

Sec. 62-19-001. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: *Automated traffic law enforcement system* means a device within the Village with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a steady or flashing red signal indication in violation of Section 11-306 of the Illinois Vehicle Code ("Code"), 625 ILCS 5/11-306, or similar violation of this article.

*Disregarding a traffic control device* means failure to stop and remain stopped before an intersection that is controlled by a red signal as provided for in section 11-306 of the Code or a similar violation of this article.

*No turn on red* means failure to stop and remain stopped, and not proceeding to turn right at, an intersection controlled by both a sign indicating "No turn on red," or other similar language, and a red signal as provided for in section 11-306 of the Code or this article.

*Recorded images* means images produced by the automated traffic law enforcement system, which consist of either two or more photographs; two or more microphotographs; two or more electronic images; or, a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

*Traffic compliance administrator* means the person appointed by the chief of police and shall have the following additional powers: adopt, distribute, and process automated traffic law violation notices and other notices required by this article, collect money paid as fines and penalties, operate the automated traffic law enforcement system, and make certified reports to the Secretary of State as required by this article.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-002. Violations.

It shall be a violation of this article for a vehicle to disregard a traffic control device or turn on red in violation of section 11-306 of the Code, this article or section 62-11-315 of the Municipal Code of Hanover Park.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-003. Notice of violation.

When the automated traffic law enforcement system records a motor vehicle entering an intersection in violation of section 62-19-002, the village shall issue a written notice of violation to the registered owner or lessee of the vehicle, which shall be delivered by first class mail, postage prepaid, within 30 days after the Illinois Secretary of State notifies the village 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 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 driver 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. The second notice shall be made by first class mail postage prepaid.

A notice of violation associated with an automated traffic law violation shall require a review of the associated recorded image by the traffic compliance administrator, who shall inspect the

image and determine whether the motor vehicle was being operated in violation of section 62-19-002, or whether one of the defenses enumerated in section 62-19-004 is visibly applicable upon inspection. 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 for 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 in this article.

The notice of violation shall include the following information:

- (a) The 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 a United States Post Office approved database;
- (b) The registration number of the motor vehicle involved in the violation;
- (c) The violation charged with specific references to the section allegedly violated;
- (d) The location where the violation occurred;
- (e) The date and time of the violation;
- (f) A copy of the recorded images;
- (g) The amount of the 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;
- (h) 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;
- (i) The amount of the late fee;
- (j) A statement that the 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;
- (k) A statement that the recorded images constitute prima facie evidence of a violation;
- (l) A statement that the person may elect to proceed by paying the fine or challenging the charge in an administrative hearing; and
- (m) A statement of how an administrative hearing may be requested.

(Ord. No. O-08-48, § 1, 8-7-2008)

#### Sec. 62-19-004. Defenses.

The following shall be the only defenses available for an alleged violator contesting liability for a violation of a red light signal, which shall be weighed by the hearing office and shall only rebut the prima facie case established by the notice of violation insofar as one or more of the following defenses are established by a preponderance of the evidence:

- (a) The motor vehicle and/or registration plates were stolen before the violation occurred and were not under the exclusive control of or in the possession of the owner at the time of the red light signal violation, which defense may be demonstrated through the submission of a certified copy of a report concerning the stolen motor vehicle or registration plates filed with a law enforcement agency prior to the time of the alleged violation;
- (b) The driver of the vehicle passed through the intersection in spite of a red light either to yield the right-of-way to an emergency vehicle, or as part of a funeral procession; and

- (c) The driver of the vehicle passed through the intersection in spite of a red light at the direction of a police officer acting within the scope of his duties; or
- (d) The operator of the vehicle received a Uniform Traffic Violation from a police officer, which citation is determined to be a moving violation reportable to the Illinois Secretary of State. (Ord. No. O-08-48, § 1, 8-7-2008)

**Sec. 62-19-005. Hearing.**

The owner of a vehicle being operated in violation of section 62-19-002 may request a hearing by the respond-by date on the notice of violation (21 days from the date of issuance), to challenge the evidence or set forth an applicable defense. The notice of violation shall constitute evidence of the facts contained in the notice and is admissible in any proceeding alleging a violation of section 62-19-002. The notice of violation shall be prima facie evidence of a violation, subject to rebuttal on the basis of the defenses established in section 62-19-004. The owner's failure to appear at the hearing will result in a finding of liability. In the event of a failure to appear, a "Findings, Decision, and Order" letter will be sent to the owner. The owner's failure to pay the amount by the date specified in that letter will result in a final determination. (Ord. No. O-08-48, § 1, 8-7-2008)

**Sec. 62-19-006. Nonresident.**

Where the registered owner or lessee of the cited vehicle is not a resident of the village but seeks to contest the merits of the alleged violation, such person may contest the charges using the same available defenses as stated above, but rather than attend the administrative hearing, they may submit any and all documentary evidence to the traffic compliance administrator no later than the hearing date, together with a written statement reflecting that they are nonresidents of the village. The traffic compliance administrator shall forward all timely-submitted materials to the hearing officer for review and determination. (Ord. No. O-08-48, § 1, 8-7-2008)

**Sec. 62-19-007. Penalty.**

Unless the driver of the motor vehicle in question received a Uniform Traffic Citation from a police officer at the time of the alleged violation, the motor vehicle owner is subject to a civil penalty not exceeding \$100.00 for a proved violation of this article, plus an additional penalty of not more than \$100.00 for failure to pay the original penalty or contest the violation at an administrative hearing in a timely manner, if the motor vehicle is recorded by an automated traffic law enforcement system. Any penalty imposed for a violation of this section is a civil penalty and is not a violation of a traffic regulation governing the movement of motor vehicles and shall not be transmitted to the Illinois Secretary of State to be recorded on the driving record of the vehicle owner. (Ord. No. O-08-48, § 1, 8-7-2008)

**Sec. 62-19-008. Final determination.**

A final determination of violation liability shall occur following failure to pay the fine, a failure to request a hearing by the respond-by date, after a hearing officer's determination of violation liability and the exhaustion of or failure to exhaust any administrative review procedures provided by the Municipal Code of Hanover Park. Where a person fails to appear at a hearing to contest the alleged violation in the time and manner specified in a prior mailed notice, the

hearing officer's determination shall become final upon a failure to pay the amount owed on the date provided in the "Findings, Decision, and Order" letter. Appeal may be made to the Circuit Court of Cook County on any final determination as provided for by the Administrative Review Act.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-009. Notice of determination of liability.

If the registered owner fails to pay or contest the notice of violation within 21 days a notice of determination of liability will be sent to the owner indicating that a fine in the amount of \$100.00 is due to the village. The notice will also state that the owner can petition the village to set aside the determination of liability before it becomes final. If the owner does not pay the \$100.00 as specified in the notice or petition the village to set aside the determination, within 21 days, a notice of final determination will be sent to the owner indicating that the owner has exhausted all challenge options and the \$100.00 fine is a debt due and owing to the village and must be paid within 14 days. The owner will also be notified that the failure to pay the \$100.00 fine within 14 days will result in a late fee of \$100.00 added to the original fine.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-010. Notice of final determination.

A notice of final determination shall be sent following the final determination of automated traffic law violation liability and the conclusion of judicial review. The notice of final determination shall include the following information:

- (1) A statement that the unpaid fine is a debt due and owing to the village; and
- (2) A warning that a failure to pay any fine due and owing to the village within 14 days may result in a petition to the Circuit Court of Cook County to have the unpaid fine rendered as a judgment or may result in the suspension of the person's drivers license for failure to pay fines or penalties for five or more violations under this article.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-011. Petitions to set aside determination.

A Petition to Set Aside Determination of an automated traffic law violation must be filed with or mailed to the Traffic Control Administrator within 14 days of the date of mailing of the Notice of Determination of Liability. The grounds for the petition are limited to:

- (a) The person was not the owner or lessee of the cited vehicle on the date of the violation notice was issued;
- (b) The person having already paid the fine for the violation in question; and
- (c) Excusable failure to appear at or request a new date for a hearing.

Upon receipt of a timely petition to set aside the determination of liability, the hearing officer shall review the petition to determine if cause has been shown to set aside the determination. If cause has been shown, the village shall forward the petitioner a new hearing date on which the petitioner must appear to present his case. The village shall notify the petitioner of the hearing officer's decision to grant a hearing or deny the petition within 14 days of the village's receipt.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-012. Notice of impending drivers license suspension.

A Notice of Impending Drivers License Suspension shall be sent to the person liable for any fine or penalty that remains due and owing on five or more violations of this Article. The Notice of Impending Drivers License Suspension shall state the following information:

(a) The failure to pay the fine owing within 45 days of the notice's date 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 Code; and

(b) A statement that the person may obtain a copy of the original ticket imposing a fine by sending a self-addressed, stamped envelope to the village along with a request for the copy. 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 or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States Post Office-approved database.

(Ord. No. O-08-48, § 1, 8-7-2008)

Sec. 62-19-013. Drivers license suspension.

The traffic compliance administrator, by certified report, may request that the Secretary of State suspend the driving privileges of an owner of a registered vehicle who has failed to pay any fine or penalty due and owing as a result of five automated traffic violations. The report shall be certified and contain the following:

(a) The name, last known address as recorded with the Secretary of State, as provided by the lessor of the cited vehicle at the time of lease, or as recorded in a United States post office-approved database if any notice sent under this article is returned as undeliverable, and driver's license number of the person who failed to pay the fine or penalty and the registration number of any vehicle known to be registered to such person in a state;

(b) The name of the municipality making the report pursuant to this section; and

(c) A statement that a notice of impending driver's license suspension has been sent to the person named in the report at the address recorded with the Secretary of State or at the last address known to the lessor of the cited vehicle at the time of the lease or, if any notice sent under this article is returned as undeliverable at the last known address recorded at a United States Post office approved database; the date on which such notice was sent; and address to which such notice was sent.

The traffic compliance administrative shall notify the Secretary of State whenever a person names in the certified report has paid the previously recorded fine or penalty or whenever the municipality determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein.

Any person receiving notice from the Secretary of State that their driving privileges may be suspended at the end of a specified period may challenge the accuracy of the certified report prepared by the traffic compliance administrator. The person shall, within seven days after having received notice form the Secretary of State, request an opportunity to speak with the traffic compliance administrator to challenge the accuracy of the certified report. If the traffic compliance administrator determines that the original report was in error due to the fact that the person challenging the report was not the owner or lessee of the vehicle or that the person has already paid their fine for the five or more automated traffic violations, the traffic compliance administrator shall immediately notify the Secretary of State of such error in a subsequent certified report.

(Ord. No. O-08-48, § 1, 8-7-2008)

