

Ordinance No. 13-30

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS AMENDING ADMINISTRATIVE ADJUDICATION TO INCLUDE ADJUDICATION AS AN ENFORCEMENT ALTERNATIVE FOR ALL VIOLATIONS OF THE CODE OF THE VILLAGE OF EAST DUNDEE**

**WHEREAS**, the Village of East Dundee (the “*Village*”) is a duly organized and validly existing home-rule Village created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

**WHEREAS**, the Village pursuant to its home rule powers has the authority to exercise any power and perform any function pertaining to its government and affairs including the power to regulate for the protection of the public health, safety and welfare and may enforce building regulations by the Village’s Ordinance Enforcement Department; and,

**WHEREAS**, the Village hereby adopts this ordinance pursuant to its home rule and statutory authority.

**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 1.** That Title III, Chapter 36, of the Code of the Village of East Dundee, as amended, be and is hereby amended by deleting Section 36.01 and replacing it with the following:

**“36.01 PURPOSE AND CREATION**

(A) *Purpose.* To provide for fair and efficient enforcement of village ordinances, as 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, there is hereby adopted Division 2.1 of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.1-1 et seq.).

(B) *Creation.* There is hereby established a department of the municipal government to be known as the Ordinance Enforcement Department to have the power to enforce compliance with all municipal ordinances except for any offense under the Illinois Vehicle Code (adopted by the village under Title VII of the Village Code) that is a traffic regulation governing the movement of vehicles other than a violation pursuant to an automated traffic law enforcement system which shall be enforced pursuant to this chapter and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204). The establishment of the village Ordinance Enforcement Department does not preclude the Village from using any other method to enforce ordinances of the village.”

**Section 2.** That Title III, Chapter 36, Section 36.07 of the Code of the Village of East Dundee, as amended, be and is hereby amended by adding subsection F to read as follows:

“(F) Service of any violation notice shall be:

1. In the case of violation of the Village Traffic Code, service shall be made no less than fifteen (15) days prior to the date set for a hearing and shall be 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. mailing the notice by first class mail to the person responsible for the ordinance violation, along with a summons commanding the individual to appear at the hearing.
2. In the case of violation of any other provision of this Code relating to buildings or structures, service shall be made no less than fifteen (15) days prior to the date set for a hearing and shall be by:
  - a. first class mail on the owner of the structure, along with a summons commanding the owner to appear at the hearing;
  - b. if the name of the owner of the structure cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the notice on the front door of the structure where the violation is found.
3. In the case of any ordinance violation other than a violation of the Village Traffic Code or Building Code, service shall be made by mailing the notice by first class mail to the person responsible for the ordinance violation, along with a summons commanding the individual to appear at the hearing.”

**Section 3.** That Title III, Chapter 36, of the Code of the Village of East Dundee, as amended, be and is hereby amended by deleting Section 36.09 and replacing it with the following:

**§ 36.09 FINDINGS, DECISION AND ORDER.**

- A. 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.
- B. The findings, decision, and order shall include: the Hearing Officer's findings of fact; a decision of whether or not a code violation exists based upon the findings of fact; and, an order that states the sanction or dismisses the case if a violation is not proven.
- C. In the case of a building code violation only, an order ordering the owner to correct the building code violation and imposing a fine or dismissing the case if a building code violation is not proved. In the case of a building code violation, if a building code violation is proved, the order may also impose the sanctions that are provided in the building code for the building code violation.
- D. A monetary sanction for a violation under this Title III shall not exceed \$750 per violation per day, or a maximum of \$50,000 for all code violations relating to buildings or structures.

- E. A copy of the findings, decision, and order shall be served on the violator after it is issued. Service shall be by 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.”

**Section 4.** That Title III, Chapter 36, of the Code of the Village of East Dundee, as amended, be and is hereby amended by deleting Section 36.10 and replacing it with the following:

**“36.10 ENFORCEMENT OF JUDGMENTS**

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 Village and may be collected in accordance with applicable law.

B. After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

C. In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a Village to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a hearing officer, shall be a debt due and owing the Village and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (c), the Village shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

D. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the Village under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

E. A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 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. If any judgment is set aside pursuant to this subsection (e), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Village as a result of the vacated default judgment.

F. A notice of impending suspension of a person's driver's 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 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 Section 6-306.5 of the Illinois Vehicle Code (625 ILCS 5/6-306.5).

(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 or more vehicular standing or parking regulation violations.”

**Section 5.** That Title III, Chapter 36, of the Code of the Village of East Dundee, as amended, be and is hereby amended by deleting Section 36.14 and replacing it with the following:

**“36.14 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. A person violating Section 11-306 of the Illinois Vehicle Code (625 ILCS 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.”

**Section 6.** That Title III, Chapter 36, of the Code of the Village of East Dundee, as amended, be and is hereby amended by adding Sections 36.23, 36.24, 36.25 and 36.26 to read as follows:

**“36-23: EVICTION, RIGHTS OF OCCUPANTS**

In the case of a Building Code violation relating to buildings or structures, no action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a code violation hearing.

**36-24: DEFENSES TO BUILDING CODE VIOLATIONS**

It shall be a defense to a Building Code violation if the owner, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

A. The code violation alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;

B. An occupant or resident of the dwelling has refused entry to the owner or his agent to all or a part of the dwelling for the purpose of correcting the code violation.

**36-25: SANCTIONS APPLICABLE TO THE BUILDING OWNER**

The order to correct a Code violation relating to buildings or structures and the sanctions imposed by a Village as the result of a finding of a code violation shall attach to the property as well as to the owner of the property, so that a finding of a code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision, and order of a Hearing Officer.

**36-26: LIABILITY OF PARENT OR LEGAL GUARDIAN FOR ORDINANCE VIOLATIONS**

The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian is liable for any judgment rendered against such minor for violation of any section of this Code, provided that such parent or legal guardian has been served with summons or notice to appear in the cause. For purposes of this section, "legal guardian" shall mean a person appointed guardian, or given custody, of a minor by a circuit court of this state, but does not include a person appointed guardian, or given custody, of a minor under the Illinois Juvenile Court Act of 1987. For purposes of this section, the term "minor" shall mean a person who is above the age of 12 years but not yet 18 years of age."

**Section 7.** That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

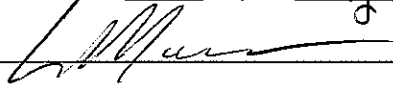
Passed this 19<sup>th</sup> day of August, 2013.

AYES: Trustees Gorman, Lynam, Selep and Wood

NAYS: Trustee Skillicorn

ABSENT: Trustee Ruffulo

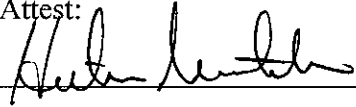
Approved this 19<sup>th</sup> day of August, 2013.



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Village President

Attest:



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Village Clerk

Published in pamphlet form:

August 20, 2013