

**MCO-16-2020**

**AN ORDINANCE AMENDING SECTION 3.22  
ENTITLED "CODE HEARING UNIT/ADMINISTRATIVE  
ADJUDICATION OF ORDINANCE VIOLATIONS" OF CHAPTER 3  
ENTITLED "CITY ADMINISTRATION" AND SECTION 44.200 ENTITLED  
"VIOLATION OF ARTICLE IX – PENALTIES"  
OF CHAPTER 44 ENTITLED "MOTOR VEHICLES AND TRAFFIC"  
OF THE CITY OF ELMHURST MUNICIPAL CODE**

WHEREAS, the City of Elmhurst, DuPage and Cook Counties, Illinois, is a home rule municipality pursuant to the provisions of Article VII, Section 6 of the Constitution of the State of Illinois; and

WHEREAS, pursuant to its powers as a home rule municipality and pursuant to the express grant of authority as set forth in Division 2.1 of Article I of the Illinois Municipal Code (65 ILCS 5/1-2.1-1 *et seq.*) and Section 5/11-208.3 of the Illinois Vehicle Code (625 ILCS 5/11-208.3), the City of Elmhurst is authorized to provide by ordinance for a system of administrative adjudication of certain municipal code violations including violations of vehicular standing, parking and motor vehicle compliance regulations; and

WHEREAS, the corporate authorities of the City previously adopted Ordinance Number MCO-19-2009 codified as Chapter 3, Section 3.22 of the Municipal Code of the City of Elmhurst creating a Code Hearing Unit for the purpose of Administration Adjudication of Ordinance Violations; and

WHEREAS, the corporate authorities of the City have determined that it is necessary, proper and in the best interest of the City of Elmhurst that Chapter 3, Section 3.22 of the City of

Elmhurst Municipal Code, as amended, be further amended in the manner hereinafter set forth.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Elmhurst, DuPage and Cook Counties, Illinois, as follows:

Section 1. The foregoing recitals are adopted as express findings of the corporate authority of the City of Elmhurst and are incorporated herein by specific reference.

Section 2. Section 3.22, entitled “Code Hearing Unit/Administrative Adjudication of Ordinance Violations,” of Chapter 3, entitled “City Administration,” of the City of Elmhurst Municipal Code, as amended, is hereby further amended to read as follows:

(a) Purpose. The stated purpose of this Section 3.22 is to provide for fair and efficient enforcement of City of Elmhurst (the “City”) ordinances as may be allowed by law and directed by ordinance, through administrative adjudication of violations of City ordinances and Municipal Code sections and by establishing a schedule of fines, costs and penalties for violations, and authority and procedures for collection of unpaid fines, costs and penalties and enforcement of orders to correct violations.

(b) Creation of Code Hearing Unit; Jurisdiction. There is hereby created within the City of Elmhurst an executive unit of the municipal government to be known as the City of Elmhurst Code Hearing Unit, which is authorized to provide for and operate a “system of administrative adjudication,” which shall be defined as the adjudication of those violations of municipal ordinances contained in the following chapters of the City of Elmhurst Municipal Code now in effect or hereafter adopted:

- |      |            |   |
|------|------------|---|
| (1)  | Chapter 5  | Streets, Alleys and Sidewalks;            |
| (2)  | Chapter 6  | Trees and Plants;                         |
| (3)  | Chapter 7  | Water and Sewers;                         |
| (4)  | Chapter 12 | Nuisances, Noise and Dangerous Buildings; |
| (5)  | Chapter 13 | Animal Control;                           |
| (6)  | Chapter 16 | Garbage and Rubbish;                      |
| (7)  | Chapter 22 | Zoning;                                   |
| (8)  | Chapter 23 | Subdivisions;                             |
| (9)  | Chapter 24 | Building Code;                            |
| (10) | Chapter 25 | Fire Prevention Code;                     |
| (11) | Chapter 26 | Electrical Code;                          |
| (12) | Chapter 27 | Plumbing Code;                            |

- (13) Chapter 29 Private Water and Sewer Systems;
- (14) Chapter 31 Business Licensing, Regulation and Registration;
- (15) Chapter 36 Liquor (Articles II, III & IV only);
- (16) Chapter 37 Municipal Occupation and Privilege Taxes;
- (17) Chapter 38 Telecommunications and Cable Systems (Section 38.5.30 only);
- (18) Chapter 41 Motor Vehicle Licenses;
- (19) Chapter 44 Motor Vehicles and Traffic (Article VII, Article VIII, Sections: 44.150, 44.153, 44.159, 44.160, 44.161, 44.163, 44.171 through 44.177, 44.182 through 44.185 and 44.187 and Article XI, Section 44.230); and
- (20) Chapter 51 Offenses Against Public Peace, Safety and Morals.

The foregoing notwithstanding proceedings not within the statutory or home rule authority of the City and any offense under the Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*) or similar offense that is a traffic regulation governing the movement of motor vehicles, and any reportable offense under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204), shall not be subject to administrative adjudication pursuant to the provisions of this section.

(c) Hearing Procedures Non-Exclusive. The provisions of this section shall not preclude the City from using other methods or proceedings to enforce the ordinances of the City of Elmhurst, including, but not limited to, the institution of any action in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois or any other administrative proceeding.

(d) Code Hearing Unit. The Code Hearing Unit shall be composed of an Administrative Hearing Officer, an Ordinance Enforcement Administrator, the Chief of Police of the City or his designee, hearing room personnel, and any other duly appointed person or persons deemed necessary for the efficient administration of the Code Hearing Unit, with the following powers, duties and authority:

(1) **ADMINISTRATIVE HEARING OFFICER:** All adjudicatory hearings shall be recorded and shall be presided over by an Administrative Hearing Officer who shall be an attorney licensed to practice law in the State of Illinois for no less than three (3) years. The Administrative Hearing Officer shall be appointed by the Mayor with the advice and consent of the City Council. Prior to conducting administrative adjudication hearings, the Administrative Hearing Officers shall have successfully completed a formal training program which includes the following:

- (i) instruction on the rules of procedure of the administrative hearings which they will conduct;
- (ii) orientation to each subject area of the City code violations that the Administrative Hearing Officer will adjudicate;

- (iii) observation of administrative hearings; and
  - (iv) participation in hypothetical cases, including ruling on evidence and issuing final orders.
- (2) Administrative Hearing Officers are hereby authorized, empowered and directed to:
  - (i) administer oaths and affirmations to witnesses;
  - (ii) hear testimony and accept evidence that is relevant to the existence or nonexistence of an ordinance or code violation;
  - (iii) issue subpoenas for the production of relevant documents and/or directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives or upon the initiative of the Administrative Hearing Officer;
  - (iv) preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing;
  - (v) issue a determination, based on the evidence presented at the hearing, of whether a code or ordinance violation occurred or exists. The Administrative Hearing Officer's determination shall be in writing and shall include written findings of fact, decision, and order including any fine, penalty, cost or other action with which the Respondent must comply including correcting a code violation by a date certain;
  - (vi) impose penalties consistent with applicable City of Elmhurst Municipal Code provisions and assess costs upon finding a party liable for the charged violation, provided, however, that the Administrative Hearing Officer shall not be authorized to (i) impose a penalty of incarceration, (ii) impose fines totaling in excess of \$50,000 against a single Respondent, or (iii) levy a total fine in excess of \$250.00 for any one violation of a standing, parking and motor vehicle compliance regulation except that the total fine for any one violation of Section 11-1301.3 of the Illinois Vehicle Code (625 ILCS 5/11-1301.3) or similar provision of the City Code of Ordinances shall not exceed \$350.00;
  - (vii) impose hearing costs in addition to any fines or other sanctions assessed against a Respondent found liable of a code or ordinance violation. Hearing costs in the amount of twenty-five dollars

(\$25.00) may be imposed by the Hearing Officers in addition to any other fine or sanction;

- (viii) hold prehearing conferences for the purpose of settlement, scheduling or simplification of issues;
- (ix) rule on motions, objections and the admissibility of evidence; provided, however, that the Administrative Hearing Officer is not empowered to rule on motions raising constitutional issues;
- (x) the maximum monetary fine as herein provided shall, except as may otherwise be provided, be exclusive of costs of enforcement or costs incurred by the City to secure compliance with the City's ordinances and the maximum fine limitation shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City of Elmhurst;
- (xi) order, in addition to, or in lieu of fines imposed or costs assessed, the Respondent to perform a reasonable term of community or public service;
- (xii) order any Respondent to take corrective action in order to comply with the requirements of any City ordinance; and
- (xiii) waive any hearing costs and/or fines upon a finding of compliance for a violation of the City ordinance where that violation required the respondent to take corrective action to comply with the provisions of the violated ordinance.

(e) **ORDINANCE ENFORCEMENT ADMINISTRATOR:** The Ordinance Enforcement Administrator shall either be an employee of the City or an independent contractor or agency contracted by the City to perform such duties as enumerated herein. The Ordinance Enforcement Administrator is hereby authorized, empowered and directed to:

- (1) operate and manage, on a day-to-day basis, the system of administrative adjudication of ordinance violations as provided by this section;
- (2) adopt, distribute and process all notices as may be required under this Section 3.22 or as may reasonably be required to carry out the stated purpose of this Section 3.22;
- (3) collect moneys paid as fines, costs and/or penalties assessed after a determination of liability;

(4) certify copies of final determinations of vehicular standing, parking and motor vehicle compliance violation liability, motor vehicle license or sticker requirement violations, police, building, fire and health code violations or any other code or ordinance violation authorized to be adjudicated pursuant to subsection (b) of this section 3.22 and any make factual reports verifying the final determination of liability issued in accordance with this section or laws of the State of Illinois, including 625 ILCS 5/11-208.3 as amended;

(5) certify reports to the Secretary of State of Illinois concerning initiation of suspension of driving privileges in accordance with the provisions of this section and the provisions of 625 ILCS 5/6-306.5;

(6) promulgate rules and regulations reasonably required to operate and maintain the system of administrative adjudication hereby established; and

(7) collect unpaid fines and penalties including the use of private collection agencies that may be retained by the City or by directing the City Attorney to file complaints in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois, or by selecting or appointing an individual or agency to act on behalf of the City in filing complaints, seeking judgments for unpaid fines, costs or penalties and pursuing all post-judgment remedies available under current law.

(f) Computer Programs for the System of Administrative Adjudication. The Ordinance Enforcement Administrator is hereby further authorized, empowered and directed to operate and maintain computer programs 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) designating ordinance violation notices that are “must appear” violations requiring the Respondent’s appearance at a hearing;

(4) recording fines, costs and penalty assessments and payments;

(5) issuing payment receipts;

(6) issuing succeeding notices of hearing dates, determinations of liability, and/or final determinations of liability, issuing notices of vehicle immobilization, and issuing notices of impending driver’s license suspension as may be required, in accordance with the provisions of the Illinois Vehicle Code; and

(7) keeping accurate records of appearances and non-appearances of parties at administrative hearings, pleas entered and fines, costs and other penalties assessed and paid.

(g) Hearing Room Personnel. Hearing room personnel that may be necessary to maintain hearing room decorum shall be appointed by the Chief of Police and may include any police officer or auxiliary police officer, and such persons are hereby authorized and directed to:

(1) maintain hearing room decorum;

(2) have and execute authority as is granted to courtroom deputies of the Circuit Court; and

(3) perform such other duties or acts as may reasonably be required and as directed by the Administrative Hearing Officer or the Ordinance Enforcement Administrator.

(h) Complaints; Notices of Hearings and Instituting Hearings.

(1) A proceeding before the Administrative Hearing Officer shall be instituted upon the filing of a written sworn or verified notice of violation or complaint by any authorized official of the City, including police officers, community service officers and/or code enforcement officers, and such other persons as may be authorized to issue notices of violation of City ordinances.

(2) Respondents shall be served with a copy of a written verified or sworn notice of violation or complaint setting forth a description of the violation sufficient for the Respondent to prepare a defense, along with, except as may otherwise be provided herein, a notice of adjudicatory hearing in any manner reasonably calculated to give Respondent(s) actual notice of the proceeding instituted against them including:

(i) personal service upon a party or its or their duly authorized agent(s);

(ii) service by certified mail - return receipt requested, first class mail - postage prepaid, express mail or overnight mail at the party's or party's duly authorized agent's address;

(iii) service by posting a copy of the sworn or verified pleading or complaint upon the property where the violation is found when the responding party is the owner or manager of the property; and

- (iv) in the case of a motor vehicle parking, standing and motor vehicle compliance violation, service of the violation notice shall be as provided in subsections (i) (ii) or (iii) of this subsection (h) or by firmly affixing the notice of violation to the vehicle. If the notice of violation is affixed to the motor vehicle in the case of a motor vehicle standing, parking, or motor vehicle compliance violation, a second notice of violation shall be mailed to the owner or lessee of the motor vehicle at such address as registered with the Illinois Secretary of State.

(3) Notices of violation or complaint for the administrative adjudication hearing shall include:

- (i) the type and nature of the alleged violation to be adjudicated;
- (ii) the date, time and location of the adjudicatory hearing provided for motor vehicle parking, standing or compliance violations;
- (iii) the legal authority and jurisdiction under which the hearing is to be held; and
- (iv) the penalties for failure to appear at the hearing for a violation of motor vehicle parking, standing or compliance violation, any penalty for late payment of a motor vehicle parking, standing or compliance violation, if a hearing is not requested by the Respondent (in those cases that are not “must appear”), and that payment of the fine shall act as a final disposition of the violation.

(i) Administrative Hearing Procedures.

(1) Hearings shall be scheduled with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, the Respondent shall have at least fourteen (14) days after service of process to prepare for a hearing. “Non-emergency situation” shall be defined as any situation that does not reasonably constitute a threat to the public interest, safety, health or welfare, excluding motor vehicle parking, standing or compliance violations.

(2) All hearings shall be open to the public and conducted before the City’s Administrative Hearing Officer.

(3) The City may be represented by the City Prosecutor or other designated employee of the City, but the City may not be represented by an employee of the Administrative Hearing Division.



(4) Documentary evidence including the notice of violation, complaint and attached exhibits may be presented by the Administrative Hearing Officer.

(5) Any attorney appearing on behalf of a Respondent shall file with the Administrative Hearing Officer a written appearance on a form provided by the Code Hearing Unit.

(6) All testimony shall be given under oath or affirmation.

(7) The formal and technical rules of evidence shall not apply in administrative hearings authorized under this chapter. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(8) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the Administrative Hearing Officer to issue subpoenas to direct the attendance and testimony of a relevant witness and/or for the production of relevant documents. Issuance of the subpoena shall be at the discretion of the Administrative Hearing Officer where it is determined the witness or documents are material and do not constitute a needless presentation of cumulative, irrelevant or repetitive evidence.

(9) Continuances may be granted at the discretion of the Administrative Hearing Officer upon a finding of good cause, lack of preparedness shall not be deemed good cause.

(10) Violations shall be established by proof by a preponderance of the evidence; however, the notice of violation, or a copy thereof, issued and signed or verified in accordance with subsection (h) of this section 3.22 shall be prima facie evidence of the correctness of the facts specified therein, provided the notice of violation correctly sets forth the necessary elements of the offense alleged.

(11) Upon the conclusion of a hearing, the Administrative Hearing Officer shall issue a final determination of liable or not liable. Upon issuance of a determination of liable, the Administrative Hearing Officer may impose penalties and/or fines that are consistent with applicable provisions of the City Code of Ordinances, including the imposition of minimum mandatory fines for those violations set forth in subsection 15 of this section 3.22, impose a term of community or public service, assess costs as herein provided and, if applicable, order the respondent to immediately correct the violation or otherwise comply with the ordinance violated.

(j) Judicial Review. Any final decision by an Administrative Hearing Officer that a code violation does or does not exist shall constitute a final determination for purposes of

judicial review and the Hearing Officer's decision shall be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 *et seq.*).

(k) Enforcement of Judgment.

(1) Any fine, other monetary sanction or cost imposed, or part of any fine, other monetary sanction, or cost imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law is a debt due and owing the City of Elmhurst and may be collected in accordance with applicable law.

(2) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought unless, stayed by a court of competent jurisdiction, the findings, decision, and order of the Administrative Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

(3) In any case in which a Respondent has failed to comply with a judgment ordering that Respondent to correct an ordinance violation or imposing any fine or other sanction as a result of an ordinance violation, any expenses incurred by the City 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 hearing officer, shall be a debt due and owing the City of Elmhurst and may be collected in accordance with applicable law. Prior to any expenses being fixed by the Administrative Hearing Officer pursuant to this subsection (k), the City shall provide a notice to the Respondent that states that the Respondent shall appear at a hearing before the Administrative Hearing Officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such hearing, which shall not be less than seven (7) days from the date that notice is served. Notice of the hearing shall be served as provided by subsection (h) herein.

(4) Upon being recorded in the manner required by Article XII of the Illinois Code of Civil Procedure (735 ILCS 5/12-101 *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 estate, or both, of the Respondent in the amount of any debt due and owing the City under this section 3.22. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

(5) The Administrative Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed by the Respondent within thirty (30) days after the issuance of the order of default, if the Administrative Hearing Officer determines that the Respondent's failure to appear at the hearing was for good cause, or at any time if the Respondent establishes, by a preponderance of the

evidence, that the City did not provide proper service of process for the notice of violation or complaint. If any judgment is set aside pursuant to this subsection (5), the Administrative Hearing Officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the City as a result of the vacated default judgment. When a judgment is vacated, the Administrative Hearing Officer shall set a new date for a hearing on the merits of the underlying violation(s).

(l) Bond.

(1) Any person issuing a Violation Notice or Complaint alleging a violation of any City ordinance or Code provision, listed in subsection (b) of this section 3.22, excluding violations of regulations related to motor vehicle standing, parking and motor vehicle compliance violations, may require the Respondent to post a bond at the time the Violation Notice or Complaint is served, if the Violation Notice or Complaint is served personally upon the Respondent.

(2) Where bond is requested to be posted, the bond shall be in the form of cash or a cash bond. For purposes of this subsection (l) "cash or cash bond" shall mean United States currency; traveler's checks issued by major banks or express companies which, alone or in combination with currency totaling the exact amount required to be deposited as bond; and negotiable drafts on major credit card companies, under conditions approved by the Chief of Police or his designee.

(3) Bond shall be in the sum of one hundred dollars (\$100.00).

(4) Exception: no bond shall be requested or taken if the violation charged is a motor vehicle standing, parking or motor vehicle compliance violation.

(5) Persons unable or unwilling to post bond as required by this subsection (l) shall be released without incarceration.

(6) Any Bond posted shall, upon a finding of liability for the offense charged, be forfeited to the City in satisfaction of all or a portion of any fine imposed for such violation.

(m) Additional Procedures and Notices Required for Motor Vehicle Standing, Stopping and Motor Vehicle Compliance Violations and Vehicle Immobilization.

(1) Definitions: The following terms shall be defined as follows:

- (i) *Compliance violation* means a violation of a City of Elmhurst regulation governing the condition or use of equipment on a motor vehicle or governing the display of a municipal wheel tax license.

(2) The vehicular standing, parking, and motor vehicle compliance regulation "violation notice" shall contain, but shall not be limited to, the following information:

- a) The date, time and place of the violation (date of issuance).
- b) The particular vehicular standing, parking, or compliance regulation violated, including the City Code section of the violation and sufficient description of the violation to inform the violator of the offense and thereby afford the violator an opportunity to defend against the violation.
- c) The initial fine or penalty.
- d) The signature or electronic signature, identification or badge number of the person issuing the notice.
- e) A section entitled "hearing date and location of the administrative hearing whereby the registered owner or lessee of the vehicle may contest the merits of the violation notice.

(3) Service of the violation notice and hearing date shall be as provided by subsection (h) of this section 3.22.

(4) The correctness of facts contained in the vehicular standing, parking, or compliance regulation violation notice shall be certified by the person issuing said notice by signing his/her name to the notice at the time of service.

(5) The original or a facsimile of the violation notice shall be retained by the Ordinance Enforcement Administrator and kept as a record in the ordinary course of business of the City.

(6) Prima facie evidence of correctness. Any violation notice issued, signed and properly served in accordance with this subsection (m), or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The violation notice or a copy of the notice shall be admissible in any subsequent administrative or legal proceeding.

(7) Notice of Hearing.

The registered owner or lessee of a motor vehicle served with a vehicular standing, parking, or compliance regulation violation notice will be issued a hearing where they may contest the alleged violation on its merits in person or, in the

alternative, the owner or lessee of the motor vehicle may contest the validity of the violation by mail prior to the scheduled hearing date as provided in Section (m)(7)(i).

(i) Mail-In Administrative Hearing Option:

- a) Signing a Mail-In Administrative Hearing Option request form and acknowledging that their personal appearance is waived and that they submit to adjudication based upon the notarized statement and any other relevant evidence submitted by them in defense of the violation filed by them and the facts contained in the violation notice.
- b) Filing with the Ordinance Enforcement Administrator, the Mail-In Administrative Hearing Option Request Form fully completed and received prior to the scheduled hearing date. The request shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.
- c) The hearing officer shall make a decision of liable or not liable based upon a review of the facts set forth in the notarized statement of facts filed by the registered owner or lessee of a vehicle as well as the factual allegations contained in the violation notice.
- d) Notice of the hearing officer's determination shall be served upon the registered owner or lessee of a vehicle by first class mail, postage prepaid, addressed to the registered owner or lessee of a vehicle at the address set forth in the statement of facts submitted and service of the notice shall be complete on the date the notice is placed in the United States mail.

(8) Additional notices.

- (i) If the registered owner or lessee of the "cited vehicle" fails to appear at the administrative hearing on the date set for hearing, the Ordinance Enforcement Administrator shall send or cause to be sent additional notices which:
  - a) Shall be sent to registered owner or lessee of the "cited vehicle" at the address as is recorded with the Secretary of State or to the lessee of the "cited vehicle" at the address

last known to the lessor of the "cited vehicle" at the time of the lease.

- (ii) All such additional notices shall be sent by first class mail, postage prepaid, and service of additional notices shall be complete as of the date of deposit in the United States mail.
- (iii) Additional notices shall be sent in the following sequence and shall at a minimum contain the following information:
  - a) Upon the failure of the registered owner or lessee of the "cited vehicle" to appear at the scheduled hearing and additional notices shall be sent and shall contain, but not be limited to, the following information:
    - i) Date and location of violation cited in the vehicular standing, parking, or compliance regulation violation notice;
    - ii) Particular standing, parking, or compliance regulation violated, including code section and description of violation sufficient to allow owner or lessee to understand the offense and to prepare a defense;
    - iii) Vehicle make and state registration;
    - iv) Fine and any penalty that may be assessed for late payment or failure to appear at a rescheduled hearing or failure to timely request a Mail-In Contest By Mail Administrative Hearing;
    - v) Notice to the registered owner or lessee of the current status, other than paid in full;
    - vi) Date, time and place of the rescheduled administrative hearing at which the owner or lessee may contest the violation notice on its merits;
    - vii) Failure to either pay fine and any applicable late payment penalty or failure to appear at the rescheduled hearing on its merits on the date and at the time and place specified will result in a final

determination of violation liability in the amount of the fine and late payment penalty indicated; and

- viii) Statement that upon the entry of a final determination of liability for the failure to appear, or the failure to exhaust available administrative or judicial procedures for review, any remaining unpaid fine and/or late payment penalty will constitute a debt due and owing the City of Elmhurst.
- (iv) A notice of final determination of motor vehicle standing, parking, or compliance regulation violation liability shall be sent following a final determination of liability and the conclusion of judicial review procedures as hereinafter set forth. The notice shall state that:
  - a) The unpaid fine and any late penalty assessed is a debt due and owing the City of Elmhurst;
  - b) A warning that failure to pay the fine and any late penalty due and owing the City within the time specified may result in the City 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); and
  - c) The vehicle may be impounded for failure to pay fines or penalties after a final determination of liability for ten (10) or more vehicular standing, parking, or compliance regulation violations, and for failure to pay fines or penalties for those ten (10) or more such violations.
- (v) Final Determination of Liability.

A final determination of vehicular standing, parking, or compliance regulation violation liability shall:

  - (a) Occur following the failure to pay the total assessed fine and/or penalty after the hearing officer's determination of vehicular standing, parking, or compliance regulation violation liability and the exhaustion of or the failure to exhaust any judicial review procedures; or

- (b) Where the owner or lessee fails to appear at a prior hearing or by the final administrative hearing (provided proper notice has been given), the hearing officer's determination of liability shall become final:
  - i) Upon denial of a timely petition to set aside the determination of liability; or
  - ii) Upon the expiration of the period for filing petition to set aside a final determination of liability without such filing having been made.

(9) Illinois Compiled Statutes Governing the Standing, Parking, or Condition of Vehicles-Adopted.

The City of Elmhurst, in addition to all local municipal standing, parking and motor vehicle compliance regulations adopts by reference all current and future provisions of the Illinois Vehicle Code (625 ILCS 5/1-1 *et. seq.*) governing the standing, parking, or motor vehicle compliance regulations, for its enforcement and adjudication within the corporate boundaries of the City and in those areas subject to off-street parking agreements.

(10) Immobilization/Towing and Impoundment.

Any motor vehicle may be immobilized or towed and impounded if:

- (i) The Ordinance Enforcement Administrator has determined that the registered owner of the motor vehicle has ten (10) or more final determinations of liable for vehicular standing, parking, or compliance regulation violations, the fines and penalties for which remain unpaid;
- (ii) The person determined to be liable for the ten (10) or more violations is the registered owner of a motor vehicle that is located upon any public roadway within the corporate limits of the City of Elmhurst at the time of immobilization, impoundment or towing; and
- (iii) A pretowing notice has been sent to the registered owner of the motor vehicle which notice contains the following:
  - a) Final determinations of liability have been made on ten (10) or more vehicular standing, parking, or compliance



regulation violations, the fines and penalties for which remain unpaid;

b) A list of the violations for which the person has been determined to be liable, which shall include for each violation:

i) The vehicular standing, parking, or compliance regulation violation notice number.

ii) Date of issuance.

iii) Total amount of fine and penalty assessed.

iv) The motor vehicles owned by the person and located within the City is subject to immobilization and/or towing and impoundment if the fines and penalties are not paid within 14 days of the date of the notice.

v) The registered owner may contest the validity of the notice by fully completing and signing the "request for hearing" portion of one notice and by filing the request for hearing with the Ordinance Enforcement Administrator within, but not later than 14 days of the date of the notice.

vi) The request for hearing shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.

(iv) The motor vehicle of the registered owner to whom notice is sent has failed to make payment of the fines or penalties as specified in the notice and no timely request for hearing has been filed with the Ordinance Enforcement Administrator to contest the validity of the notice.

(11) Impoundment or Pre-Towing Hearing.

Upon the receipt of the request for hearing to contest the validity of the notice of impending immobilization or towing and impoundment, the Ordinance Enforcement Administrator shall schedule an administrative hearing whereby the registered owner of the vehicle may contest the validity of said notice, by disproving liability for the unpaid final determinations of liability listed on the notice. The hearing shall be scheduled on

the next available hearing date, if practicable, but in no event shall the hearing be scheduled later than 60 days after the request for hearing is filed.

- (i) The Ordinance Enforcement Administrator shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid to the address on the request for hearing; and
- (ii) Service of the notice shall be complete on the date it is placed in the United States mail.

(12) Post-Towing Hearing.

The registered owner of a vehicle already immobilized or towed and impounded pursuant to this section, shall have the right to a prompt administrative hearing without the requirement of payment of the outstanding fines and penalties for which final determination has been made.

- (i) The Ordinance Enforcement Administrator shall serve a posttowing hearing notice upon the registered owner of a vehicle immobilized or towed and impounded and the notice shall contain the following information:
  - a) Date of immobilization or towing and date of impoundment.
  - b) Location of vehicle.
  - c) That the vehicle was immobilized under this section of the City Code of Ordinances for nonpayment of fines or penalties assessed for ten (10) or more violations of vehicular standing, parking, or compliance regulations violations for which there has been a final determination of liability and for which the owner was previously notified of impending immobilization or towing and impoundment.
  - d) Date of notice of impending immobilization or towing and impoundment.
  - e) The registered owner may contest the validity of the immobilization or towing and impoundment by completing and signing the "request for hearing" portion of the notice and filing the request for hearing with the Ordinance Enforcement Administrator within 14 days of the date of the notice.

- (ii) Upon the receipt of the request for hearing to contest the validity of the immobilization or towing and impoundment, the Ordinance Enforcement Administrator shall schedule an administrative hearing to contest the validity of the immobilization or towing and impoundment on the next available hearing date, if practicable, or sooner if scheduled by the Ordinance Enforcement Administrator for good cause shown, but in no case shall the hearing be scheduled later than 60 days after the request for hearing is filed.
  - a) The Ordinance Enforcement Administrator shall serve notice of the hearing date upon the registered owner.
  - b) Notice shall be sent by first class mail, postage prepaid to the address as is set forth on the request for hearing and service of the notice shall be complete on the date it is placed in the United States mail.
- (iii) An order entered after the hearing to contest the validity of the immobilization or towing and impoundment is a final administrative decision within the meaning of 735 ILCS 5/3-101 *et seq.*

(13) Release of Impounded Vehicle.

Any motor vehicle impounded pursuant to this section shall be released to its registered owner or agent, upon payment of the fines and penalties due and owing the City as specified in the notice plus the payment of towing charges and accrued daily impound charges. Notwithstanding the foregoing, a vehicle may be released upon written order of the hearing officer following a hearing contesting the validity of the impoundment.

(14) Judgment.

- (i) The Ordinance Enforcement Administrator shall, following the expiration of the period within which administrative or judicial review may be sought for a final determination of violation, take all necessary action, execute all required documents and direct the City attorney or City prosecutor to obtain a judgment against and collect moneys from the person who has been assessed fines or penalties which remain unpaid and have become a debt due and owing the City by:

- a) Filing a complaint in the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois praying for the entry of a judgment against the person(s) for whom a final determination of liability has been made.
- b) The complaint filed on behalf of the City shall have attached as exhibits:
  - i) A certified copy of a final determination of the standing, parking, or compliance regulation violations, and
  - ii) A certification that recites facts sufficient to show that the final determination of standing, parking, or compliance regulation violations were issued in accordance with this section and 625 ILCS 5/11-208.3.
- c) Nothing herein shall prevent the City from consolidating multiple final determinations of standing, parking, or compliance regulation violations liability in an action against an individual.

(iii) Service of summons and a copy of the complaint may be served upon the person against whom a judgment is sought under the provisions of this section by any method provided under 735 ILCS 5/2-203, or by certified mail, return receipt requested, provided the total amount of fines and penalties levied does not exceed \$2,500.00.

(15) Minimum Mandatory Fines for Certain Violations.

- (a) Contrary provisions of the City Code of Ordinances notwithstanding the following minimum mandatory fine schedule shall be applied to those ordinance violations after a finding of liable:

Tier I – minimum mandatory fine \$30.00  
 Tier II – minimum mandatory fine \$80.00  
 Tier III – minimum mandatory fine \$105.00  
 Tier IV – minimum mandatory fine \$255.00

- (b) Tier Offenses:

<b>Tier I - \$30.00</b>	<b>Tier II - \$80.00</b>
<b>Nuisance – Chapter 12</b>	<b>Motor Vehicle Compliance Violation – Chapter 44.230</b>
12.02(b) Dumping Trash	3-413(a) No Front/Rear Registration Plate
12.02(f) Commercial Vehicle, Residential	3-413(b) Improper Display Registration
12.02(h) Nuisance Barking Dog	3-413(f) Expired Registration
12.02(i) Junk/Inoperable Vehicle	11-1406 Obstructed View
12.11 Nuisance Loud Noise	11-1407 Unsafe Door Opening
12.12 Unnecessary Noise	11-1410 Coasting
12.12(a) Unnecessary Horn	11-1411 Following Fire Apparatus
12.12(b) Nuisance Loud Music	11-1419.1 No Trip Permit
12.12(g) Loud Auto Muffler	12-101 Unsafe Vehicle Equipment
	12-201(a) No Lamp, Motorcycle
<b>Animal Control – Chapter 13</b>	12-201(b) No Lights When Required
13.1(a) No Dog/Cat License	12-201(b) No Taillight, Motorcycle
13.11(e) No Rabies Tag	12-201(b) One Red Taillight
13.21(g) Barking Dog	12-201(c) No Rear Plate Light
13.21(j) Dog At Large	12-202 No Trust Marker Lites
13.21(o) More than 4 Dogs/Cats	12-204 Lamp.Flag on Load
13.21(s) Fail Collect Excrement	12-205.1 Towed Vehicle Lights
13.22(j) Unattended Pet in Motor Vehicle	12-401 Illegal or Unsafe Tire(s)
	12-502 Mirrors Required
<b>Vehicle Licenses – Chapter 41</b>	12-503(a) Tinted Windows
41.07(a) No License Displayed	12-503(c) Obstructed Windshield
(May = \$30, June-April = \$55)	12-503(d) Obstructed Windows
	12-503(e) Defective Windshield
	12-601 Improper Use of Horn
<b>Vehicle Parking – Chapter 44</b>	12-602 Loud Muffler
44.101 Parking Snow Removal	12-702 Truck Safety Equipment
44.102 Fire Lane and Fire Hydrant Parking (\$55.00 minimum fine)	12-703 Dripping Oil on Highway
44.103 3-6AM Parking	12-710 Rear Splash Guards
44.104 Parking in Alleys	13-101 No Safety Test Sticker
44.105 Parking Cab/Bus Stand	15-102 Improper Vehicle Width
44.106 For Purposes of Sale	15-103 Improper Vehicle Height
44.107 Unattended Motor Vehicle	15-107 Improper Vehicle Length
44.108 Parking on Travel Lane	15-109.1 Truck Spill/Drop Mat
44.109 Park on Private Property	
44.116(a) Wrong Way Parking	
44.116(b) Improper Parked, Space	
44.118 Removed Tire Marking	
44.119.1 Parked on Sidewalk	
44.119.2 Blocking Driveway	
44.119.3 Parked in Intersection	
44.119.5 Parked in Crosswalk	
44.119.6 Within 20 ft. Crosswalk	
44.119.7 Within 30 ft. Traffic Device	
44.119.8 Within 30 ft. Safety Zone	
44.119.9 Within 50 ft. RR Crossing	
44.119.11 Opposite Street Construction	

44.119.12 Road Side Next to Curb	
44.119.13 On Bridge/Tunnel	
44.119.14 Where Prohibited/Sign	
44.119.15 Parked on Front Yard	
44/119.16 Parking on Parkway	
44.119.17 Parking – Fire Lane	
44.119.18 Parked-Yellow Curb	
44.121 Overtime Parking	
44.125 Library Parking 2.5 hrs.	
44.126 Commercial Vehicle/Residential Area	
44.137 No Parking Pass/Residential Lots	
44.142 Parked Obstructing Traffic	
44.230 5/11-1304.5 Parked Expired Registration	
<b>Seat Belts – Chapter 44.230</b>	
44.230 5/12-603 Seat Belt Required	
<b>Chapter 51</b>	
51.13 Skateboarding Prohibited	

<b>Tier III - \$105.00</b>	<b>Tier IV - \$255.00</b>
<b>Construction – Chapter 24</b>	<b>Liquor – Chapter 36</b>
24.05(b) 26H Mud on Street	36.22(a) Sale of Liquor to Minor
24.05(b) 26P Violate Construction Hours	36.23(b) False Use of Identification
	36.30 Minor on Licensed Premises
<b>Alarm Permits – Chapter 26</b>	36.36 (a) Possession or Consumption of Alcohol by a Minor
25.32(d) Excess of 4 False Alarms	36.36(b) Delivery Alcohol to Minor
26.32(e) No Alarm Permit	
<b>Business Licensing – Chapter 31</b>	<b>Vehicle Parking – Chapter 44</b>
31.172 No Transient Merchant	44.124 Unlawful Handicapped Parking (\$250.00)
31.221 Scavenging without License	
31.241 Soliciting without License	<b>Offenses – Chapter 51</b>
31.247 Violate Soliciting Hours	51.01 Disorderly Conduct b(1) through b(20)
31.252 No Taxi Vehicle License	51.02 Truancy
31.253 No Taxi Driver Permit	51.03 Unlawful Communications
31.283 Sale of Tobacco/Minor	51.04 Assault
31.286 Possession Tobacco/Minor	51.05 Battery
	51.06 Loitering
<b>Liquor in Public – Chapter 36</b>	51.07 Loitering on Streets
36.39(a) Possession Liquor on Public Way	51.08 Loitering or Prowling
36.39(b) Open Liquor/Vehicle	51.09 Use of Camera Phones
	51.11 Fireworks
<b>Offenses – Chapter 51</b>	51.12 Gaming in Streets
51.45 Curfew	51.14 Air Rifles
	51.16 Slingshots
	51.17 Dangerous Missiles

	51.18 Discharging Firearms
	51.19 Firearms to Minors
	51.20 Concealed Weapons
	51.21 Brandishing Firearms
	51.23 Theft
	51.23A Retail Theft
	51.24 Burglar's Tools
	51.25 Graffiti
	51.26 Injuring Property
	51.27 Defacing City Books
	51.28 Junk Shops
	51.29 Bees and Beehives
	51.34 Indecent Entertainment
	51.36 Injuring Advertisements
	51.37 Posting Advertisements
	51.40 Keeping of a Gambling Place
	51.41 Gambling
	51.41.1 Video Gaming
	51.42 Gambling Devices
	51.44 Importing Gambling
	51.46 Trespass
	51.47 Obscenity
	51.48 Delivering Wagers
	51.50 Vandalism
	51.53 Possession of Cannabis
	51.54 Contributing to the Delinquency of a Child
	51.59 Storage of Explosives
	51.60 Use of Explosives

Section 3. Section 44.200 entitled "Violation of Article VII (Parking)", of Article IX entitled "Penalties" of Chapter 44 entitled "Motor Vehicles and Traffic" as amended, be further amended, to read as follows:

"The violation claim described in a citation issued pursuant to the terms of this Article may be settled, compromised and paid in the respective amounts set forth in the following schedule:

(a) In the event that said payment is made prior to the scheduled administrative hearing date set forth on the notice of violation, the following amounts shall be accepted as settlement

(1) Parking overtime in a time limit area:	
(A) First offense	\$30.00
(B) Subsequent offenses for same date and space	30.00
(2) Parking between 3:00 a.m. and 6:00 a.m.	30.00
(3) Parking in prohibited parking zone	30.00
(4) Parking, standing or stopping where prohibited	30.00
(5) Unauthorized use of parking places reserved for handicapped persons	\$250.00
(6) Failure to pay the proper fee in daily fee parking spaces	\$30.00
(7) Parking in a restricted parking zone. (Section 44.126)	30.00

(b) After a finding of liability at the scheduled administrative hearing or failure to appear at the scheduled administrative hearing, the following amounts shall be due and owing (inclusive of administrative hearing costs):

(1) Parking overtime in a time limit area:	
(A) First offense	\$55.00
(B) Subsequent offenses for same date and space	55.00
(2) Parking between 3:00 a.m. and 6:00 a.m.	55.00
(3) Parking in prohibited parking zone	55.00
(4) Parking, standing or stopping where prohibited	55.00
(5) Unauthorized use of parking places reserved for handicapped persons	\$275.00
(6) Failure to pay the proper fee in daily fee parking spaces	55.00
(7) Parking in a restricted parking zone. (Section 44.126)	55.00
(8) Tier 1 and compliance violation	55.00

(c) If fines and costs remain unpaid forty (40) days after a finding of liability at the scheduled administrative hearing or failure to appear at the scheduled administrative hearing, the following amounts will be due and owing (inclusive of administrative hearing costs):

(1) Parking overtime in a time limit area:	
(A) First offense	\$80.00
(B) Subsequent offenses for same date and space	80.00
(2) Parking between 3:00 a.m. and 6:00 a.m.	80.00



(3) Parking in prohibited parking zone	80.00
(4) Parking, standing or stopping where prohibited	80.00
(5) Unauthorized use of parking places reserved for handicapped Persons	\$300.00
(6) Failure to pay the proper fee in daily fee parking spaces	80.00
(7) Parking in a restricted parking zone (Section 44.126)	80.00
(8) Tier 1 and compliance violations	80.00

(d) If fines and costs remain unpaid sixty-eight (68) days after a finding of liability or failure to appear at the scheduled administrative hearing, the following amounts will be due and owing (inclusive of hearing costs):

(1) Parking overtime in a time limit area:	
(A) First offense	\$105.00
(B) Subsequent offenses for same date and space	105.00
(2) Parking between 3:00 a.m. and 6:00 a.m.	105.00
(3) Parking in prohibited parking zone	105.00
(4) Parking, standing or stopping where prohibited	105.00
(5) Unauthorized use of parking places reserved for handicapped Persons	325.00
(6) Failure to pay the proper fee in daily fee parking spaces	105.00
(7) Parking in a restricted parking zone. (Section 44.126)	105.00
(8) Tier 1 and compliance violations	105.00

(e) Excluding only violations for failure to display a valid vehicle sticker (Sec. 41.07(a)), a late fee of twenty-five dollars (\$25.00) shall be assessed for all fines that remain unpaid forty (40) days after the scheduled hearing and an additional late fee of twenty-five dollars (\$25.00) will be assessed for all fines that remain unpaid sixty-eight (68) days after the scheduled hearing for all parking, compliance, Tier 1, Tier 2, Tier 3 and Tier 4 violations.

(f) Fines and costs that remain unpaid after a final determination of liability may be turned over to a collection agency, or a complaint may be filed in a court of competent jurisdiction for entry of judgment.

Notwithstanding the foregoing schedule of fines and penalties, any person who removes any mark placed on a tire by a police officer or who parks over time on property owned, maintained or controlled by the Elmhurst Library Board, or who parks on private property without the consent of the owner, or who interferes with, damages, removes, tampers with, disables a vehicle wheel lock, or who parks a commercial vehicle in violation of Section 44.126 hereof, shall be fined not less than thirty dollars (\$30.00) nor more than five hundred dollars (\$500.00).”

Section 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Section 5. Any ordinance or portion of any ordinance in conflict with the provisions of this ordinance is repealed solely to the extent of said conflict.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Section 6. Upon the passage, approval and publication according to law, this Ordinance shall be in full force and effect on January 1, 2021.

ADOPTED this \_\_\_\_\_ day of December, 2020.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

ABSTENTION: \_\_\_\_\_

APPROVED by me this \_\_\_\_\_ day of December, 2020.

Steven M. Morley, Mayor of the City of Elmhurst,  
DuPage and Cook Counties, Illinois

ATTESTED and filed in my office,  
this \_\_\_\_\_ day of December, 2020.

Jackie Haddad-Tamer, City Clerk of the City of  
Elmhurst, DuPage and Cook Counties, Illinois