

CHAPTER 10
ADMINISTRATIVE ADJUDICATION OF VIOLATIONS

Section

1-10-1	Purpose
1-10-2	Creation of Ordinance Enforcement Department; Jurisdiction
1-10-3	Administrative Composition
1-10-4	Procedure
1-10-5	Service and Notice of Hearing
1-10-6	Administrative Hearings
1-10-7	Final Determination of Liability
1-10-8	Judicial Review
1-10-9	Enforcement
1-10-10	Impending Suspension of Driver's License; Notice
1-10-11	Fines and Penalties

§1-10-1: PURPOSE:

The stated purpose of this Chapter is to provide for fair and efficient enforcement of this Code and any other Village ordinances as may be permitted by law through an administrative adjudication of violations of such code and any other Village ordinances and establishing a schedule of fines and penalties, and authority and procedures for collection of unpaid fines and penalties.

(Ord. 2011-7, passed 12-19-2011)

§1-10-2: CREATION OF ORDINANCE ENFORCEMENT DEPARTMENT; JURISDICTION:

Pursuant to the authority granted to the Village by the Illinois Municipal Code, including, but not limited to, 65 Illinois Compiled Statutes 5/1-2.2-1 et seq., and 5/11-31.1-1 et seq., there is hereby established an executive department of the Village of Tower Lakes municipal government to be known as the "Village of Tower Lakes Ordinance Enforcement Department" as an administrative adjudication system for the Village of Tower Lakes ("the Village") (hereinafter, "the Ordinance Enforcement Department"). The Ordinance Enforcement Department shall be a separate agency within the Village government. For purposes of this and related sections of this Code, the terms herein shall have the same meaning as ascribed by the Illinois Municipal Code. The Ordinance Enforcement Department shall have the authority and jurisdiction to adjudicate matters arising out of alleged violations of any provisions of this Code or other Village ordinance, including, but not limited to, building code violations that must be adjudicated, pursuant to Division 31.1 of Article 11 and/or pursuant to other provisions of the Illinois Municipal Code, and any offense under the Illinois Vehicle Code or similar local ordinance and shall have the power to enforce compliance with this Code, including, but not limited to, the traffic regulations contained in Title 9 of this Code (hereinafter the "applicable traffic regulations"), except for 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 any other Village ordinances as from time to time authorized by the Village Board. The establishment of the Village of Tower Lakes Ordinance Enforcement Department does not preclude the President and Board of Trustees from using any other method to enforce this Code and any other Village ordinances.

(Ord. 2011-7, passed 12-19-2011)

§1-10-3: ADMINISTRATIVE COMPOSITION:

The Village of Tower Lakes Ordinance Enforcement Department shall be composed of one or more hearing officer(s), an Ordinance Enforcement Administrator, and may also include a system coordinator/computer operator and such other personnel hereinafter appointed, with the power and authority as hereinafter set forth. The Village President is hereby authorized to appoint all hearing officers of this Village with the advice and consent of the Board of Trustees. The Village President is also hereby authorized to appoint all other persons to hold the positions hereinafter set forth below, and such other personnel as needed. Other than the hearing officer, one person may hold and fulfill the requirements of one or more of the positions provided for herein, and compensation for each of the said positions shall be as approved by the Village President and Board of Trustees.

(A) Hearing Officer:

1. The hearing officer shall preside over all adjudicatory hearings and shall have the following powers and duties:
 - (a) Presiding at an administrative hearing called to determine whether or not a violation of this Code or other applicable Village ordinance exists;
 - (b) Hearing testimony and accepting evidence that is relevant to the existence of a violation of this Code or other applicable Village ordinance;
 - (c) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
 - (d) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;
 - (e) Issuing and signing a written finding and decision on a matter by entering an order stating whether or not the alleged violation exists; and
 - (f) Imposing penalties, sanctions or such other relief consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except however, that in no event shall the hearing officer have authority to impose a penalty of incarceration.

2. Prior to conducting administrative adjudication proceedings under this Chapter, the hearing officer shall have successfully completed a formal training program which includes the following:
 - (a) Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;
 - (b) Orientation to each subject area of the code violations that he/she will adjudicate;
 - (c) Observation of administrative hearings; and
 - (d) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

In addition, a hearing officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

(B) Ordinance Enforcement Administrator: The Ordinance Enforcement Administrator is authorized and directed to:

1. Operate and manage the system of administrative adjudication of violations of this Code and any other Village ordinances as may be permitted by law.

2. Adopt, distribute and process all notices as may be required under this Chapter or as may be reasonably required to carry out the purpose of this Chapter.
3. Collect monies paid as fines and/or penalties assessed after a final determination of liability.
4. Certify copies of final determinations of an ordinance violation adjudicated pursuant to this Chapter, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this Chapter and the laws of the State of Illinois, including 625 Illinois Compiled Statutes 5/11-208.3 as from time to time amended.
5. Certify reports for the Illinois Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter as hereinafter set forth, and those of 625 Illinois Compiled Statutes 5/6-306.5.
6. Promulgate rules and regulations reasonably required to operate and maintain the Ordinance Enforcement Department and administrative adjudication system hereby created.
7. Collect unpaid fines and penalties through private collection and/or through attorneys engaged for such purposes and pursuit of all post-judgment remedies available to the extent provided by law.
8. Operate and maintain the administrative adjudication system of the Village of Tower Lakes Ordinance Enforcement Department, on a day to day basis, including, but not limited to:
 - (a) Input of violation notice data and other relevant information.
 - (b) Establishing hearing dates and notice dates for proposed hearings.
 - (c) Record fine and penalty assessment(s) and payments.
 - (d) Issue payment receipts.
 - (e) Issue all notice(s) of hearing dates and/or final determination of liability; issue notice of hearings relative to impoundment of vehicle(s); issue notice of impending driver's license suspension, as directed by the Ordinance Enforcement Administrator in accordance with the provisions hereinafter set forth.
 - (f) Keep accurate records of appearances and nonappearances of defendants and/or their counsel at administrative hearings, pleas entered, judgments entered, sanctions imposed, if any, fines and penalties assessed and paid.

(Ord. 2011-7, passed 12-19-2011)

§1-10-4: PROCEDURE:

The system of administrative adjudication of any violation of this Code and any other Village ordinances authorized to be adjudicated hereunder, shall be in accordance with the following procedures:

- (A) Notice of any alleged violation of this Code or of any other Village ordinance, other than 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, will be issued by the persons authorized under this Chapter and will be in writing and shall contain information as set forth in Subsection (D) of this Section, and will be certified or sworn to by the individual issuing the notice of violation and constitute prima facie evidence of the alleged violation cited as hereinafter set forth.

- (B) All Village police officers as well as other individuals of any Village department shall have the authority to issue violation notices.
- (C) Any individual hereby authorized to issue notices of violation and who observes and/or is otherwise made aware of an ordinance violation authorized to be adjudicated under this Chapter or a violation of any section of any Village ordinance, may issue notice of violation thereof and may make service thereof on the offending party as is hereinafter set forth.
- (D) The violation notice shall be in writing and may contain, but shall not be limited to, the following information:
1. The name and address of the party violating the ordinance, if known.
 2. The date, time and place of the violation (date of issuance).
 3. The section(s) of this Code and/or other Village ordinance allegedly violated, the type and nature of the violation.
 4. Vehicle make and state registration number (if applicable).
 5. The penalty which may be assessed for failure to appear.
 6. The names and witnesses of the violation.
 7. The signature and identification number of the person issuing the notice.
 8. The docket number, date and location of the adjudicating hearing of ordinance violations, if applicable.
- (E) The initial date of the hearing shall not be less than thirty (30) days nor more than forty (40) days after the notice of the alleged violation is served.
- (F) Remote or Virtual Hearings:
- (1) Attendance: At the direction of the Village President, or at the discretion of the Village of Tower Lakes Hearing Officer, in-person attendance at any Village of Tower Lakes Administrative Adjudication hearing by any respondent(s) and/or defendant(s), by any Village officer(s), employee(s), and/or agent(s), by any witnesses, and/or by the Village Hearing Officer shall not be required when and if such person(s) participate electronically in such hearing, and the virtual or remote participation of all parties shall be by use of a telephone conference call and/or by an audio/video conferencing or meeting platform.
 - (2) Testimony: Any testimony may be taken under oath by means of such a conference call or means of such an audio-video remote platform.
 - (3) Oaths: Any oaths of those testifying may be administered virtually or remotely to witnesses by the Hearing Officer, documents may be executed by any parties to the Administrative Adjudication proceeding electronically by the transmission of a fax or of a PDF of a signed document, which, when transmitted to or from the Hearing Officer, shall be deemed original document(s) for all purposes.

- (4) Evidence: Evidence may be presented at any hearing by PDF or by video. A PDF copy of any documents proposed to be submitted as evidence at a virtual or remote Administrative Adjudication hearing shall be emailed to the Hearing Officer for the Village at an email address provided by the Village not less than 24 hours prior to the scheduled and/or continued date and time of such hearing, although the Hearing Officer, at his or her discretion, may reduce this timing where the interests of justice, fairness, and/or equity so require.”

(Ord. 2011-7, passed 12-19-2011; Amd. Ord. 2020-06, passed 05-18-2020)

§1-10-5: SERVICE AND NOTICE OF HEARING:

(A) Service of any notice of violation shall be made by the person issuing such notice:

1. In the case of violation of Title 9, “Traffic Regulations”, of this Code (the “Village traffic regulations”), service may be made by:
 - (a) Affixing the original or a facsimile of the notice to an unlawfully standing or parked vehicle, unstickered vehicle, or vehicle violating any compliance regulation;
 - (b) Handing the notice to the registered owner, operator or lessee of the vehicle, if present; or
 - (c) Handing the notice to a person responsible for the ordinance violation(s) or leaving a copy of the notice with any person thirteen (13) years of age or older at the residence of such a person responsible for the ordinance violation(s); or
 - (d) Mailing the notice by first class mail and/or by certified mail, return receipt requested, to the person responsible for the ordinance violation, if known, or to the vehicle owner, if known, along with a summons commanding the individual to appear at the hearing.
2. In the case of violation of the Village’s building regulations, service shall be made by:
 - (a) Mailing such notice by first class mail and/or by certified mail, return receipt requested, to one or more of the owner(s) or occupant(s) of the property, along with a summons commanding such person(s) to appear at the hearing;
 - (b) If the name of the owner(s) or occupant(s) of the property cannot be ascertained or if service on such person(s) cannot be made by mail, service may be made on such person(s) by posting or affixing a copy of the notice on the front door of the structure where the violation has been identified, not less than twenty (20) days before the hearing is scheduled.
3. In the case of any ordinance violation other than a violation of the Village traffic regulations or building regulations, service may be made by:
 - (a) Handing the notice to the person responsible for the ordinance violation;
 - (b) Handing the notice to a person responsible for the ordinance violation(s) or leaving a copy of the notice with any person thirteen (13) years of age or older at the residence of such a person responsible for the ordinance violation(s);
 - (c) Mailing the notice by first class mail and/or by certified mail, return receipt requested, to the person responsible for the ordinance violation; or
 - (d) Posting the notice upon the property where the violation is found when the person is the owner or manager of the property.

- (B) The correctness of facts contained in any violation notice may be verified by the person issuing said notice by:
 - 1. Signing his/her name to the notice at the time of issuance; or
 - 2. In the case of a notice produced by a computer device, by signing a single certificate, to be kept by the Ordinance Enforcement Administrator, attesting to the correctness of all notices produced by the device while under his/her control.
- (C) 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.
- (D) Any violation notice issued, signed and served in accordance herewith, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice.

(Ord. 2011-7, passed 12-19-2011)

§1-10-6: ADMINISTRATIVE HEARINGS:

- (A) An administrative hearing shall be granted for the following:
 - 1. To adjudicate any alleged ordinance violation on its merits; and/or
 - 2. To contest the applicability of an administrative fee for towing and impoundment, or the validity of a notice of impending driver's license suspension. The hearing shall be granted to the registered owner or operator of the cited vehicle, pursuant to 625 Illinois Compiled Statutes 5/11-208.3, or the lessee of the cited vehicle, 625 Illinois Compiled Statutes 5/11-1306, incorporated herein by reference and at the date, time and place as is set forth by the Ordinance Enforcement Administrator and served upon the registered owner, operator or lessee for hearings contesting the applicability of an administrative fee for towing and impoundment or driver's license suspension.
- (B) No continuances shall be authorized by the hearing officer at the hearing except where absolutely necessary to protect the rights of the parties. Lack of preparation does not constitute cause for a continuance. No continuance may be granted for more than twenty five (25) days from the date of a hearing.
- (C) All administrative hearings shall be recorded and shall culminate in a determination of liability or non-liability, made by the hearing officer, who shall consider facts and/or testimony without the application of the formal or technical rules of evidence. Evidence including hearsay, may be admitted only if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs.

- (D) The hearing officer shall, upon a determination of liability, assess fines and penalties in accordance with Section 1-10-11 of this Chapter. Persons appearing to contest the alleged violation on its merits may be represented by counsel at their own expense. The burden of proof shall be on the alleged offender to refute the prima facie case set forth in the verified notice of violation.

(Ord. 2011-7, passed 12-19-2011)

§1-10-7: FINAL DETERMINATION OF LIABILITY:

- (A) Failure To Pay:

A final determination of liability shall occur following a defendant's failure to pay the fine or penalty imposed after the hearing officer's determination of liability and the exhaustion of, or the failure to exhaust, any administrative review procedures hereinafter set forth.

- (B) Failure To Appear:

Where a defendant and/or his or her counsel fails to appear at the administrative hearing to contest the alleged violation on the date and at the time and place specified in a prior served or mailed notice as provided by this Chapter, the hearing officer's determination of liability shall become final either upon a denial of a timely filed petition to set aside that determination or upon the expiration of the period for filing such a petition without a filing having been made, as provided below.

- (C) Notice of Failure To Appear:

Upon failure of the person receiving a notice of a violation of a Village ordinance, other than a Village traffic regulations violation, to appear at the time and date designated for a hearing or, in the case of a violation of the Village's traffic regulations, the registered owner, operator or lessee of the cited vehicle (sometimes hereinafter referred to as the "cited vehicle"), to pay the fine in full as stated on said notice, the Ordinance Enforcement Administrator shall send or cause to be sent notice of such failure by first class mail, postage prepaid, to the person to whom the notice of an ordinance violation was addressed; or, in the case of the violation of the Village's traffic regulations, the registered owner or operator of the cited vehicle at the address as is recorded with the Secretary of State, and shall be sent 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. Service of notices sent in accordance herewith shall be complete as of the date of deposit in the United States mail.

- (D) Notice of Further Hearing For Failure to Pay Fine(s) and/or Cost(s) or to Contest Validity of Notice of Imposition of Impoundment Fee(s) or Driver's License Suspension:

Upon the failure of the person receiving notice of an ordinance violation or, in the case of a notice of a violation of the Village's traffic regulations, the registered owner, operator or lessee of the cited vehicle to pay in full the fine imposed by the hearing officer at an administrative adjudication hearing, at which said person failed to appear, as stated on said notice, a further notice shall be sent, in the manner as set forth above, and shall contain, but not be limited to, the following information:

1. Date and location of violation cited in the violation notice.
2. Particular ordinance, and section thereof, if applicable, violated.

3. Vehicle make and state registration number (if applicable).
4. Fine and any penalty that may be assessed for late payment.
5. A section entitled “notice of hearing” which shall clearly set forth that the person receiving a notice of ordinance violation, in the case of a violation of the Village’s traffic regulations, Title 9 of this Code, the registered owner, operator or lessee, may appear at an administrative hearing to contest the applicability of an administrative fee for towing and impoundment of a vehicle, or driver’s license suspension on the date and at the time and place as specified in the notice of hearing.
6. Date, time and place of the administrative hearing at which the alleged violation may be contested on its merits.
7. Statement that failure to either pay the fine and any applicable penalty or failure to appear at the hearing on its merits on the date and at the time and place specified will result in a final determination of liability for the “cited” violation in the amount of the fine and penalty indicated.
8. Statement that upon the occurrence of a final determination of liability for the failure, and the exhaustion of, or the failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village.

(E) Notice of Final Determination of Liability:

A notice of final determination of liability shall be mailed via regular mail and/or via certified mail, return receipt requested, to the person(s) named in the violation notice at such person’s last known address following the conclusion of administrative hearing within five (5) days after the final determination of liability is made, as is hereinafter set forth, and shall contain, but not be limited to, the following information and warnings:

1. The hearing officer’s findings of fact.
2. A decision of whether or not a code violation exists based upon the findings of fact.
3. A statement that the unpaid fine and any penalty assessed is a debt due and owing the Village.
4. A statement setting forth any sanction ordered or costs imposed which costs are debts due and owing the Village.
5. A warning that failure to pay the fine and any penalty due and owing the Village within the time specified may result in the Village’s initiation of collection procedures.
6. A warning that the person’s driver’s license may be suspended for failure to pay fines or penalties for ten (10) or more vehicular standing or parking violations under 625 Illinois Compiled Statutes 5/6-306.5.
7. Any other warning of possible impoundment as permitted by law or ordinance.

(F) Petition For New Hearing:

A hearing officer may set aside and vacate any determination of liability and/or judgment entered by default and set a new hearing date upon a petition filed within twenty one (21) days after the issuance of the order of default if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the Village did not provide proper service of process.

(Ord. 2011-7, passed 12-19-2011)

§1-10-8: JUDICIAL REVIEW:

Any final decision by a hearing officer that a code or ordinance violation does or does not exist shall constitute a final determination for purposes of judicial review under the Illinois Administrative Review Law.

(Ord. 2011-7, passed 12-19-2011)

§1-10-9: ENFORCEMENT:

- (A) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the municipality and may be collected in accordance with applicable law.
- (B) After expiration of the period within which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a violation of this Code and/or any other Village ordinance, the Village may commence a proceeding in the circuit court relative to a matter which was considered pursuant to the provisions of this Chapter for the purpose of obtaining a judgment on the findings, decision, and order entered by the hearing officer.
- (C) In any case in which a hearing officer finds that a defendant has failed to comply with a judgment ordering such person to correct a violation of this Code or other applicable ordinance of the Village or imposing any fine or other sanction as a result of such violation, or that a defendant has failed to pay or reimburse the Village for any expenses incurred by the Village to enforce the judgment including, but not limited to, attorney fees, hearing costs, court costs, and costs related to property demolition or foreclosure after they are fixed by the hearing officer, shall be a debt due and owing the Village and may be collected in accordance with applicable law.
- (D) If a defendant fails to pay within a prescribed period of time any fine(s), sanction(s), and/or other costs due and owing the Village as a result of administrative adjudication of a matter, the Village shall be and is hereby authorized to record a lien for any such costs on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the municipality under this section. The lien may be recorded and enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction. No lien may be enforced under this Section until it has been recorded in the manner required by Illinois statutes.

(Ord. 2011-7, passed 12-19-2011)

§1-10-10: IMPENDING SUSPENSION OF DRIVER'S LICENSE; NOTICE:

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 (10) or more vehicular standing or parking regulation violations.

- (A) The notice shall state that the failure to pay the fine or penalty owing within forty five (45) days of the date of the notice will result in the city notifying the secretary of state that the person is eligible for initiation of suspension proceedings under 625 Illinois Compiled Statutes 5/6-306.5, incorporated herein by reference.
- (B) The notice of impending driver's license suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State.

(Ord. 2011-7, passed 12-19-2011)

§1-10-11: FINES AND PENALTIES:

- (A) For any violation of this Code or of any other Village ordinances other than a violation of Village's traffic regulations, unless a minimum fine has been specified in this Code (in which case, such minimum fine shall be applicable), and for any violation of any provision of the Village's traffic regulations, or violation of any other Village ordinance regulating, restricting or prohibiting the standing or parking of motor vehicles along the streets, byways, alleyways, regulated parking lots or such other locations as may be controlled by off street parking agreements, located within the geographical boundaries of this Village, other than for a handicapped parking violation, the fines imposed by the hearing officer pursuant to this Chapter shall be as follows:
 - 1. The violation may be settled and compromised without any admission of liability for an amount equal to fifty dollars (\$50.00) if paid within fourteen (14) days after its issuance.
 - 2. Otherwise, the minimum fine shall be fifty dollars (\$50.00), but not more than seven hundred fifty dollars (\$750.00).
- (B) For violation of any Village ordinance regulating, restricting or prohibiting the standing or parking of motor vehicles along the streets, byways, alleyways, regulated parking lots or such other locations as may be controlled by off street parking agreements, located within the geographical boundaries of this Village for areas specifically designated for handicapped parking the fine shall be as follows:
 - 1. The violation may be settled and compromised without any admission of liability for an amount equal to two hundred fifty dollars (\$250.00) if paid within ten (10) days after its issuance.
 - 2. Otherwise, the minimum fine shall be three hundred fifty dollars (\$350.00).
- (C) For any violation of Sections 11-1301.1 through 11-1301.8, inclusive, of the Illinois Vehicle Code as incorporated by reference in this Code, the fine shall be as set forth in said Sections of the Illinois Vehicle Code, as amended from time to time.

(Ord. 2011-7, passed 12-19-2011; amd. 2014 Code)