

## CHAPTER 36

### ADMINISTRATIVE ADJUDICATION OF CERTAIN ORDINANCE VIOLATIONS.

#### Art. I In General Sec. 36-01 - 36-19

#### ARTICLE I. IN GENERAL

##### Sec. 36-01. Purpose.

The stated purpose of this Chapter is to provide for fair and efficient enforcement of City vehicular standing and parking regulations violations; City vehicle license or sticker requirements, and other City ordinance violations as may be allowed by law, through an administrative adjudication of violations of such City ordinances and establishing a schedule of uniform fines and penalties, and authority and procedures for collection of unpaid fines and penalties.

##### Sec. 36-02. Jurisdiction.

Violation of all Ordinances with the Code of the City of Kankakee may be prosecuted under the Administrative procedure, hereafter set forth. (Ord. 98-88, Sec. 36.02, 11-2-98)

##### Sec. 36-03. Appointments.

All appointments required in this ordinance shall be made by the Mayor of the City of Kankakee with the concordance of the City Council.

##### Sec. 36-04. Administrative Composition.

The system of administrative adjudication of ordinance violations shall be composed of a Hearing Officer, Ordinance Enforcement Administrator, Computer Operator/System Coordinator and Hearing Room Personnel (Deputy), with the power and authority as follows:

1. Hearing Officer is hereby authorized and directed to:
  - (a) Preside over administrative hearings, as the adjudicator.
  - (b) Administer oaths
  - (c) Issue subpoenas to secure the attendance of witnesses and production of relevant papers or documentation.
  - (d) Assess fines and penalties for any ordinance violation.
  - (e) Make final determination of:
    - (i) Vehicular standing and/or parking regulation violation(s) liability; vehicle sticker liability; or any other ordinance violation authorized to be adjudicated pursuant to this Chapter.
    - (ii) Validity of notice of impending impoundment.
    - (iii) Validity of notice of impending drivers license suspension.
  - (f) Provide for the accurate recordation of all administrative adjudication hearings.

2. Ordinance Enforcement Administrator is authorized and directed to:
  - (a) Operate and manage the system of administrative adjudication of vehicular standing and parking regulation violations; vehicle license or sticker requirements; and any other City ordinance violation as may be permitted by law and directed by ordinance.
  - (b) 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.
  - (c) Collect moneys paid as fines and/or penalties assessed after a final determination of liability.
  - (d) Conduct hearings, as a Hearing Officer, with the same power and authority as is hereinafter set forth during the absence of the appointed Hearing Officer.
  - (e) Certify copies of final determinations of standing and/or parking regulation violation liability; vehicle sticker violation; or any other 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, the laws of the State of Illinois, including 625, Section 5/11-208.3 of the *Illinois Compiled Statutes* as from time to time amended.
  - (f) Certify reports to the Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of the Chapter as hereinafter set forth, and those of Chapter 625, Section 5/6-306.5 of the *Illinois Compiled Statutes*.
  - (g) Review any final determination of vehicular standing and/or parking regulation violation liability, validity of notices of impending impoundment or validity of notice of impending drivers license suspension, in an administrative review capacity in accordance with the provisions of this Ordinance.
  - (h) Review any final determination of any vehicle sticker violation or any other ordinance violation adjudication pursuant to this Chapter.
  - (i) Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.
  - (j) Collect unpaid fines and penalties by filing complaints in the County Circuit Court or selecting or appointing an individual or agency to act on behalf of this City in filing complaints seeking judgments or unpaid fines or penalties and pursuit of all post-judgment remedies available by current law.
  - (k) Select or appoint an individual, agency or firm to tow and impound vehicles in accordance with the provisions of this Chapter as hereinafter set forth.
3. System Coordinator/Computer Operation is hereby authorized and directed to operate and maintain the computer programs for the administrative adjudication system hereby created, on a day-to-day basis, including but not limited to:
  - (a) Input of violation notice information.
  - (b) Establishing court dates and notice dates.
  - (c) Record fine and penalty assessment and payments.

- (d) Issue payment receipts.
  - (e) Issue succeeding notice of hearing dates and/or final determination of liability, notice of impending impoundment of impending drivers license suspension, as directed by the Ordinance Enforcement Administrator in accordance with the provisions hereinafter set forth.
  - (f) Keep accurate records of appearances and non-appearances at administrative hearings, pleas entered, fines and penalties assessed and paid.
4. Hearing Room Personnel shall be qualified off-duty, full-time, part-time or auxiliary police officers who are hereby authorized and directed to:
- (a) Maintain hearing room decorum.
  - (b) Have and execute authority as is granted to courtroom deputies of the Circuit Court.
  - (c) Perform such other duties or acts as may reasonably be required and as directed by the Hearing Officer or Ordinance Enforcement Administrator.
5. The City Mayor is hereby authorized to appoint persons to hold the positions above set forth. One person may hold and fulfill the requirements of one or more of the above stated positions and compensation for each of the above stated positions shall be as approved by the City Council.

**Sec. 36-05. Procedure.**

The system of Administrative Adjudication of vehicle standing or parking regulation, vehicle sticker violation, or any other ordinance violation authorized to be adjudicated hereunder, shall be in accordance with the following procedures:

- 1. Violation Notice of any Ordinance Violation authorized by this Code to be adjudicated, shall be issued by persons authorized herein, and shall contain information and shall be served, certificated and have evidentiary admissibility as is hereinafter set forth. (Ord. 98-88, Sec. 36-05, 11-2-98)
- 2. All full-time, part-time and auxiliary officers as well as other specifically appointed individuals shall have the authority to issue violation notices.
- 3. Any individual authorized hereby to issue violation notices and who detects a violation of any Section of any City Ordinance authorized to be adjudicated hereunder, shall issue a Notice of Violation thereof, and shall make service of the notice so as provided in this Code. (Ord. 98-88, Sec. 36-05, 11-2-98).
- 4. The 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 regulation violated.
  - (c) Vehicle make and state registration number.
  - (d) The fine and any penalty which may be assessed for late payment.
  - (e) The signature and identification number of the person issuing the notice.
  - (f) A section entitled "Request for Hearing" shall clearly set forth that the Respondent, and/or registered owner, operator, lessee, owner or tenant may appear at an Administrative Hearing to contest the validity of the violation notice on the date and at the time and places specified by..."

(Ord. 98-88, Sec. 36-05,11-2-98)

- (i) Checking or placing a mark in a space provided and clearly identified, "Request for Hearing";
  - (ii) Placing his/her name and current address in the place provided;
  - (iii) Signing his/her name in the indicated place; and
  - (iv) Filing the violation notice with the "Request of Hearing" portion fully completed with the Ordinance Enforcement Administrator within, but not later than, fourteen (14) days from the date of issuance of the violation notice. The request shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.
- (g) The date, time and place of an administrative hearing at which the violation may be contested on its merits.
- (h) That payment of the indicated fine and any late payment penalty shall operate as a final disposition.
- (i) A Section entitled "A Request for Non-Appearance Hearing" shall clearly set forth that a person who desires not to appear may have a hearing to contest the validity of the violation notice of any Ordinance prosecuted hereunder by checking or placing a mark in a space provided and clearly identifying a request for non-appearance hearing. (Ord. 98-88, Sec. 36-05, 11-2-98).
- (i) Checking or placing a mark in a space provided and clearly identified, "Non-Resident Request for Hearing - Non-Appearance";
  - (ii) Placing his/her name and current address in the place provided;
  - (iii) Signing his/her name in the indicated place;
  - (iv) Filing the violation notice with the Non-Resident Request for Hearing portion fully completed, with the Ordinance Enforcement Administrator within, but not later than fourteen (14) days from date of issuance of the violation notice. The request shall be deemed filed upon receipt by the Ordinance Enforcement Administrator; and
  - (v) Filing a notarized statement of facts specifying the grounds for challenging the violation notice which must be filed, with the Ordinance Enforcement Administrator, no later than five (5) days prior to the hearing date specified on the violation notice.
- (j) A clearly marked statement that the execution of the Non-Appearance for Request of Hearing is a waiver of that Respondent's right to personal appearance. (Ord. 98-88, Sec. 36-05, 11-2-98).

**Sec. 36-06. Service.**

1. Service of any violation notice shall be made by the person issuing such notice by:
  - (a) Affixing the original or a facsimile of the notice to a vehicle or
  - (b) Handing the notice to the registered owner, operator or lessee of the vehicle, if present.
2. The correctness of facts contained in any violation notice shall be certified by the person issuing said notice by:

- (a) Signing his/her name to the notice at the time of issuance, or
  - (b) 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.
3. 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.
4. 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 and shall be admissible in any subsequent administrative or legal proceeding.

**Sec. 36-07. Administrative Hearings.**

An Administrative hearing to adjudicate any alleged ordinance violation on its merits, or to contest the validity of a notice of impending impoundment, or the validity of a notice of impending drivers license suspension shall be granted to the registered owner or operator of the "cited vehicle", pursuant to *Illinois Compiled Statutes* Chapter 625, Subsection 5/11-208.3 or the lessee of the "cited vehicle", pursuant to *Illinois Compiled Statutes*, Chapter 625, Subsection 5/11-1306, incorporated herein by reference and at the date, time and place as is set forth in the violation notice issued and served, the second notice issued in accordance with this Ordinance or as is set by the Ordinance Enforcement Administrator and served upon the registered owner, operator or lessee for hearings contesting the validity of notices of impending impoundment or drivers license suspension. 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 or evidence. The Hearing Officer shall, upon a determination of liability, assess fines and penalties in accordance with Sec. 36-10 hereof. Persons appearing to contest the alleged violation on its merits may be represented by counsel at their own expense. The final determination of any matter which may be decided by the Hearing Officer may be reviewed as is hereinafter set forth.

**Sec. 36-08. Additional Notices.**

1. Upon failure of the registered owner, operator or lessee of the "cited vehicle" to appear at the administrative hearing indicated in the violation notice, or upon final determination of violation liability, the Ordinance Enforcement Administrator shall send or cause to be sent additional notices by first class mail, postage prepaid to 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 additional notices sent in accordance herewith shall be completed as of the date of deposit in the United States mail.
2. The additional notices sent in accordance herewith shall be in the following sequence and contain, but not be limited to, the following information:
  - (a) Upon the failure of the registered owner, operator or lessee of the "cited vehicle" to appear at the hearing set forth in the violation notice, a second notice shall be sent, as above set forth, and shall contain, but not be limited to the following information:
    - (i) Date and location of violation cited in the violation notice;
    - (ii) Particular ordinance violated;
    - (iii) Vehicle make and state registration number;
    - (iv) Fine and any penalty that may be assessed for late payment;

- (v) A section entitled "Request for Hearing" which shall clearly set forth that the registered owner, operator or lessee may appear at an administrative hearing to contest the validity of the violation notice on the date and at the time and place as specified in the violation notice by:
  - 1. Checking the space provided and clearly identified, "Request for Hearing";
  - 2. Placing his/her name and current address in the place provided;
  - 3. Signing his/her name in the appropriate indicated place; and
  - 4. Filing the violation notice with the "Request for Hearing" portion fully completed with the Ordinance Enforcement Administrator within, but not later than, twenty-one (21) days from the date of issuance of the violation notice. The request shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.
  
- (vi) A section entitled "Non-Resident Request for Hearing - Non-Appearance", which clearly sets forth that a non-resident registered owner, operator or lessee may have a hearing to contest the validity of the violation notice without personally appearing by:
  - 1. Checking the space provided and clearly identified, "Non-Resident Request for Hearing - Non-Appearance";
  - 2. Placing his/her name and current address in the place provided;
  - 3. Signing his/her name in the indicated place; and
  - 4. Filing the violation notice with the Non-Resident Request for Hearing portion fully completed with the Ordinance Enforcement Administrator within, but not later than, twenty-one (21) days from the date of issuance of the violation notice. The request shall be deemed filed upon receipt by the Ordinance Enforcement Administrator. A notarized statement of facts specifying the grounds for challenging the violation notice must be filed with the Ordinance Enforcement Administrator, no later than five (5) days prior to the hearing date specified on the violation notice. A clearly marked statement that execution of the Non-Resident Request for Hearing - Non-Appearance, is a waiver of the non-resident's right to a personal appearance and that the adjudication will be made based upon the notarized statement of facts submitted by the non-resident and the facts contained in the violation notice.
  
- (vii) Date, time and place of the administrative hearing at which the alleged violation may be contested on its merit.
  
- (viii) Statement that failure to either pay fine and 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.
  
- (xi) 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 fines or penalty will constitute a debt due and owing the City.

3. A notice of final determination of liability shall be sent following at conclusion of administrative and/or

judicial review, as is hereinafter set forth, and shall contain, but not be limited to, the following information and warnings:

- (a) A statement that the unpaid fine and any penalty assessed is a debt due and owing the City.
  - (b) A warning that failure to pay the fine and penalty due and owing the City within the times 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 *Illinois Compiled Statutes*, Chapter 625, Section 5/11-208.3(f), incorporated herein by reference or any other applicable state law.
  - (c) A warning that the person's drivers license may be suspended for failure to pay fines or penalties for ten (10) or more vehicular standing or parking violations under *Illinois Compiled Statutes*, Chapter 625, Section 5/6-306.5, incorporated herein by reference.
  - (d) A warning that the vehicle owned by the person and located within the City may be impounded for failure to pay fines or penalties for ten (10) or more vehicular standing or parking regulation violations.
4. A notice of impending suspension of a person's drivers 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's notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under *Illinois Compiled Statutes*, Chapter 625, Section 5/6-306.5, incorporated herein by reference.
  - (b) The notice of impending drivers license suspension shall be sent by first class mail, postage prepaid, to the address recorded with the Secretary of State.

**Sec. 36-09. Final Determination of Liability.**

1. A final determination of liability shall occur following the failure to pay the fine or penalty after the Hearing Officer's determination of liability and the exhaustion of, or the failure to exhaust, any administrative review procedures hereinafter set forth. Where a person 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, the hearing officer's determination of liability shall become final either upon a denial of a timely petition to set aside that determination or upon the expiration of the period for filing a petition without a filing having been made.

**Sec. 36-10. Administrative Review.**

1. A petition to set aside a determination of liability may be filed by a person owing an unpaid fine or penalty with the office of the Ordinance Enforcement Administrator within, but not later than, fourteen (14) days from the date the determination of liability is made. The Ordinance Enforcement Administrator shall act upon the petition timely filed and render a decision thereon within fourteen (14) days of the date filed.
2. The grounds for setting aside a determination of liability shall be limited to the following:
  - (a) The person against whom the determination of liability is made was not the owner or operator of the "cited vehicle" on the date the violation notice was issued.
  - (b) The persons having paid the fine or penalty prior to the determination of liability for the violation

in question.

(c) Excusable failure to appear at or request a new date for hearing.

3. Should the determination of liability be set aside, the Ordinance Enforcement Administrator shall notify the registered owner, operator or lessee, as the case may be, that the determination of liability has been set aside and the date, time and place for a hearing on the merits. The notice shall be by first class mail, postage prepaid to the address set forth on the petition to set aside the determination of liability, and shall be complete on the date the notice is deposited in the United States mail.

**Sec. 36-11. Non-Appearance Hearing Procedures**

1. Persons who desire a Non-Appearance Hearing and have been served a Notice of Violation of any Ordinance prosecuted hereunder, in accordance with this Ordinance:
  - (a) Completing, in full, the "Non-Appearance Request for Hearing" Section of the "Violation Notice", served upon him/her or the Non-Appearance Request for hearing of the "second notice" sent to him/her pursuant to this Ordinance.
  - (b) Signing the "Non-Appearance Request for Hearing" in the space specified in the "violation notice" or "second notice", as the case may be, and acknowledging that his/her personal appearance is waived and submitting to an adjudication based upon the notarized statement filed by him/her and the facts contained in the "violation notice". (Ord. 98-88, 36-11, 11-2-98).
  - (c) Filing the "violation notice" or "second notice" with the Request for Hearing section fully completed with the Ordinance Enforcement Administrator within fourteen (14) days from the issue date of the "violation notice". Filing of the Request for Hearing shall be deemed complete upon receipt by the Ordinance Enforcement Administrator.
  - (d) Filing a notarized statement of facts specifying the grounds for challenging the "violation notice" not later than five (5) days prior to the hearing date as specified in the "violation notice" or the "second notice", as the case may be. This statement will be deemed filed upon receipt by the Ordinance Enforcement Administrator.
2. The Hearing Officer shall make an adjudication based upon the facts set forth in the notarized statement of facts filed by the non-resident as is contained in the "violation notice" and a notice of the determination shall be served upon the non-resident by first class mail, postage prepaid, addressed to the non-resident at the address set forth in the statement of facts submitted. Service of the notice shall be complete on the date the notice is placed in the United States mail. All other provisions of this Ordinance shall apply equally to non-residents of this City.

**Sec. 36-12. Schedule of Fines/Penalties.**

The fines and penalties which shall be imposed shall be as follows:

	Within 14 days of ticket	Within 30 days of Hearing date
Parking	\$50.00	\$100.00
Handicapped:	\$750.00	\$750.00
Stickers:	\$100.00	\$200.00



All other Ordinance Violations (Except parking and possession of cannabis & other non expressly in conflict	\$50.00	\$100.00
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In addition thereto, an administrative cost may be added to any violation as assessed by the Hearing Officer in the amount not to exceed Fifty Dollars (\$50.00). (Ord. 98-88, Sec. 36-12, 11-2-9; Ord. 14-28).

**Sec. 36-13. Immobilization/Towing & Impoundment.**

1. Any motor vehicle whose registered owner has been determined to be liable for ten (10) or more vehicular standing or parking regulation violation(s), for which the fines or penalties assessed remain unpaid, may be immobilized or towed and impounded if:
  - (a) The Ordinance Enforcement Administrator has determined that a person has been determined to be liable for ten (10) or more vehicular standing or parking regulation violation(s), the fines or penalties for which remain unpaid.
  - (b) The person determined to be liable for ten (10) or more violations is the registered owner of a motor vehicle located within the City geographical boundaries.
  - (c) A Pre-Towing Notice has been sent to the registered owner of the motor vehicle located within the geographical boundaries of the City which contains, but shall not be limited to the following:
    - (i) That a final determination has been made on ten (10) or more vehicular standing or parking regulation violation(s), the fines and penalties for which remain unpaid.
    - (ii) A listing of the violation(s) for which the person has been determined to be liable, which shall include for each violation:
      1. The vehicular standing or parking regulation violation notice number.
      2. Date of issuance.
      3. Total amount of fines and penalties assessed.
    - (iii) That the motor vehicle owned by the person and located within the City are subject to immobilization and/or towing and impoundment if the fines and penalties are not paid within, but not later than fourteen (14) days of the date of the notice.
    - (iv) That 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 fourteen (14) days of the date of the notice. The request for hearing shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.
  - (d) 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.
  - (e) 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 to contest the validity of said notice on the next scheduled hearing date, (but in no case shall the hearing be scheduled later than thirty (30) days after the request of hearing is filed) and shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid to the address as is set forth on the request for hearing. Service of the notice shall be complete on the date it is placed in the United States mail.

2. The registered owner of a vehicle(s) immobilized or towed and impounded under this Section shall have the right to a prompt administrative hearing without the requirement of payment of outstanding fines and penalties for which final determination has been made.
  - (a) The Ordinance Enforcement Administrator shall serve a post-towing notice upon the registered owner of a vehicle immobilized or towed and impounded under this section which notice shall contain, but not be limited to the following information:
    - (i) Date of immobilization or towing and date of impoundment.
    - (ii) Location of vehicle.
    - (iii) That the vehicle was immobilized under this section of this Chapter for non-payment of fines or penalties assessed for the violation of ten (10) or more violations of vehicular standing or parking regulation for which the registered owner has been determined liable and notified of impending immobilization or towing and impoundment.
    - (iv) Date of notice of impending immobilization or towing and impoundment.
    - (v) That 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, but not later than, fourteen (14) days of the date of the notice which shall be deemed filed upon receipt by the Ordinance Enforcement Administrator.
3. 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 scheduled hearing date or if sooner scheduled by the Ordinance Enforcement Administrator for good cause shown, but in no case shall the hearing be scheduled later than thirty (30) days after the request for hearing is filed and shall serve notice of the hearing date upon the registered owner by first class mail, postage prepaid to the address as is set forth on the request for hearing. Service of the notice shall be complete on the date it is placed in the United States mail.
4. 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 Section 5/3-101 of Chapters 735 of the *Illinois Compiled Statutes*, incorporated herein by reference.
5. A vehicle impounded pursuant to this section shall be released to the registered owner thereof, or his agent, upon payment of the fines and penalties due and owing the City as specified in the notice sent in accordance with Sec. 36-06 hereof and the payment of towing charges accrued daily impound charges or upon order of the hearing officer following hearing contesting the validity of the impoundment.
6. The Ordinance Enforcement Administrator shall appoint or retain the services of an individual agency or company to tow and impound vehicles in accordance herewith, provided that the individual, agency or company is fully insured and licensed according to local or state law and has available a secured impound area within which to retain vehicles impounded hereunder. For the purpose of this Section a secured area shall mean an area bounded by a fence, chain link or otherwise, of a sufficient height and

with locking gates so as to minimize or prevent authorized entry into the impounded vehicles.

**Sec. 36-14. Judicial Review.**

Judicial Review of administrative decisions issued after hearing for any violation authorized by this ordinance shall be subject to the provisions of the Administrative Law Review as is set forth in Section 5/3-101 et seq. of Chapter 735 of the *Illinois Compiled Statutes*, incorporated herein by reference.

**Sec. 36-15. Debt to the City.**

Any fine, penalty or part of any fine or any penalty assessed in accordance with the provisions of this Ordinance and remaining unpaid after the exhaustion of, or the failure to exhaust, administrative remedies created under this Ordinance and the conclusion of any judicial review procedures shall be a debt due and owing the City and, as such, may be collected in accordance with the applicable law. Payment in full of any fine or penalty resulting from a standing or parking violation shall constitute a final disposition of that violation.

**Sec. 36-16. Judgment.**

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 parking violation, take all necessary action, execute all required documents and appoint or retain any individual or agency deemed appropriate to obtain a judgment against and collect moneys from the person who has been assessed fined or penalties which remain unpaid and have become a debt due and owing the City in accordance with the provisions of this Chapter and Section 5/11-208.3 of Chapter 625 of the *Illinois Compiled Statutes* by:

1. Filing a complaint in the Circuit Court praying for the entry of a judgment against the person for whom a final determination of standing or parking regulation violation liability has been made.
2. The complaint filed by the Ordinance Enforcement Administrator or individual or agency on behalf of the City seeking entry of a judgment against an individual for unpaid fines and/or penalties pursuant to a final determination of standing or parking regulation violation shall have appended:
  - (a) A certified copy of the final determination of the standing regulation violation.
  - (b) A certification that recites facts sufficient to show that the final determination of standing or parking regulation violation was issued in accordance with this Ordinance and Section 5/11-208.3 of Chapter 625 of the *Illinois Compiled Statutes*.
3. Nothing shall prevent the City from consolidating multiple final determinations of any decision relating to any violation authorized under this against an individual and pursuing all available remedies, allowed by law.
4. 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 Chapter by any method provided under Section 5/2-203 of Chapter 735 of the *Illinois Compiled Statutes*, incorporated by reference or by certified mail, return receipt requested, provided the total amount of fines and penalties for final determination of standing or parking regulation violation does not exceed \$2,500.00

**Sec. 36-17. Severability.**

Should a court of competent jurisdiction determine that one or more sections or subsections of this Ordinance is or are invalid, the remaining sections and subsections hereof shall remain in full force and effect.

**Sec. 36-18. Effective Date/Publication.**

This ordinance shall become effective ten (10) days after publication

**Sec. 36-19. Repealer.**

Any and all Ordinances, sections or subsections of Ordinances in conflict herewith are hereby repealed. (Ord. 98-23, 3-16-98).

**Sec. 36-20 - 36-30. Reserved.**

**Sec. 36-31. Intergovernmental Agreements for the Administrative Adjudication.**

The Intergovernmental Agreement between the Village of Manteno and the City of Kankakee regarding Administrative Adjudication of Ordinance Violations, a complete copy of which is attached hereto and made a part hereof, is hereby approved and adopted.

**Sec. 36-32. Authority to sign Intergovernmental Agreements for Administrative Adjudication.**

The Mayor of the City of Kankakee and the City Clerk are hereby authorized to execute said agreement. (Ord. 99-95, Sec. 1...9-7-99)

**Sec. 36-33 - 36-49. Reserved.**

**Sec. 36-50-1. Purpose.**

The purpose of this chapter is to provide a consistent, fair and efficient method of determining the eligibility of an employee for the benefits enumerated under the Public Safety Employees Benefits Act (820 ILCS 320/1 et. seq.) through the process of an administrative hearing. All benefits provided employees pursuant to the Public Safety Employees Benefits Act (hereinafter "PSEBA") will be consistent with PSEBA.

**Sec. 36-50-2. Administrative Composition.**

The system of administrative hearing shall be comprised of a hearing officer whose power and authority and limitations are as follows:

- A. *Power of the Hearing Officer:* The hearing officer shall have all of the powers granted to a hearing officer under the common law relative to the conduct of an administrative hearing including the power to:
- 1) preside over all hearings involving the Public Safety Employee Benefits Act (820 ILCS 320/1 et. seq.) concerning employees of the City of Kankakee;
  - 2) administer oaths;
  - 3) hear testimony and accept evidence that is relevant to the issue of eligibility under the Public Safety Benefits Act (820 ILCS 320/1 et. seq.);
  - 4) issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
  - 5) rule upon objection in the admissibility of evidence;
  - 6) preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;
  - 7) issue a determination based upon the evidence presented at the hearing, the determination of which shall

be in writing and shall include a written finding of fact, decision and order.

B. *Hearing Officer.* Any person who has been appointed as a Hearing Officer pursuant to the provisions of this Article shall be deemed qualified to conduct the hearing pursuant to this section. In the event that a Hearing Officer is needed because of conflict of unavailability for any reason the current Administrative Adjudication Hearing Officer(s) the mayor with the consent of the City Council is hereby authorized to appoint a person to hold the position of a hearing officer for each and every individual hearing that shall come before the City of Kankakee. In making said selection, the mayor shall consider all pertinent information including, at a minimum;

1) the candidate's ability to comply with the job description as set forth herein;

2) background and performance made available to the mayor on file with the City of Kankakee or otherwise obtained by the City of Kankakee;

3) the candidate shall be an attorney licensed to practice law in the State of Illinois for at least three (3) years and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence and administrative practice.

### **Sec. 36-50-3. Procedure.**

The system of administrative hearings for determination of eligibility for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et. seq.) shall be initiated by the serving of a written notice on the City Clerk by any public safety employee stating in full detail the nature of the employee's claim giving full particulars thereof, i.e. date, time, place, nature of injury and any other factual circumstances surrounding said incident giving rise to said claim; requesting the benefits enumerated under the Public Safety Employees Benefits Act (820 ILCS 320/1 et. seq.) and requesting the setting of a hearing for its eligibility to receive said benefits.

### **Sec. 36-504. Administrative Hearing.**

A. *Time and date.* Hearing shall be held on the date, time and place as established by the City of Kankakee with appropriate notice served upon the public safety employee.

B. *Record.* All hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter.

C. *Procedures.* The City of Kankakee and the petitioning public safety employee shall be entitled to representation by counsel at said hearing and may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

D. *Evidence.* The rules of evidence as set forth in the Illinois Rules of Evidence shall apply. However, the hearing officer may admit evidence which is otherwise deemed to be hearsay if, in the discretion of the hearing officer, the evidence is deemed to be credible and reliable.

E. *Final Determination.* The determination by the hearing officer of whether the petitioning public safety employee is eligible for the benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et. seq.) shall constitute a final determination for the purpose of judicial review under the common law writ of certiorari.

**Article I Administrative Adjudication**

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