

ORDINANCE NUMBER 08 - 07

**AN ORDINANCE AMENDING TITLE III, ADMINISTRATION, TO
ADD A NEW CHAPTER 36, ADMINISTRATIVE ADJUDICATION**

WHEREAS, the Village of East Dundee is a home rule unit of local government under and pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, has the authority to exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the President and Board of Trustees of the Village of East Dundee having determined that it is in the best interests of the health, safety and welfare of the residents of the Village of East Dundee that **Title III, Administration**, be amended to add a new **Chapter 36, Administrative Adjudication**.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:

Section One. That **Title III, Administration**, of the Village of East Dundee Code of Ordinances is hereby amended to include a new **Chapter 36, Administrative Adjudication** as follows:

CHAPTER 36: ADMINISTRATIVE ADJUDICATION

Sec. 36.001 PURPOSE AND CREATION

(A) **PURPOSE.** To provide for fair and efficient enforcement of Village ordinances as may be allowed by law and directed by ordinance, through an administrative adjudication of violations of Village ordinances thereby expediting the prosecution and correction of code violations. To that end, there is hereby adopted Division 2.2 of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.2).

(B) **CREATION.** There is hereby established a department of the municipal government to be known as the Village of East Dundee Ordinance Enforcement Department to have the power to enforce compliance with all municipal ordinances as from time to time are authorized by the Village Board, except for any

offense under the Illinois Vehicle Code (adopted by the Village under Chapter Title VII of the Village Code) that is a traffic regulation governing the movement of vehicles other than a notice of violation pursuant to an automated traffic law enforcement system which shall be enforced pursuant to this Chapter 36 and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code. The establishment of the Village of East Dundee Ordinance Enforcement Department does not preclude the Village Board from using any legal system or other method to enforce ordinances of the Village.

Sec. 36.002 DEPARTMENT COMPOSITION

(A) **ORGANIZATION.** The Village of East Dundee's Ordinance Enforcement Department shall be composed of a Hearing Officer, an Ordinance Enforcement Administrator, and System Coordinator and Hearing Room Personnel, all appointed with the advice and consent of the Village Board by the Village President, with the power and authority as hereinafter set forth.

(B) **HEARING OFFICER.**

(1) A Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

(2) The Hearing Officer shall preside over all adjudicatory hearings and shall have the following powers and duties:

(a) To hear testimony and accept evidence that is relevant to the existence of a Village Code violation;

(b) To preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;

(c) To issue and sign a written finding, decision and order stating whether a Village Code violation exists; and

(d) To impose penalties, sanctions or such other relief consistent with applicable Village Code provisions and assess 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

(C) Prior to conducting administrative adjudication proceedings under this Chapter 36, the Hearing Officer shall have successfully completed a formal training program which includes the following:

(1) instruction on the rules of procedure of the administrative hearings over which the Hearing Officer shall preside;

(2) orientation to each subject area of the code violations that he/she will adjudicate;

(3) observation of administrative hearings; and

(4) participation in hypothetical cases, including rules on evidence and issuing final orders.

Sec. 36.003 ORDINANCE ENFORCEMENT ADMINISTRATOR:

The Ordinance Enforcement Administrator is authorized and directed to:

(A) Operate and manage the system of administrative adjudication of Village ordinance violations as may be permitted by law and directed by ordinance.

(B) Adopt, distribute and process all notices as may be required under this Chapter 36 or as may be reasonably required to carry out the purpose of this Chapter 36.

(C) Collect moneys paid as fines and/or penalties assessed after a final determination of liability.

(D) Certify copies of final determination of an ordinance violation adjudicated pursuant to this Chapter 36, and any factual reports verifying the final determination of any violation liability which was issued in accordance with this Chapter 36, the laws of the State of Illinois including 625 ILCS 5/11-208.3 as from time to time amended

(E) Certify reports to the Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter 36 as hereinafter set forth, and those of 625 ILCS 5/6-306.5.

(F) Promulgate rules and regulations reasonably required to operate and maintain the administrative adjudication system hereby created.

(G) Collect unpaid fines and penalties through private collection agencies and pursuit of all post-judgment remedies available by current law.

Sec. 36.004 SYSTEM COORDINATOR. The System Coordinator is hereby authorized and directed to operate and maintain the computer programs, including but not limited to:

(A) Inputting of violation notice information.

- (B) Establishing court dates and notice dates.
- (C) Recording fine and penalty assessment and payments.
- (D) Issuing payment receipts

(E) Issuing succeeding notice of hearing dates and/or final determination of liability; issuing notice of immobilization; issuing notice of impending impoundment; issuing notice of impending drivers license suspension, as directed by the Ordinance Enforcement Administrator in accordance with the provisions hereinafter set forth

(F) Keeping accurate records of appearances and non-appearances at administrative hearings, pleas entered, judgments entered, sanctions imposed, if any, fines and penalties assessed and paid.

Sec. 36.005 HEARING ROOM PERSONNEL. Hearing Room Personnel shall be full-time or part-time personnel to perform such services as directed by the Hearing Officer and may be 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

Sec. 36.006 ISSUANCE OF VIOLATIONS.

(A) Violation notice of any ordinance violation shall be issued by the persons authorized under this Code and shall contain information and shall be certified and constitute prima facie evidence of the violation cited as hereinafter set forth.

(B) All full-time, part-time and auxiliary police officers as well as other specific individuals authorized by any Village official or Village department shall have the authority to issue violation notices.

(C) Any individual authorized hereby to issue violation notices and who detects an ordinance violation authorized to be adjudicated under this Title 6 or a violation of any section of any Village ordinance, is authorized to issue notice of violation thereof and shall make service thereof as is hereinafter set forth.

Sec. 36.007 VIOLATION NOTICE.

(A) The violation notice shall contain, but shall not be limited to, the following information:

- (1) The name of the party violating the ordinance, if known.
- (2) The date and time of the violation (date of issuance).
- (3) The type and nature of the violation and the ordinance violated.
- (4) Vehicle make and state registration number (if applicable).
- (5) The names of any witnesses to the violation.
- (6) The signature and identification number of the person issuing the notice.
- (7) The date and location of the adjudicating hearing of ordinance violations which date shall be not less than 30 or more than 40 days after the date of the violation notice. The legal authority and jurisdiction under which the hearing is to be held and the penalties for failure to appear at the hearing.

(B) The correctness of facts contained in any violation notice shall 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 where a docket number shall be stamped on all copies and a hearing date noted. The notice shall be kept as a record in the ordinary course of business by the Ordinance Enforcement Administrator. One copy of the violation notice shall be returned to the person issuing the notice that he or she may prepare evidence for presentation at the hearing on the date indicated. One copy of the violation shall be served by first class mail to the alleged violator along with a summons commanding the alleged violator to appear.

(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.

(E) Notices issued in accordance with the automated traffic law enforcement system which records violations covered in the Illinois Vehicle Code, 625ILCS 5/11-306, disregard a traffic control device or turn on red violations, shall be issued by the Village or designated representative. Written notice of the violation shall be made to the registered owner or lessee of the vehicle by U.S. mail within 30 days after the Illinois Secretary of State makes notification of the identity of the registered owner or lessee of the vehicle, and in no event later than 90 days following the violation. The Village or designated representative shall only be required to notify a lessee if the leasing company/lessor provides the lessee's name by an affidavit and a copy of the lease within 60 days of the notice's issuance. If the lessee information is not provided within 60 days, the leasing company/lessor may be found liable. If any notice to an address is returned as undeliverable, a second notice shall be sent to the last known address recorded in a United States Post Office approved database of the owner or lessee of the cited vehicle. An automated traffic law violation shall require a review of the associated recorded image by a Traffic Compliance Administrator, who shall inspect the image and determine whether the motor vehicle was being operated in violation or whether a legitimate defense is visible. Upon determination that the recorded image captures a violation and that no defense applies, the notice of violation shall be served upon the registered vehicle owner in the manner provided above. The Traffic Compliance Administrator shall retain a copy of all violation notices, recorded images and other correspondence mailed to the owner of the vehicle. Each Notice of Violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of the above noted statutory and local provisions and shall be prima facie evidence of a violation, subject to rebuttal on the basis of the defenses established by law. The Notice of Violation shall be issued by the Village or designated authority and shall include the following information:

(1) Name and address of the registered owner or lessee of the vehicle, as indicated by the records of the Secretary of State, or, if such information is outdated or unattainable, then the last known address recorded in the United States Post Office approved database.

(2) The make (only if discernable) and registration number of the motor vehicle involved in the violation.

(3) Violation charged

(4) The location where the violation occurred

(5) Date and time of violation

(6) A copy of recorded images

(7) The amount of civil penalty and the date by which the penalty should be paid (21 days from the date of issuance), if a hearing is not requested, and a statement that the payment of the fine shall operate as a final disposition of the violation.

(8) A statement that a failure to pay the civil penalty by the date noted may result in an additional late fee being assessed against the owner or lessee.

(9) The amount of late fee.

(10) A statement that failure to pay by the date specified will result in a final determination of liability and may result in the suspension of driving privileges for the registered owner of the vehicle.

(11) A statement that the recorded images constitute prima facie evidence of violation.

(12) A statement that the person may elect to proceed by paying the fine or challenging the charge, by mail or by administrative hearing.

(13) A statement of how an administrative hearing may be requested.

Sec. 36.008 ADMINISTRATIVE HEARINGS.

(A) ***SUBPOENAS.*** At any time prior to the date set for the hearing, the Hearing Officer assigned to hear the violation, at the request of the authorized person issuing the violation notice or the alleged violator, may direct witnesses to appear and give testimony at the hearing.

(B) ***CONTINUANCES.*** No continuances shall be authorized by the Hearing Officer in proceedings under this Title 6 except in cases where a continuance is absolutely necessary to protect the rights of the alleged violator. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a Hearing Officer under this Chapter 36 shall not exceed 25 days.

(C) ***HEARING AND EVIDENCE.***

(1) At the hearing, a Hearing Officer shall preside, shall hear testimony, and shall accept any evidence relevant to the existence or non-existence of a Village code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Chapter 36.

(2) The case for the Village may be presented by an attorney designated by the Village President or by any other Village employee, except that the case for the Village shall not be presented by an employee of the Ordinance Enforcement Department. The case for the alleged violator may be presented by the alleged violator, his or her attorney, or any other agent or representative of the defendant.

(3) If on the date set for hearing the alleged violator or his or her attorney fails to appear, the Hearing Officer may find the alleged violator in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

(4) Upon finding the alleged violator in default, the Ordinance Enforcement Administrator shall send or cause to be sent notices by first class mail, postage prepaid, to the violator who received the notice of an ordinance violation; or, in the case of a violation of Title 10, 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.

Sec. 36.009 FINDINGS, DECISION AND ORDER. At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a code violation exists. The determination shall be in writing and shall be designated as the findings, decision, and order. The findings, decision, and order shall include (i) the Hearing Officer's findings of fact; (ii) a decision of whether or not a code violation exists based upon the findings of fact; and, (iii) an order that states the sanction or dismisses the case if a violation is not proven. A monetary sanction for a violation under this Title 6 shall not exceed \$750.00. A copy of the findings, decision, and order shall be served on the violator within 5 days after it is issued. Service shall be first class mail. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Village Code.

Sec. 36.010 ENFORCEMENT OF JUDGMENTS

DEBT DUE VILLAGE.

(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 Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.

(B) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the Village attorney may commence a proceeding in the Circuit Court of Kane County for purpose of obtaining a judgment on the findings, decision, and order. Nothing in this Section shall prevent the Village from consolidating multiple findings, decisions, and orders against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order was issued in accordance with state law and the applicable Village ordinance. Service of the summons and a copy of the petition may be by any method provided for by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions, and costs imposed by the findings, decision, and order

does not exceed \$2,500. If the court is satisfied that the findings, decision, and order were entered in accordance with the requirements of state law and the applicable Village ordinance and that the violator had an opportunity for a hearing and for judicial review:

(1) The court shall render judgment in favor of the Village and against the violator for the amount indicated in the findings, decision and order, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(2) The court may also issue any other orders and injunctions that are requested by the Village to enforce the order of the Hearing Officer to correct a code violation.

(C) A notice of impending suspension of a person's drivers license shall be sent to any violator determined to be liable for the payment of any fine or penalty that remains due and owing on ten or more vehicular standing or parking regulation violations:

(1) 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 Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under 625 ILCS 5/6-306.5, incorporated herein by reference.

(2) 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.

(3) A warning that failure to pay the fine and any penalty due and owing the Village within the time specified may result in proceeding with collection procedures in the same manner as a judgment entered by any court of competent jurisdiction.

(4) A warning that the vehicle owned by the person and located within the Village may be immobilized and impounded for failure to pay fines or penalties for ten (10) or more vehicular standing or parking regulation violations.

Sec. 36.011 JUDICIAL REVIEW. The findings, decision, and order of the Hearing Officer shall be subject to review in the Circuit Court of Kane County. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of the findings, decision, and order of the Hearing Officer under this Chapter 36.

Sec. 36.012 GENERAL FINES FOR ANY ORDINANCE OTHER THAN VEHICLE CODE. For violation of any Village ordinance other than a violation under Title VII, fines and penalties shall be as established from time to time by the Village Board but in no event more than \$50,000 or the amount prescribed by the Illinois Supreme Court for the mandatory arbitration system, whichever is greater.

Sec. 36.013 FINES FOR VIOLATION OF THE VEHICLE CODE OTHER THAN HANDICAPPED PARKING AND REGULATED PARKING. For violation of any provision of Title VII of this Code; or any compliance violation; or, violation of any other Village ordinance regulating, restricting or prohibiting the standing or parking of motor vehicles along the streets, by-ways, 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 handicapped parking, the fine shall be a maximum of \$750.00.

Sec. 36.014 FINES FOR VIOLATIONS OF CERTAIN REGULATED PARKING AND HANDICAPPED PARKING. For violation of any Village ordinance regulating, restricting or prohibiting the standing or parking of motor vehicles along the streets, by-ways, 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 a maximum of \$750.00. A person violating section 5/11-306 and such violation is documented with use of the automated traffic system, the fine shall be \$100 for each offense. Failure to pay the fine within 14 days of issuance of the Notice of Final Determination shall result in an additional \$100 late payment fine. Persons who wish to contest the violation and request a hearing as listed in this Chapter and after such hearing process it has been determined by the hearing officer the violation is legitimate, an additional \$50.00 may be assessed by the hearing officer.

Sec. 36.015 AUTHORIZATION TO IMPOUND, BOOT OR TOW MOTOR VEHICLE. Any motor vehicle whose registered owner has been determined to be liable for ten (10) or more vehicular standing or parking regulation violations, for which the fines or penalties assessed remain unpaid, may be immobilized, booted 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 ordinance violations, for which the fines or penalties 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 Village geographical boundaries

(C) A Seizure Notice has been sent to the registered owner of the motor vehicle located within the geographical boundaries of the Village which contains, but shall not be limited to the following:

(1) That a final determination has been made on ten (10) or more ordinance violations, for which the fines and penalties remain unpaid.

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

- (a) the ordinance violation notice number;
- (b) date of issuance; and
- (c) total amount of fines and penalties assessed.

(3) That the motor vehicle owned by the person and located within the Village is subject to immobilization and/or towing and impoundment if the fines and penalties are not paid within, but not later than fifteen (15) days of the date of the notice.

(4) Date of immobilization;

(5) Date of impending towing and impoundment; and

(6) That the registered owner may contest the validity of the notice by appearing in person before the Ordinance Administrator within fifteen (15) days of the date of the notice and submitting evidence which would conclusively disprove liability, such as the following:

(a) That the registered owner was not the owner or lessee of the vehicle on the date or dates the notices of violation were issued; or

(b) That the fines or penalties for the violations cited in the notice were paid in full; or

(c) That the registered owner has not accumulated ten (10) or more ordinance violation notices which are unpaid, not adjudicated or for which no appearance was made.

(7) 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 has failed to appear with evidence to conclusively disprove liability before the Ordinance Enforcement Administrator to contest the validity of the notice.

(8) Criminal Violations Authorizing Seizure/Impoundment: A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty of \$150, in addition to costs of prosecution and any towing and storage fees as herein after provided.

(a) Operation or use of a motor vehicle in the commission or attempted commission of any offense for which a motor vehicle may be seized and forfeited pursuant to 720 ILCS 5/36-1.

(b) Driving Under the Influence of Alcohol other Drug or Drugs, Intoxicating Compounds 625 ILCS 5/11-501.

(c) Operation or use of a motor vehicle in connection with the commission or attempted commission of any felony offense or in violation of the provisions of the Illinois Cannabis Control Act, 720 ILCS 550/1.

(d) Operatio or use of a motor vehicle in connection with the commission or attempted commission of any offense in violation of the Illinois Controlled Substances Act, 720 ILCS 570/100.

(e) Unlawful use of a weapon in violation of 720 ILCS 5/24-1; Aggravated Discharge of a Firearm in violation of 720 ILCS 5/24-3.1.

(f) Driving while license, permit or privilege to operate a motor vehicle is suspended or revoked, 625 ILCS 5/6-303; vehicles shall not be subject to seizure impoundment if the suspension is for unpaid citations, due to failure to comply with emission testing.

(g) Operating a motor vehicle without a valid drivers license, 625 ILCS 5/6-101 in combination with Operation of motor vehicle with no insurance 625 ILCS 5/3-707.

(i) Except a person that had a valid driver's license that is expired for less than six months.

(ii) Except a person who is less that 17 years of age operating a motor vehicle on any street or highway when in violation of the Child Curfew Act.

Sec. 36.016 REQUEST FOR HEARING IN CASE OF IMPOUNDMENT AND TOWING OF MOTOR VEHICLE. 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.

Sec. 36.017 NOTICE AFFIXED TO VEHICLE IN CASES OF IMMOBILIZATION. Upon immobilization of an eligible vehicle, a notice shall be affixed to the vehicle in a conspicuous place. Such notice shall warn that the vehicle is immobilized and that any

attempt to move the vehicle may result in its damage. The notice shall also state that the unauthorized removal of or damage to the immobilizing restraint is a violation of Sections 16-1 and 21-1 of the Illinois Criminal Code . The notice also shall provide the following information specifying that a release of the immobilizing restraint may be had by:

(A) Paying all the fines and penalties, if any, on the outstanding complaints for which notice has been sent prior to the date of the immobilization; or

(B) Completing appearance forms on all outstanding parking violation complaints for which notice had been sent prior to the date of the immobilization and depositing collateral in the amount of fifty percent (50%) of the total fines for these outstanding parking violation complaints, or \$500.00, whichever is less.

Sec. 36.018 TOWING OF IMMOBILIZED VEHICLE. Except where the vehicle is otherwise subject to towing, if the immobilizing restraint has not been released as hereinabove provided within seventy-two (72) hours of its placement, the vehicle shall be towed and impounded.

Sec. 36.019 POST-IMPOUNDMENT NOTICE. Within ten (10) days after a vehicle has been impounded, notice of impoundment shall be sent by certified mail, return receipt requested, to the registered owner of the vehicle. The notice shall state that the owner has the right to a post-immobilization and post-towing hearing as provided in this Chapter and that if the vehicle is not claimed within thirty (30) days from the date of the notice, the vehicle may be sold or otherwise disposed of in accordance with the Illinois Vehicle Code .

Sec. 36.020 HEARING IN CASE OF VEHICLE IMMOBILIZATION. The owner of an immobilized vehicle or other interested person shall have the right to a hearing to determine whether the immobilization or any subsequent towing was erroneous or whether the vehicle was properly included on an immobilization list, if the owner files a written demand for a hearing before the Ordinance Enforcement Administrator within fourteen (14) days after issuance of the notice specified in this Chapter or within fourteen (14) days of immobilization, whichever is later. A hearing shall be conducted on any business day within forty-eight (48) hours of receipt of a written demand for hearing, unless otherwise mutually agreed by the parties. Failure to request or attend a scheduled hearing shall be deemed a waiver of the right to a hearing. In the event of such failure, any amount deposited pursuant to this Chapter shall be forfeited. A hearing provided by this Section shall not determine the validity of or otherwise adjudicate any citation or notice of ordinance violation issued relative to the immobilized vehicle, but shall only relate to whether the vehicle was properly immobilized or towed by determining whether the owner previously submitted evidence required by this Chapter.

Sec. 36.021 FINES AND FEES FOR IMMOBILIZATION. The fine for immobilization shall be \$150.00 and the fine for impoundment and towing shall be an amount not to exceed \$300.00. The owner of the vehicle shall also be charged reasonable storage and towing fees should the vehicle be removed to a private storage facility, provided

that no fees shall be assessed for any immobilization or tow which has been determined to be erroneous.

Sec. 36.022 TOWING SERVICES. 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 that 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, chainlink or otherwise, of a sufficient height and with locking gates so as to minimize or prevent unauthorized entry into the impounded vehicles.

Section Two. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

Section Three. Repeal. All ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

Section Four. Publication. This ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.

Adopted this 3rd day of March, 2008, pursuant to a roll call vote as follows:

AYES: Ruffalo, Gorman, Carlini, Lynam, Cichowski,
Mahony, Pres. O'Leary

NAYES: _____

ABSENT: _____

Approved by me this 3rd day of March, 2008.

Daniel O'Leary
DANIEL O'LEARY, President

Published in pamphlet form this 6th day of March, 2008, under the authority of the President and Board of Trustees.

ATTEST:

Susan Norton
SUSAN NORTON, Village Clerk

Recorded in the Village Records on March 6, 2008.

