced with the following:

Sec. 3-16. - Non-personal appearance procedures.

- (a) Respondents may contest the alleged violation on its merits without personally appearing at an administrative hearing by:
1. Completing, in full, the request for hearing Section of the violation notice, served upon the Respondent pursuant to this Chapter.
 2. Signing the request for hearing in the space specified in the violation notice, and acknowledging a personal appearance is waived and submitting to an adjudication based upon the filed notarized statement and the facts contained in the violation notice.
 3. Filing the violation notice with the request for hearing Section fully completed, with the *traffic compliance administrator postmarked within ten days of the violation notice issuance*. The request shall be deemed filed upon receipt by the traffic compliance administrator.
 4. Filing a notarized statement of facts specifying the grounds for challenging the violation notice, which must be filed with the traffic compliance administrator postmarked within ten days of the violation notice issuance. The request shall be deemed filed upon receipt by the traffic compliance administrator. The acceptance of a Respondent request for hearing after the due date or with cause, may be accepted for hearing and consideration at the discretion of the traffic compliance administrator.
- (b) The hearing officer shall make an adjudication based upon the facts set forth in the notarized statement of facts filed by the Respondent and the facts contained in the violation notice.
- (c) Notice of the determination of the hearing officer shall be served upon the Respondent by first class mail, postage prepaid, addressed to the Respondent at the address set forth in the statement of facts submitted.
- (d) Service of the notice shall be complete on the date the notice is placed in the U.S. mail.

SECTION 7: That Section 3-20, *Violations of administrative hearing officer orders*, sub-paragraph (b), shall be deleted and replaced with the following:

Sec. 3-20. - Violations of administrative hearing officer orders.

...
(b) In addition to all other remedies, any person who violates, disobeys, omits, neglects or refuses to comply with any provision of the administrative hearing officer shall be subject to the penalties as provided in Section 1-8 of this Code for each offense.
...

SECTION 8: That Section 3-101, *Emergency Review*, shall be deleted and replaced with the following:

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 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 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.

SECTION 9: That Section 3-102, *Administrative Hearing*, sub-paragraph (a), shall be deleted and replaced with the following:

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 Sec. 3-13. - Administrative hearings. The payment of the administrative fine and towing and storage fees shall constitute a waiver of this hearing, unless otherwise indicated. 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.
...

SECTION 10: That Section 3-104, *Administrative hearing decision*, shall be deleted and replaced with the following:

Sec. 3-104. Administrative hearing decision.

(a) At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and to the registered owner

of the vehicle (if not the person requesting the hearing). The hearing officer's decision shall in no way affect any criminal proceeding.

- (b) In the event that the hearing officer determines that there was probable cause to impound and tow the vehicle, the hearing officer shall prepare and date a finding decision and order declaring liability, copies of which shall be given to the police department and the owner of the vehicle. If an administrative fine is imposed, the fine shall constitute a debt due and owing the city. Said debt shall be collectible pursuant to the terms of this Chapter.
- (c) Upon receipt of a finding decision and order of no liability the owner shall remit said decision to the Joliet Police Department for issuance of a release for said vehicle. The commercial towing service having possession of the vehicle shall release the vehicle to its owner, upon presentation of the release issued by the Joliet Police Department. Upon a finding of no liability, the city shall pay the towing and storage fees in accordance with an agreement made between the city and the commercial towing service. If the owner of the vehicle fails to present the release to the commercial towing service having possession of the vehicle within twenty-four (24) hours of its receipt (excluding such days when the commercial towing service is not open for business), the owner of the vehicle shall assume liability for all subsequent storage charges.

SECTION 11: 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 12: All ordinances directly in conflict with the terms of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 13: This Ordinance shall be deemed severable and the invalidity of any portion hereof shall not invalidate the remainder.

SECTION 14: This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

PASSED this 16th day of October, 2018



MAYOR



CITY CLERK

VOTING YES: Councilman Dickinson, Councilwoman Gavin, Councilmen Gerl, Hug, Morris, Mudron, Councilwoman Quillman and Councilman Turk.

VOTING NO: None.

NOT VOTING: Mayor O'Dekirk.

**OFFICE OF THE CITY MANAGER
DAVID A. HALES
CITY MANAGER
PHONE: 815-724-3720
FAX: 815-724-3737
dhales@jolietcity.org**



**150 WEST JEFFERSON STREET
JOLIET, ILLINOIS 60432-4158**

DATE: OCTOBER 15, 2018

TO: CITY COUNCIL

FROM: DAVID A. HALES, CITY MANAGER

SUBJECT: AN ORDINANCE UPDATING THE PROCEDURE FOR ADMINISTRATIVE ADJUDICATION IN CHAPTER 3 & THE FINE SCHEDULE SET FORTH IN CHAPTER 1, SECTION 1-8(d) OF THE CITY OF JOLIET CODE OF ORDINANCES

BACKGROUND:

The City of Joliet has established an administrative hearing procedure to enforce and adjudicate City of Joliet Ordinance Violations. This procedure includes adjudicating local ordinances violations issued by the Police Department, including Vehicular Standing and Parking Violations, as well as Building Code and Zoning Violations issued by Building Code Inspectors. The City of Joliet's procedure for adjudication must follow the required State Laws for proper notices to be sent to the Respondents/Violators.

The previous ordinances pertaining to Administrative Adjudication (No. 17785 & 17786) were enacted May 15, 2018. As we move closer to implementation of our new software system for adjudication, certain updates or amendments are required and necessary to comply with State Law.

The proposed ordinance is amending the following:

- The fine schedule set forth in Chapter 1, Section 1-8 (d) will be amended by correcting the violation code and/or fines on certain offenses.
- Fine escalations for unpaid citations will be modified to increase compliance with payments.
- Proper notices must be sent to the Respondent/Violator during the adjudication process, which include: Second Notice of Violation; Findings, Decision, and Order; and Final Determination Letter.
- Any person who violates and refuses to comply with any provision of the Hearing Officer's Orders, shall be subject to additional fines and/or penalties.

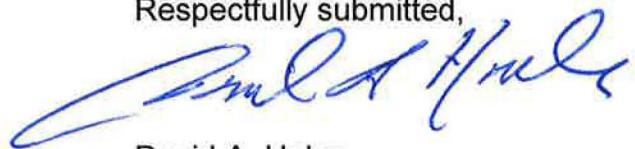
- The owner of a vehicle which is towed and impounded pursuant to Chapter 19, Article IV, prior to a post-tow administrative hearing, but within 72 hours of the tow and impound, shall have the right to an emergency review within two (2) business days.
- Both residents and non-residents will be allowed to contest a violation by mail. Currently, only non-residents are given the option to contest by mail without appearing at the hearing date.

The Land Use and Legislative Committee reviewed this matter at their October 11th meeting and will provide an update at the City Council meeting.

RECOMMENDATION:

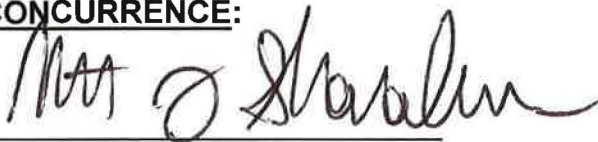
Based on the above, the Administration recommends that the City Council authorize the adoption of an ordinance updating the procedure for administrative adjudication as set forth in Chapter 3 and the fine schedule set forth in Chapter 1, Section 1-8 (d).

Respectfully submitted,

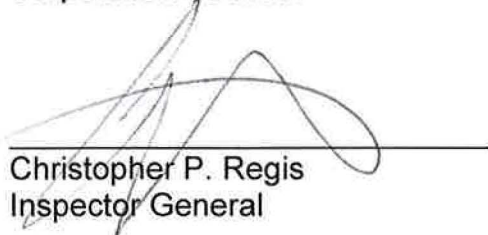


David A. Hales
City Manager

CONCURRENCE:



Martin J. Shanahan, Jr.
Corporation Counsel



Christopher P. Regis
Inspector General