



Village of Hanover Park Administration

Municipal Building
2121 Lake Street
Hanover Park, IL 60133-4398

630-823-5600
FAX 630-823-5786
www.hpil.org

PRESIDENT
RODNEY S. CRAIG

VILLAGE CLERK
EIRA CORRAL

TRUSTEES
WILLIAM CANNON
JAMES KEMPER
JENNI KONSTANZER
JON KUNKEL
RICK ROBERTS
EDWARD J. ZIMEL, JR.

VILLAGE MANAGER
JULIANA A. MALLER

VILLAGE OF HANOVER PARK

VILLAGE BOARD REGULAR WORKSHOP MEETING Municipal Building: 2121 W. Lake Street Hanover Park, IL 60133

Thursday, December 19, 2013
6:00 p.m.

AGENDA

1. **CALL TO ORDER-ROLL CALL**
2. **ACCEPTANCE OF AGENDA**
3. **REGULAR BOARD MEETING AGENDA ITEM REVIEW**
4. **DISCUSSION ITEMS**
 - a. Adjudication Ordinances
 - b. Cost Recovery Ordinance
 - c. Board Input for FY14B Budget Development
 - d. Extension for Moratorium for Medical Marijuana related Facilities
5. **STAFF UPDATES**
 - a. 900 Irving Park Road Update
 - b. Hanover Square Update
6. **NEW BUSINESS**
7. **ADJOURNMENT**



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Rebekah Flakus, Finance Director
David Webb, Chief of Police

SUBJECT: Ordinances establishing a system of administrative adjudication for vehicular and code violations

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: December 19, 2013 – Board Workshop

Executive Summary

Staff requests the Board pass Ordinances establishing a system of administrative adjudication for vehicular and code violations established by the Hanover Park Municipal Code and increasing the maximum fine for unpaid tickets to \$250 dollars.

Discussion

The establishment of an administrative adjudication system will allow the Village to hold hearings for certain vehicular and code violations at Village Hall instead of sending violators into the Cook County Court system. This will make it more convenient and efficient for Village staff, as well as those who are requested to attend the hearing. Additionally, it will increase revenues to the Village, as the Village will no longer need to share fines and court costs with both Counties. Finally, establishing administrative adjudication will aid the Village's goal of gaining compliance.

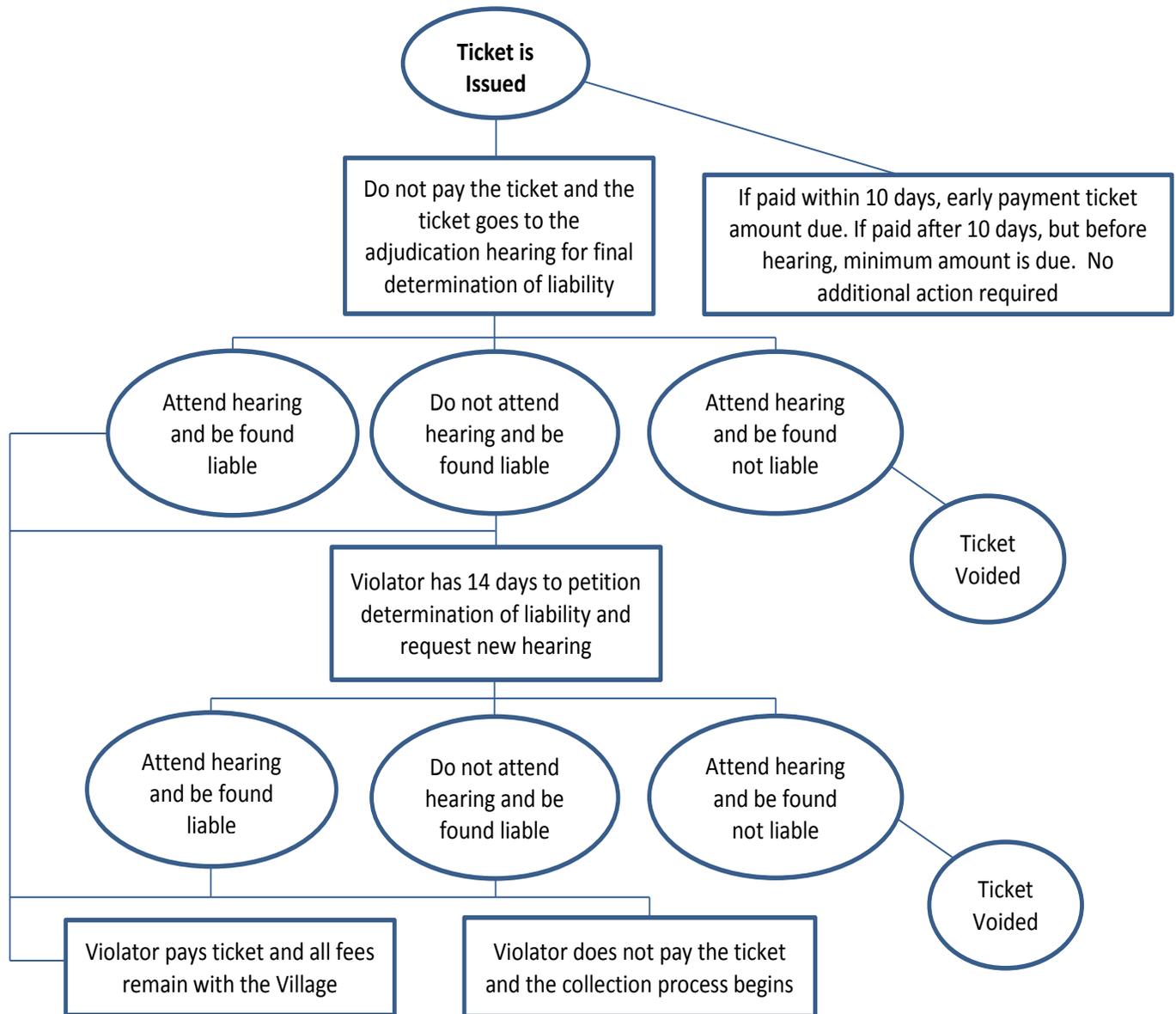
In order to begin the process of determining how the Village would implement the adjudication system, the Police Department and Finance Departments held a series of meetings to discuss the needs and roles of both departments. A representative of the adjudication software, DACRA, came to the Village and presented an overview of the software. Assistant Finance Director Nees attended adjudication hearings at the City of Elgin, and those already performed by the Village of Hanover Park for the Red Light and Tow Hearings. Research was performed on the adjudication systems of surrounding communities, including sending out a survey to various Villages and Cities and reviewing their ordinances.

After performing our research of adjudication systems and software programs, it was determined that the best way to proceed was to purchase the adjudication software and necessary hardware. Once installed, staff can begin to be trained on the software and finalize our process for administering the adjudication system. Below is an outline of the

Agreement Name: _____

Executed By: _____ Workshop Meeting 12/19/13 9:49 am

adjudication process. Staff is strongly recommending employees be educated on adjudication and trained on the software before staff finalizes the adjudication process.



Research revealed that other municipalities have higher fees for late penalties. Increasing the fees for late penalties will help the Village to recoup the costs associated with late payments and operating a court room. While the minimum fine will increase, the amount the violator can pay within the first 10 days of issuance of the fine remains the same as the current rate. Roughly 45% of late notices are sent to non-residents. In addition, increasing these fines will bring the Village more in line with other Illinois suburban communities. See attached for a list of maximum standard parking ticket determination fines from other communities. The Village of Hanover Park’s current maximum for a standard starting ticket is \$100. It is recommended that this maximum be increased to \$250.

The Village has purchased the software to administer the system. The passage of these ordinances is the next step in implementing an administrative adjudication system. The

system will be set up in stages beginning with vehicular tickets. Once the ordinances are passed, staff can finalize the software setup and begin to pilot the program in certain squad cars. Staff plans to fully implement administrative adjudication for vehicular tickets in the first quarter of 2014. The implementation of administrative adjudication for code violations will occur after the New World software has been implemented, sometime in the Fall of 2014.

Recommended Action

Pass an Ordinance providing for Administrative Adjudication of Municipal Code Violations.

Pass an Ordinance providing for Administrative Adjudication of Vehicle Violations of the Hanover Park Municipal Code, As Authorized by 625 ILCS 5/11-208.3 and Also Increasing Penalties.

Attachments:

- Ordinance Providing for Administrative Adjudication of Municipal Code Violations
- Ordinance Providing for Administrative Adjudication of Vehicle Violations of the Hanover Park Municipal Code and also increasing penalties
- Parking Violation Fines Survey Results

Budgeted Item:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	N/A
Budgeted Amount:	\$N/A		
Actual Cost:	\$		
Account Number:			

ORDINANCE NO. O-13-**AN ORDINANCE PROVIDING FOR ADMINISTRATIVE
ADJUDICATION OF MUNICIPAL CODE VIOLATIONS**

WHEREAS, the General Assembly has provided in 65 ILCS 5/1-2.1-1 *et seq.* for Administrative Adjudication by municipalities that are home rule units and, in particular, provides as follows:

Any municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. A “system of administrative adjudication: means the adjudication of any violation of a municipal ordinance, except for (1) proceedings not within the statutory or home rule authority of municipalities; and (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offenses under Section 6-204 of the Illinois Vehicle Code. 65 ILCS 5/1-2.1-2.

and

WHEREAS, the Village of Hanover Park is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois and may exercise and perform any function pertaining to its government and affairs including adoption of this Ordinance; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That a new Article XVIII. - Administrative Adjudication, consisting of Sections 2-740 through 2-745 is hereby added to Chapter 2 of the Municipal Code of Hanover Park, as amended, to read as follows:

ARTICLE XVIII. - ADMINISTRATIVE ADJUDICATION**Sec. 2-740. - Purpose—Scope—Adoption of rules and regulations.**

The purpose of the system of municipal code administrative adjudication of charges of municipal code violations is to provide a procedure and facility by which charges of certain municipal code violations can be administratively adjudicated without initial resort to the Circuit Court. The system of administrative adjudication of charges of municipal code violations for the Village is established pursuant to authority of 65 ILCS 5/1-2.1 through 5/1-2.1-10, and the Village's home rule powers, excluding, however, offenses under the Illinois Vehicle Code or similar offenses that are traffic regulations concerning moving violations and reported offenses under 625 ILCS 5/6-204.

Sec. 2-741. - Jurisdiction.

Those matters that shall be subject to municipal code administrative adjudication provided for under 65 ILCS 5/1-2.1-1 through 65 ILCS 5/1-2.1-10, are charges of violation of any provision of the Hanover Park Municipal Code, as amended, except matters not within the home rule authority of the Village, if applicable, and matters referred to the jurisdiction of Traffic Code Administrative Adjudication under Chapter 62 of the Hanover Park Municipal Code, as amended.

Sec. 2-742. – Hearing Procedures nonexclusive.

The provisions of this chapter shall not preclude the Village from using other methods or proceedings to enforce the ordinances of the Village, including, but not limited to, the institution of any action in the Circuit Court of Cook County, Illinois or any administrative proceeding.

Sec. 2-743. – Code Hearing Unit.

The system of administrative adjudication of municipal code violations shall be composed of a code hearing unit which shall be a separate unit/division in the Village government, which shall be comprised of: a hearing officer appointed by the Village President upon review and recommendation of the Village Manager, with the advise and consent of the Village Board; and an administrator, a computer operator, and any other duly administratively appointed person or persons deemed necessary for the efficient administration of the code hearing unit with the following powers, duties, authority and limitations:

- A. The system of administrative adjudication shall provide for a Hearing Officer who shall preside over the adjudication hearing, determine whether an ordinance violation is found, and who shall be empowered and is hereby authorized and directed to:
 - 1. Hear testimony and accept evidence that is relevant to the existence of the code violation;
 - 2. Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
 - 3. Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing

4. Issue a determination, based on the evidence presented at the hearing, of whether a code violation occurred or exists. The administrative hearing officer's determination shall be in writing and include a written finding of fact, decision, and order including the fine, penalty, or other action with which the defendant must comply.
 5. Impose penalties 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 administrative hearing officer have authority to (i) impose a penalty of incarceration; or (ii) impose a fine in excess of \$50,000.00. The maximum monetary fine under this item shall be exclusive of costs of enforcement or costs incurred by the Village to secure compliance with the Village's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the Village.
- B. Prior to conducting administrative adjudication hearings, the administrative hearing officers shall have successfully completed a formal training program which includes the following:
1. Instruction on the rules of procedure of the administrative hearings which they will conduct;
 2. Orientation to each subject area of the code violations that they will adjudicate;
 3. Observation of administrative hearings; and
 4. Participation in hypothetical cases, including ruling on evidence and issuing final orders.

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

Sec. 2-744. - Procedure.

- A. A proceeding before an administrative hearing officer shall be instituted upon the filing of a written sworn pleading or complaint by any authorized official of the Village, including police officers, code enforcement officers, inspectional service personnel and such other employees as may be authorized by the Village Manager.
- B. Parties shall be served with notice in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service notice upon a party or its employees or agents; service by first class mail with proper prepaid postage at a

party's last known business or residence address; or notice that is posted upon the property where the alleged violation is found when the party is the owner or manager of the property. Specifically, the violation notice shall contain:

1. The name and address of the party violating the ordinance, if known.
2. The date, time and place of the violation (date of issuance).
3. The type and nature of the ordinance violated.
4. Vehicle make and state registration number (if applicable).
5. The penalty which may be assessed for failure to appear.
6. If known, the names of witnesses of the violation.
7. The signature and identification number of the person issuing the notice.
8. The date and location of the adjudicating hearing of ordinance violations, if applicable, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.
9. The date of the hearing shall not be less than fifteen (15) days after the violation is reported.

- C. Parties shall be given notice of the adjudicatory hearing by parties authorized to issue violation notices which includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing. Specifically, service shall be as follows:

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

1. In the case of violation of the Hanover Park Motor Vehicle Code, service shall be made by:
 - a. Affixing the original or a facsimile of the notice to an unlawfully standing or parked vehicle, un-stickered vehicle; or vehicle violating any compliance regulation;
 - b. Handling the notice to the registered owner, operator, or lessee of the vehicle, if present; or

- c. Mailing the notice by first class mail, postage prepaid, 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 the building code, service shall be made by:
 - a. First class mail, postage prepaid, 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 securely affixing a copy of the notice on the front door of the structure where the violation is found, not less than fifteen (15) days before the hearing is scheduled.
 3. In the case of any ordinance violation other than a violation of the Hanover Park Motor Vehicle Code or Building Code, service shall be made by personal service of a notice to appear or summons or by mailing the notice by first class mail, postage prepaid, to the person responsible for the ordinance violation, along with a summons commanding the individual to appear at the hearing.

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 or her control.

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.

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.

- D. Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, if requested by the respondent, the respondent shall have at least the time prescribed by relevant ordinance or at least 15 days after service of notice to prepare for the hearing. For purposes of this subsection, "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first class mail, the 15-day period shall begin to run on the date that the notice is deposited in the mail. Specifically:
1. An administrative hearing shall be granted for the following: To adjudicate any alleged ordinance violation on its merits.
 2. No continuances shall be authorized by the hearing officer at the hearing except where absolutely necessary to protect the rights of the individual. Lack of reasonable preparation does not constitute cause for a continuance. Unless agreed to by the parties or by the existence of extenuating circumstances, no continuance should be granted for more than thirty-five (35) days.
 3. All administrative hearings shall be recorded and shall culminate in a determination of liability or non-liability, made by the hearing officer, who shall consider facts and/or testimony without the application of the formal or technical rules of evidence. Evidence including hearsay, may be admitted only if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs.
 4. The hearing officer shall, upon a determination of liability, assess fines and penalties in accordance with the ordinances of the Village and this Code. Additionally, upon finding a party liable for the charged violation, costs in the amount of \$100 shall be assessed against said party. Persons appearing to contest the alleged violation on its merits may be represented

by counsel at their own expense. A proper notice of violation establishes the prima facie case set forth in the verified notice of violation.

- E. Rules of evidence. The formal and technical rules of evidence do not apply in an adjudicatory hearing provided for hereunder. Evidence may be admitted so long as it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Hearsay may be admitted if more reliable evidence is not available, and if in the end the hearing officer's finding is supported by the kind of evidence on which reasonable people are accustomed to rely in serious affairs.
- F. Any final decision by an administrative hearing officer that a code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law. 735 ILCS 5/3-101 *et seq.*

Sec. 2-745. – Enforcement of Judgment / Late Penalty / Collection.

- A. Any fine, debt, 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. A late penalty for failure to pay the fine, debt, or costs is automatically imposed on adjudicated violators who fail to pay their fine, debt, or costs within twenty-five (25) days after the exhaustion or failure to exhaust judicial review procedures and may also be collected in accordance with applicable law. Unless the late payment is specified in another provision of this Code pertaining to a specific violation, the late payment penalty shall be the greater of \$100 or an additional 25% for each year or fraction thereof that the fine, debt, or costs remain unpaid. Any cost incurred by a collection agency or attorney shall also be added to the fine, penalty and costs.
- 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 respondent has failed to comply with a judgment ordering a respondent to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by the 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 the 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, the Village shall provide notice to the respondent that states the respondent shall appear at a hearing before the administrative hearing officer to determine whether the respondent has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than seven days from the date that the notice is served. If notice is served by mail, the seven-day period shall begin to run on the date 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 in the real estate or personal estate, or both, of the respondent in the amount of any debt due and owing the Village under this Section. The lien may be enforced in the same manner as judgment lien pursuant to a judgment of a court of competent jurisdiction.
- E. Except as provided in Chapter 62, the 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 notice or process. If any judgment is set aside pursuant to this subsection, 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.

SECTION 2: That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof, other than the part affected by such decision.

SECTION 3: That except as to the amendments heretofore mentioned, all chapters, sections, subsections, and paragraphs of the Municipal Code of Hanover Park shall remain in full force and effect.

SECTION 4: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner required by law.

SECTION 5: That the Village Clerk be and is hereby directed to publish this ordinance in pamphlet form.

ADOPTED this day of , 2013 pursuant to a roll call vote as follows:

AYES:

NAYS:

ABSENT:

ABSTENTION:

APPROVED by me this day of , 2013

Rodney S. Craig
Village President

ATTESTED, filed in my office, and
published in pamphlet form this
day of , 2013

Eira Corral, Village Clerk

ORDINANCE NO. O-13-

AN ORDINANCE PROVIDING FOR ADMINISTRATIVE ADJUDICATION OF VEHICLE VIOLATIONS OF THE HANOVER PARK MUNICIPAL CODE, AS AUTHORIZED BY 625 ILCS 5/11-208.3 AND ALSO INCREASING PENALTIES

WHEREAS, 625 ILCS 5/11-208.3 provides for the Administrative Adjudication by municipalities of violations of traffic regulations concerning specified violations; and

WHEREAS, the Village of Hanover Park is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois and may exercise and perform any function pertaining to its government and affairs including adoption of this Ordinance; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That Sections 62-17-100 and 62-17-104 of Chapter 62 of the Municipal Code of Hanover Park, as amended, be and they are hereby amended to read as follows:

* * * * *

Sec. 62-17-100. - Penalties generally.

Unless another penalty is specifically provided by this Code for violation of any particular section or chapter, any person convicted of an offense under this chapter shall be punished by a fine of not less than 50.00 nor more than \$500.00. A person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, provided, that the filing of such civil action, whether in the Circuit Court or by administrative adjudication, shall preclude incarceration or imprisonment.

* * * * *

Sec. 62-17-104. - Same—Parking violations; early payment; authorization and procedure.

The following procedure regarding early payment of parking violations is hereby authorized:

- A. Except as provided for in B. below, any owner or operator who is issued a complaint for a violation of division 2 of article XI, "Stopping, Standing and Parking," of this Code may settle and compromise that complaint after notice of violation by paying a reduced early payment of \$30.00 for the violation to

the Village on or before ten days after the date of issuance, not counting the date of issuance. Payments received by mail shall be credited as paid on the date received by the Village.

- B. Any owner or operator who is issued a complaint for a violation of the following sections of this Code may early pay that complaint by paying to the Village after notice of violation on or before ten days after the date of issuance not counting the date of issuance the early payment amount in column A. Payments received by mail shall be credited as paid on the date received by Village. The following table provides the minimum (Column B) and maximum (Column C) fines.

<i>Offense</i>	<i>A</i> <i>Reduced Early Payment Amount</i>	<i>B</i> <i>Minimum Fine</i>	<i>C</i> <i>Maximum Fine</i>
<u>62-11-1323</u>	\$30.00	\$50.00	\$250.00
62-11-1326	30.00	50.00	250.00
<u>62-11-1330</u>	30.00	50.00	250.00
110-6.2.4e	30.00	50.00	250.00
62-11-1325(a)	50.00	75.00	250.00
62-11-1325(c)	50.00	75.00	250.00
<u>62-11-1331</u>	100.00	150.00	250.00
62-11-1337(2)	250.00	250.00	250.00

Any costs incurred by a collection agency or attorney in collecting the fine after adjudication shall be added to the fine.

* * * * *

SECTION 2: That Section 62-17-108(c) of Chapter 62 of the Municipal Code of Hanover Park, as amended, be and is hereby amended to read as follows:

Sec. 62-17-108. - Immobilization of vehicle for violations.

* * * * *

- (c) The owner of such immobilized vehicle, or other authorized person, shall be permitted to secure release of the vehicle upon:
 - (1) The depositing of the bond for his appearance in the circuit court to answer for each violation not subject to the process of administrative adjudication; or
 - (2) Depositing the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant; and
 - (3) The payment of the fees as required by subsection (e) of this section.

The owner of an immobilized vehicle, or other authorized person, shall have the right to a post-immobilization hearing to determine the validity of such immobilization, towing and any towing or storage charges. Such hearing must be requested within 15 days after the vehicle is immobilized. The post-immobilization hearing shall not be determinative of or adjudicate any citation issued relative to any immobilized vehicle.

* * * * *

SECTION 3: That a new Article XX. - ADMINISTRATIVE ADJUDICATION OF TRAFFIC VIOLATIONS, consisting of Sections 62-20-001 through 62-20-012 is hereby added to Chapter 62 of the Municipal Code of Hanover Park, as amended, to read as follows:

ARTICLE XX. - ADMINISTRATIVE ADJUDICATION OF TRAFFIC VIOLATIONS

Sec. 62-20-001. - Purpose—Scope—Adoption of rules and regulations.

- A. The purpose of this Article is to provide for the administrative adjudication of vehicular violations of the Hanover Park Municipal Code, automated traffic law violations pursuant to Chapter 62, Article XIX of this Code, and defining compliance violations, and regulating vehicular standing and parking within the Village and to establish a fair and efficient system for the enforcement of certain provisions of Chapter 62 of the Hanover

Park Municipal Code. The traffic administrative adjudication system set forth in this Chapter is established pursuant to 625 ILCS 5/11-208.3, and the home rule power of the Village of Hanover Park.

- B. For the purpose of this Article, "compliance violation" means a violation of a municipal regulation governing the condition or use of equipment on a vehicle.

Sec. 62-20-002. - Appointment—Administrative adjudication traffic compliance administrator(s).

The appointed Administrative Adjudication Traffic Compliance Administrator shall be administratively appointed and shall:

- A. Operate and manage the system of administrative adjudication of automated traffic law violations, vehicular standing, parking, conditions of vehicles, and compliance violations;
- B. Adopt, distribute and process automated traffic law violations, parking and compliance violation notices, and other notices required by this section or law, collect money paid as fines and penalties for violations of parking and compliance ordinances;
- C. Establish procedures necessary for the prompt, fair and efficient operation of the administrative adjudication system;
- D. Certify copies of the final determinations of violations liability and factual reports, verifying that the final determination of violating liability was issued in accordance with this division and 625 ILCS 5/11-208.3;
- E. Certify reports to the Secretary of State concerning initiation of suspension of driver's licenses in accordance with the provisions of the Article and 625 ILCS 5/6-306.5; and
- F. Promulgate rules and regulations pertaining to the hearing process, the content of forms and procedures, and the daily operation of the administrative adjudication of automated traffic law violations, parking and compliance violations ~~program~~.

Sec. 62-20-003. - Appointment—Hearing officer.

- A. The system of administrative adjudication shall have a Hearing Officer who shall be the same hearing officer as provided for in Section 2-743 of Chapter 2 of this Code, and shall be empowered and is hereby authorized and directed to:
 - 1. Preside over the administrative hearings established herein, as the adjudicator;
 - 2. Administer oaths;

3. Issue subpoenas to secure the attendance of witnesses and production of relevant papers or documentation;
4. Hear testimony and accept evidence that is relevant to the existence of the code violation;
5. Assess fines and penalties for violations as established in the Village Code;
6. Make final determinations of violation liability;
7. Provide for the accurate recordation of the traffic administrative adjudication system.

Sec. 62-20-004. - Schedule of fines and penalties.

The violation of any provision of the traffic code prohibiting or restricting vehicular standing or parking, establishing a compliance violation, or an automated traffic law violation, shall be a civil offense punishable by fine only, as listed in this Section 62-20 and in other provisions of Chapter 62 of the Hanover Park Municipal Code provided no single fine shall exceed \$500 for an offense. Further, as to the automated traffic law enforcement system, Section 62-19-001 et seq., no additional fee shall be charged to the alleged violator for exercising his or her right to an administrative hearing and persons shall be given at least twenty-five (25) days following an administrative hearing to pay any civil penalty imposed by a finding that Section 11-208.6, 11-208.9, or 11-1201.1 of the Illinois Vehicle Code or similar ordinance has been violated. A late payment penalty for failure to pay the adjudicated fine is automatically imposed on violators who fail to pay their fine within twenty-five (25) days of the issuance of the determination of liability. The late payment penalty shall be \$100. Provided, however, that the total amount of the fine and penalty for vehicular standing, parking, compliance or automatic traffic law regulations shall not exceed \$250 except as provided in subsection (c) of Section 11-1301.3 of the Illinois Motor Vehicle Code.

Sec. 62-20-005. - Prima facie responsibility for violation and penalty—Parking violation issuance and removal.

- A. Whenever any vehicle exhibits a compliance violation or is parked in violation of any provision of the traffic code prohibiting or restricting vehicular parking or standing, any person in whose name the vehicle is registered with the Secretary of State of Illinois or such other state's registry of motor vehicles shall be prima facie responsible for the violation and subject to the penalty therefore. The Village and the issuer of the notice shall accurately record the state registration number of the ticketed vehicle.
- B. Whenever any vehicle exhibits a compliance violation during operation or is parked in violation of any provision of the traffic code prohibiting or restricting vehicular parking or standing or regulating the condition of a parked or standing vehicle, any police officer, community service officer, or other person designated by the Police Chief or

Village Manager observing such violation may issue a parking or compliance violating notice, as provided for in the Hanover Park Municipal Code and serve the notice on the owner of the vehicle by handing it to the operator of the vehicle, if he/she is present, or by affixing it or a facsimile to the vehicle in a conspicuous place.

- C. The issuer of the notice shall specify on the notice his identification number, the particular parking or compliance ordinance allegedly violated, the make and state registration number of the cited vehicle, and the place, date and time of the alleged violation, the fine that may be assessed, and any late payment penalty, and shall certify the correctness of the facts entered on the violation notice by signing his or her name to the notice at the time of service or, in the case of a notice produced by a computer device, by signing a single certificate to be kept by the traffic compliance administrator attesting to the correctness of all notices produced by the device while it is under his or her control.
- D. The notice shall state that vehicle immobilization and driver's license suspension (if applicable) may be imposed if the fine is not paid in full, that payment of the indicated fine shall operate as a final disposition of the violation, and information as to the availability of an administrative hearing in which the violation may be contested on its merits and the time and manner in which such hearing may be had.
- E. It shall be unlawful for any person, other than the owner of the vehicle or his designee, to remove from a vehicle a parking or compliance violation notice affixed pursuant to this Article.

Sec. 62-20-006. - Grounds for administrative hearing.

- A. A person charged with a parking or compliance violation may contest the merits of the alleged charge at any administrative hearing limited to one or more of the following grounds with appropriate evidence to support:
 - 1. That the respondent was not the owner or lessee of the cited vehicle at the time of the violation;
 - 2. That the cited vehicle or its state registration plates were stolen at the time the violation occurred;
 - 3. That the facts alleged in the parking or compliance violation notice are inconsistent or do not support a finding that the specified code section was violated;
 - 4. That the illegal condition described in the compliance violation did not exist at the time the notice was issued.

Sec. 62-20-007. - Second notice.

A. A second notice of the violation referenced in a parking ticket, hereinafter referred to in this chapter as the "second notice of violation," shall be provided to the registered owner of the vehicle as shown upon the records of the Secretary of State of Illinois or, in the case of a ticket issued to a vehicle subject to a written lease as described in Section 62-20-013, to the lessee of said vehicle.

B. A second notice of violation shall, at a minimum, include the following information:

1. The particular parking or standing ordinance violated;
2. The make and state registration number of the cited vehicle;
3. The location, date, time and nature of the alleged violation;
4. The fine;
5. A statement that the failure either to pay the indicated fine(s) and any applicable penalties, or to appear at a hearing on the merits in the time and manner specified, will result in a final determination of violation liability for the cited violation in the amount of the fine and penalties indicated;
6. A statement that, upon the occurrence of a final determination of violation liability for the failure, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village;
7. The date, time and place of the hearing at which the violation may be contested on its merits.

C. Service of notice:

Service of notice shall be accomplished by either delivering said notice in person to the registered owner of the cited vehicle as last recorded with the Secretary of State or, if issued pursuant to Section 62-20-013, to the lessee of the cited vehicle, or by first class mail, postage prepaid, to the address of the registered owner as last recorded with the Secretary of State or the last address known to the lessor of the cited vehicle at the time of the lease. If any notice is returned as undeliverable, notice

shall be sent to the last known address recorded in the United States Post Office approved database. Service shall be deemed complete as of the date it is deposited in the United States mail.

Sec. 62-20-008 - Hearing procedure.

- A. The respondent may appear pro se or, at his own expense by an attorney.
- B. The formal and technical rules of evidence shall not apply in the conduct of the hearing.
- C. All testimony shall be given under oath or affirmation, which shall be administered by the hearing officer. The hearing officer may issue subpoenas to secure the attendance and testimony of witnesses and the production of relevant documents; provided, however, that a respondent who appears by an attorney shall not be compelled to attend the hearing and may submit his testimony, if any, by affidavit. In addition, witnesses who have not been subpoenaed to attend the hearing may submit their testimony, if any, by affidavit.
- D. No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a parking or compliance violation notice, or a copy thereof, issued and signed in accordance with this Article shall be prima facie evidence of the correctness of the facts specified therein, or in the case of a computer generated record derived from the data stored by said computerized device, and the burden shall be on the alleged violator to overcome the prima facie evidence.
- E. The hearing officer may, on a showing of good cause, grant one continuance to a date certain.
- F. The Village Traffic Compliance Administrator(s) shall cause the hearing to be recorded.

Sec. 62-20-009. - Hearing—Determination of liability or of no liability—Petition to set aside.

- A. Upon conclusion of a hearing under this Article, the hearing officer shall issue a written finding of determination of no liability, or of liability and the amount of the fine, for the relevant violation as provided in the Hanover Park Municipal Code. The finding shall be a final order for the purpose of the Illinois Review Law.
- B. If a person fails to respond to the violation notice and opportunity for the administrative hearing and fails to appear, a determination of liability shall be entered against the respondent pursuant to this Article. Such determination shall become

final for purposes of judicial review under the Administrative Review Law of Illinois unless, within 14 days from the default order and issuance of a determination of liability pursuant to this paragraph B., the person against whom the determination was entered petitions the Administrator by submitting a written request to the Village Traffic Compliance Administrator(s) to set aside the determination, provided, however, the grounds for the petition shall be limited to:

- (1) The person not having been the owner or lessee of the cited vehicle on the date the parking violation notice was first issued;
- (2) The person having already paid the fine or penalty for the parking violation in question; or
- (3) Excusable failure to appear at or request a new date for a hearing. The Village Traffic Compliance Administrator(s) shall set a hearing date and provide written notice of that date to the Petitioner.

The Traffic Compliance Administrator(s) shall act upon the petition timely filed and render a decision thereon within 14 days of the file date. Upon the decision of the Traffic Compliance Administrator(s), if a petition was filed seeking his or her determination, the decision and that of the hearing officer shall be a final order for the purpose of the Illinois Review Law.

Sec. 62-20-0010. - Final determination.

- A. Final determination of violation liability shall occur following failure to pay the fine and/or penalty after a hearing officer's determination of violation liability, and the exhaustion of or failure to exhaust any administrative review procedures.

Sec. 62-20-011. - Notice of final determination.

- A. If any fine or penalty is owing and unpaid after a determination of liability under this Code has become final, and the respondent has exhausted or failed to exhaust judicial procedures for review, the Village Traffic Compliance Administrator(s) shall cause a Notice of Final Determination of liability to be sent to the respondent in accordance with this Section. Service of notice shall be in the same manner as provided for in Section 62-20-007 C.
- B. Any fine and penalty, if applicable, remaining unpaid after the notice of final determination of liability is sent shall constitute a debt due and owing the Village which may be enforced in any legal manner consistent with 625 ILCS 5/11-208.3 and Sections 62-17-108 to 62-17-109 of the Village of Hanover Park Municipal Code. Failure of the respondent to pay such fine or penalty may result as applicable: (1) the immobilization and/or towing of the person's vehicle for failure to pay fines or penalties for five or more parking or compliance violations; and (2) the suspension of

the person's driver's license for failure to pay fines or penalties for ten or more parking violations.

Sec. 62-20-012. - Nonresident procedures.

- A. Nonresidents of the village who have been served vehicular standing, parking, or compliance regulation violation notices may contest the alleged violation on its merits in person or may contest the validity without personally appearing at an administrative hearing by:
- (1) Completing, in full, the "nonresident request for hearing" form;
 - (2) Signing the non-resident request for hearing in the space specified in the violation notice, and acknowledging that their personal appearance is waived and that they submit to an adjudication based upon the statement filed by them and the facts contained in the violation notice; and
 - (3) Filing the "nonresident request for hearing" fully completed with the Traffic Compliance Administrator postmarked within 10 days of issuance of the violation notice. The request shall be deemed filed upon receipt by the Traffic Compliance Administrator.
- B. The hearing officer shall make an adjudication based upon a review of the facts set forth in the "nonresident request for hearing" filed by the non-resident as well as the factual allegations contained in the violation notice.
- (1) Notice of the hearing officer's determination shall be served upon the nonresident by first class mail, postage prepaid, addressed to the nonresident at the address set forth in the statement of facts submitted and service of the notice shall be complete on the date the notice is placed in the United States mail.
 - (2) All other provisions of this Section shall apply equally to residents and nonresidents.

Sec. 62-20-013. - Lessor of vehicle not liable for violations—When.

- A. In accordance with Section 11-1305 of the Illinois Vehicle Code, no person who is the lessor of a vehicle pursuant to a written lease agreement shall be liable for a violation of any standing or parking regulation of this Chapter involving such vehicle during the period of the lease if upon receipt of a notice of violation sent with 120 days of the violation, he shall, within 60 days thereafter, provide to the Village Traffic Compliance Administrator the name and address of the lessee.
- B. Upon receipt of a lessor's notification of the name and address of his lessee, provided pursuant to Sections 11-1305 or 11-1306 of the Illinois Vehicle Code, the

Village Traffic Compliance Administrator(s) shall cause a notice of violation to be sent to the lessee as provided for in this Article.

SECTION 4: That each section, paragraph, sentence, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance nor any part thereof, other than the part affected by such decision.

SECTION 5: That except as to the amendments heretofore mentioned, all chapters, sections, subsections, and paragraphs of the Municipal Code of Hanover Park shall remain in full force and effect.

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form in the manner required by law.

SECTION 7: That the Village Clerk be and is hereby directed to publish this ordinance in pamphlet form.

ADOPTED this day of , 2013 pursuant to a roll call vote as follows:

AYES:

NAYS:

ABSENT:

ABSTENTION:

APPROVED by me this day of , 2013

Rodney S. Craig
Village President

ATTESTED, filed in my office, and published in pamphlet form this day of , 2013

Eira Corral, Village Clerk

Parking Violation Fines

4.a.

Municipality	Maximum Fine	Municipality	Maximum Fine
ADDISON	\$250	PALOS HEIGHTS	\$250
ALSIP	\$250	PARK FOREST	\$250
AURORA	\$120	PEKIN	\$95
BEDFORD PARK	\$250	POSEN	\$250
BELLWOOD	\$250	RIGHTON PARK	\$250
BENSENVILLE	\$250	RIVERDALE	\$250
BLUE ISLAND	\$250	RIVERSIDE	\$250
BRIDGEVIEW	\$250	ROUND LAKE BEACH	\$125
BROADVIEW	\$250	SAUK VILLAGE	\$250
BURBANK	\$250	S. CHICAGO HEIGHTS	\$250
BURNHAM	\$250	SOUTH HOLLAND	\$250
CALUMET CITY	\$250	STEGER	\$250
CALUMET PARK	\$250	SUMMIT	\$250
CHICAGO HEIGHTS	\$150	TINLEY PARK	\$250
CHICAGO RIDGE	\$250	UNIVERSITY PARK	\$250
COUNTRY CLUB HILLS	\$250	VERNON HILLS	\$100
CRESTWOOD	\$250	WARRENVILLE	\$250
CRETE	\$250	WESTERN SPRINGS	\$250
DOLTON	\$250	WHEELING	\$125
EAST HAZEL CREST	\$250	WILLOW SPRINGS	\$250
FOREST PARK	\$150	WORTH	\$250
FLOSSMOOR	\$250	ZION	\$135
GLENWOOD	\$250		
HARVEY	\$250		
HARWOOD HEIGHTS	\$250		
HAZEL CREST	\$250		
HICKORY HILLS	\$250		
HILLSIDE	\$250		
HOMETOWN	\$250		
HOMEWOOD	\$150		
JUSTICE	\$250		
LANSING	\$250		
LEMONT	\$250		
LIBERTYVILLE	\$100		
LYNWOOD	\$250		
LYONS	\$120		
MATTESON	\$250		
MIDLOTHIAN	\$250		
MOKENA	\$250		
MOMENCE	\$250		
MUNDELEIN	\$55		
NEW LENOX	\$250		
NORTHLAKE	\$250		
OAK FOREST	\$250		
OLYMPIA FIELDS	\$250		
ORLAND HILLS	\$250		
ORLAND PARK	\$250		
PALOS HILLS	\$250		



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager

SUBJECT: Cost Recovery Ordinance

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: December 19, 2013 – Board Workshop

Executive Summary

Pass an Ordinance amending Chapter 2 and Chapter 78 providing for payment or restitution for the cost of Public Works and Police Officer personnel and their equipment.

Discussion

In 2004, the Village Board passed an Ordinance establishing a Cost Recovery Program for the Fire Department. This program allows the Village to recoup fees and costs associated with the Fire Department providing fire and rescue services, and receiving cost reimbursement for various acts as specified in the Ordinance.

Staff recommends that the Board consider passing a similar Ordinance providing for payment or restitution for the cost of Public Works and Police Officer personnel and their vehicles and equipment. The Ordinance sets a per hour fee per officer and/or Public Works employee who are requested or required to stand by or work for a non-Village sponsored event. The rates included in the Ordinance are calculated by averaging the wages of employees within each department (Public Works and Police) and rounding that figure up. The rate represents a middle-of-the-road amount, so based on whom we send to an event, the actual cost could be more or less than the hourly rate we charge. Also included in the Ordinance are the fees charged for vehicles and equipment.

Our current process is time-consuming and difficult to track. We bill the actual cost of the employee (which varies depending on whom is sent) and take into account their salary, IMRF earnings, benefit costs etc. Equipment costs are also added. This can cause inconsistencies when billing one event versus another, because the rate billed is determined on the employee sent. We would like to have a more consistent rate to charge so that the amount of each event can be anticipated in advance.

Examples of the types of events this would apply to include things such as parades, carnivals, fairs, circuses, festivals, races, etc.

Agreement Name: _____

Executed By: _____

Workshop Meeting 12/19/13

Recommended Action

Pass an Ordinance amending Chapter 2 and Chapter 78 providing for payment or restitution for the cost of Public Works and Police Officer personnel and their equipment.

Attachment: Ordinance

Budgeted Item:	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No	N/A
Budgeted Amount:	\$				
Actual Cost:	\$				
Account Number:					

ORDINANCE NO. O-13-

**AN ORDINANCE AMENDING CHAPTER 2 AND CHAPTER 78
PROVIDING FOR PAYMENT OR RESTITUTION FOR THE COST
OF PUBLIC WORKS AND POLICE OFFICER PERSONNEL AND THEIR
EQUIPMENT**

WHEREAS, the Village of Hanover Park is a home rule unit by virtue of the provisions of the 1970 Constitution of the State of Illinois and may exercise and perform any function pertaining to its government and affairs including adoption of this Ordinance; now, therefore,

BE IT ORDAINED by the President and Board of Trustees of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: That Chapter 2 of the Municipal Code of Hanover Park, as amended, be and is hereby amended by adding thereto a new Section 2-141 as follows:

* * * * *

Sec. 2-141. - Fees and/or restitution for use of public works employees and equipment.

When public works personnel are requested or required to stand by or work for a non-Village sponsored event, the person and/or entity responsible shall be required to pay or make restitution to the Village, pursuant to the following fees for the cost of such personnel and equipment:

\$60.00 per hour per employee

A minimum of two hours shall be charged. Subsequent hours or portions thereof will be billed in 15-minute increments.

Equipment – Department of Homeland Security, FEMA’s Schedule of Equipment Rates Per Hour or fraction thereof.

* * * * *

SECTION 2: That Chapter 78 of the Municipal Code of Hanover Park, as amended, be and is hereby amended by adding thereto a new Section 78-34 as follows:

* * * * *

Sec. 78-34. - Fees and/or restitution for use of police officers and their vehicles.

When a police officer or police officers are requested or required to stand by or work for a non-Village sponsored event, the person and/or entity responsible shall



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Rebekah Flakus, Finance Director

SUBJECT: Board Input for Fiscal Year 2014B Budget Development

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: December 19, 2013 – Board Workshop

Executive Summary

Receive input from the Board for the Fiscal Year 2014B Budget Development.

Discussion

As the Village of Hanover Park begins developing the Fiscal Year 2014B Budget, staff seeks elected official discussion about any topics relevant to the budget which covers the period from May 1, 2014 through December 31, 2014.

Attached is a list of proposed capital improvement projects that will be considered during the budget process. Also shown are the projects/items that the Finance Committee has proposed to be reduced or cut.

Recommended Action

Receive input from the Board for the Fiscal Year 2014B Budget Development.

Attachments: Capital Improvement Projects
Proposed Reductions/Cuts List

Budgeted Item:	_____ Yes	<u> X </u> No
Budgeted Amount:	\$	
Actual Cost:	\$	
Account Number:	# N/A	

Agreement Name: _____

Executed By: _____

Workshop Meeting 12/19/13

Department	Description	Original Amount	Finance Committee	Adjustment Explanation
			\$212,206.00	
PW Admin #0610	Lake Street Medians/Design	\$10,000.00	(\$10,000.00)	Deferred until future years
Forestry # 0630	Parkway Tree replacement	\$300,000.00	(\$150,000.00)	
Forestry # 0630	Holiday Decorations	\$20,000.00	(\$10,000.00)	adjusted amount is for 1/3 replacement for 2 years
Buildings #0640	Village Hall Generator	\$100,000.00	(\$10,000.00)	
Buildings #0640	Village Hall Roof (South)	\$100,000.00	(\$25,000.00)	
IT # 0470	Annual Computer Replacement	\$75,000.00	(\$7,000.00)	
Fire #0700	Repaint Station #1	\$10,000.00	(\$10,000.00)	Deferred until future years
Com. Development #092	Printing of Highlighter	\$13,890.00	(\$13,890.00)	electronic only
Com. Development #092	Postage of Highlighter	\$10,000.00	(\$10,000.00)	
		Total	(\$245,890.00)	



TO: Village President and Board of Trustees

FROM: Juliana Maller, Village Manager
Shubhra Govind, Community & Eco. Dev. Director

SUBJECT: Extension of Moratorium for Medical Marijuana related facilities (as related to "Compassionate Use of Medical Cannabis Pilot Program Act")

ACTION

REQUESTED: Approval Concurrence Discussion Information

MEETING DATE: December 19, 2013

EXECUTIVE SUMMARY:

The State's proposed "Compassionate Use of Medical Cannabis Pilot Program Act" will become effective January 1, 2014. The proposed continuation of the moratorium will give the Village an opportunity to take any changes in the administrative rules into consideration, along with any other zoning issues that may be identified as the Development Commission proceeds with its public hearing on the same.

DISCUSSION:

On February 7, 2013, the Board adopted Resolution R-13-04, which imposed a moratorium upon the location of a Distribution Center within the Village for a period of 180 days after the then Proposed Law became a Public Act (August 1, 2013). This was done to allow for the Development Commission to evaluate the classification of Distribution Facilities and recommend to the Village Board whether Distribution Facilities should be considered "special uses" under the Zoning Code, as well as such other regulations as may be necessary, important or beneficial to the Village and its residents. However, the law does not go into effect until January 1, 2014, and the state will have another 120 days from that date to determine rules and procedures for applications for Cultivation Centers. There could be another 60 days following that period for public comment, etc.

Per the Act, the medical marijuana that would ultimately be dispensed in Illinois would be required to be grown in an approved Illinois cultivation center. (Marijuana grown outside of Illinois will not be allowed to be transported and subsequently dispensed in Illinois.) Cultivation Centers cannot dispense the medical Cannabis and Dispensing Facilities can only purchase from state-certified cultivation centers. Based on the amount of time that it would take a cultivation center to begin operations and produce medical marijuana for the Illinois marketplace, it will be quite some time before any medical marijuana dispensary would have any product to dispense.

Agreement Name: _____

Executed By: _____

REV. 12/12/13 10:12 am

Workshop Meeting 12/19/13

The Illinois Department of Agriculture has advised on its website that it does not anticipate accepting applications for cultivation centers until the fall of 2014. This lag in the effective date and the time period when the Village may see applications for locations, gives us the opportunity to more fully evaluate issues and take any changes at the state level into account, as well as take guidance from other municipalities as they amend their zoning regulations.

Attached is the staff report and presentation provided to the Development Commission for the initiation of the Public Hearing that took place on November 14, 2013. Also attached is a report from the DuPage Medical Marijuana working group, (consisting of staff from several municipalities, and which we were a part of) that has been submitted to the DuPage Managers and Mayors Conference (DMMC).

The proposed moratorium will allow the Village to utilize the lag time between the effective date and when the state will likely adopt administrative procedures and accept applications. Once the Development Commission finalizes its zoning recommendations, they will be forwarded to the Board for final action, early part of next year.

RECOMMENDED ACTION:

Move approval of a proposed Resolution, extending the moratorium for a period of 180 days after the effective date of the Public Act, or upon the Village Board of Trustees adopting the recommendation from the Development Commission together with any amendments necessary to Village Ordinances, whichever is sooner. This moratorium shall apply to all properties within the Village of Hanover Park.

Attachments:

- Exhibit 1 Draft Resolution extending moratorium
- Exhibit 2 Draft report to DMMC from DuPage Med. Marijuana Working Group
- Exhibit 3 Staff report to Development Commission for 11/14/13 Public Hearing
- Exhibit 4 Staff PowerPoint presentation

Budgeted Item:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	N/A
Budgeted Amount:	N/A		
Actual Cost:	N/A		
Account Number:	N/A		

RESOLUTION NO. R-13-
A RESOLUTION REGARDING EXTENDING THE MORATORIUM
ON CANNABIS DISPENSARIES AND RELATED FACILITIES

WHEREAS, The Village of Hanover Park (the “Village”) is a home rule municipality established and existing in accordance with the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has a long tradition of utilizing its zoning and planning authority to ensure that compatible uses are maintained in its various neighborhoods; and

WHEREAS, the Illinois General Assembly passed PA 098-0122, the “Compassionate Use of Medical Cannabis Pilot Program Act”, (“Public Act”), which will be effective January 1, 2014, and which would authorize qualifying patients that have been diagnosed by a physician as having a debilitating medical condition, as defined by the Public Act, to use cannabis without being subject to arrest, prosecution, or denial of any right or privilege for the medical use of cannabis in accordance with the Public Act; and

WHEREAS, under the Public Act, one ‘Cultivation Center’, as defined by the Public Act, will be authorized to grow, harvest, and distribute cannabis per state police district; and 60 Dispensing Facilities will be permitted to operate within the state; and

WHEREAS, Chapter 110 of the Village’s Municipal Code (the “Zoning Ordinance”) does not plainly address uses that would encompass Distribution Facilities or related operations; and

WHEREAS, the Village is not immediately equipped to handle zoning requests from Distribution Facilities; and

WHEREAS, on February 7, 2013, the Village Board of Trustees adopted Resolution R-13-04 directing the Development Commission of The Village of Hanover Park (the “Development Commission”) to evaluate the classification of Distribution Facilities and recommend to the Village Board whether Distribution Facilities should be considered "Special Uses" under the Zoning Code as well as such other regulations as may be necessary, important, or beneficial to the Village and its residents; and to hold a public hearing within 120 days after the then Proposed Law became a Public Act; and

WHEREAS, Resolution No. R-13-04 also imposed a moratorium upon the location of a Distribution Center within the Village for a period of 180 days after the then Proposed Law became a Public Act; and

WHEREAS, the Public Act was passed on August 1, 2013, but will become effective January 1, 2014; and

WHEREAS, the Development Commission initiated a public hearing on November 14, 2013, as directed by the Village Board, and continues to review the issue and invite public input; and

WHEREAS, various state agencies and departments are currently developing rules for implementation of the Public Act to submit to the Joint Commission on Administrative Rules within 120 days of the effective date of the Public Act, followed by a public comment period; and

WHEREAS, the Illinois Department of Agriculture (IDOA), charged with licensing and regulating the Cultivation Centers does not anticipate accepting applications for Cultivation Centers until Fall of 2014; and

WHEREAS, the Village of Hanover Park Board of Trustees find that an extension of the moratorium is necessary to effectively incorporate any new information from the IDOA and other regulating agencies; now, therefore,

BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Hanover Park, Cook and DuPage Counties, Illinois, as follows:

SECTION 1: The foregoing recitals are incorporated in, and made a part of, this Resolution by this reference as findings of the Board of Trustees of the Village of Hanover Park.

SECTION 2: That a moratorium is imposed hereby upon the location of a Cultivation Center and Dispensing Facility within the Village for a period of 180 days after the effective date of the Public Act, or upon the Village Board of Trustees adopting the recommendation from the Development Commission together with any amendments necessary to the Village’s Zoning Ordinances, whichever is sooner. This moratorium shall apply to all properties within the Village of Hanover Park.

SECTION 3: This Resolution shall be in full force and effect upon its passage and approval as provided by law.

ADOPTED this ____ day of _____, 2013, pursuant to a roll call vote as follows:

AYES:

NAYS:

ABSENT:

ABSTENTION:

Approved: _____

Rodney S. Craig
Village President

Attest: _____

Eira Corral, Village Clerk



**Village of Hanover Park
Community Development Department**

INTEROFFICE MEMORANDUM

TO: Chairman Wachsmuth and members of the Development Commission

FROM: Shubhra Govind, Director of Community and Economic Development

SUBJECT: **Public Hearing Re: Zoning Regulations pertaining to Distribution Facilities for Medical Marijuana (pursuant to Public Act 098-0122 Compassionate Use of Medical Cannabis Pilot Program Act)**

ACTION REQUESTED: Approval Disapproval Information

MEETING DATE: **November 14, 2013**

REQUEST SUMMARY:

On February 7, 2013, the Village Board approved Resolution No. R-13-04 which requires the Development Commission to hold a public hearing on the question of whether: 1) the Zoning Ordinance should be amended to include Distribution Facilities as a Special Use; 2) the Zoning or District Map should be changed; or 3) zoning text amendments are necessary; and the Development Commission should make a recommendation to the Village Board regarding the same with any other conditions that should be attached to the zoning of the Distribution Facilities.

Such Public Hearing was to be held within 120 days of the proposed law becoming a Public Act. This Public Act was passed on August 1, 2013. A summary overview of this law is attached. The full text of the Public Act can be found at <http://www.ilga.gov/legislation/publicacts/98/098-0122.htm>

Staff requests that the Development Commission hold a public hearing to discuss the above mentioned topic of Distribution Facilities, and make a recommendation to the Village Board following review of information, discussion and any feedback received from the public.

BACKGROUND:

Here is a brief overview for background:

- The Public Act 098-0122 is called the "Compassionate Use of Medical Cannabis Pilot Program Act". The law creates a four-year pilot medical marijuana program that will go into effect on January 1, 2014. It was created with a "sunset" provision so that if the legislature does not renew the program or create a new law the program will cease to operate four years from the date it went into effect.

- It legalizes the use of medical marijuana (also referred to as ‘Compassionate Cannabis’) in Illinois, permitting its distribution to qualifying patients with a prescribed debilitating medical condition.
- The Act allows for no more than one cultivation center in each state police district for a total of 22 possible centers. It allows for as many as 60 dispensing facilities to be located anywhere within the state.
- This Act allows for individuals with thirty-three serious diseases including cancer, HIV and multiple sclerosis to obtain an ID card allowing them to buy limited amounts. Individuals, with a special ID card issued by the Illinois Department of Public Health, are allowed to obtain up to 2.5 ounces during a 14 day period, of medical marijuana from a state-licensed dispensary.
- While the Village does not have the authority to wholly prohibit medical marijuana dispensing facilities, we are granted the authority to enact ‘reasonable zoning regulations’ in addition to the standards prescribed by the state. The statutory standards call for required buffering from certain uses and zones:
 - ✓ **Cultivation centers may not be located within 2,500 feet of “the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use.”** Patients cannot grow their own medical cannabis. Only state-regulated cultivation centers would be allowed to grow cannabis.
 - ✓ **Dispensaries may not be located within 1000 feet of “the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility.” A dispensary also may not be located in any area zoned for residential use.**

The Village adopted Resolution R-13-04 (attached), which established a moratorium on such facilities within the Village, for a period of 180 days, and required the Development Commission to hold a public hearing within 120 days, after the law became a Public Act.

DISCUSSION:

Staff has prepared some analysis using the above mentioned location restrictions. We first created a database of all existing schools and daycares within Hanover Park. Next, we prepared a map showing the location of all residential zones/districts, along with the location of all existing schools and existing daycares. We applied a buffer of 1000-ft radius around each location, to determine the locations that dispensaries will be prohibited from locating, and a buffer of 2500-ft for areas where Cultivation centers will be prohibited, using the state’s standards.

From this analysis, it can be determined that:

- ✓ The locations available for a Cultivation Center are limited to:
 - Some areas in the HC – High Cube Industrial District,
 - Some areas in the BP Business Park district – including 1) the Turnberry Business Park, 2) the area just west of County Farm in the vicinity of the Village Center area, 3) the area along Lake St. at the west end of our corporate limits; and 4) the Hanover Corporate Center, just south of Schick Rd.

- Some areas in the L-I Limited Industrial District – including the northwestern portion of the Mallard Lakes Industrial Park, and the Lions Park area
 - B-1 – Convenience Shopping district at the western boundary of the Village, just south of Schick Rd. Many of these areas, including this one are public parks, libraries, or Village utility properties (including this one).
- ✓ The locations available for a Dispensing Facility are:
- The HC – High Cube Industrial District,
 - The BP Business Park district – including the Turnberry Business Park, the undeveloped area west of County Farm in the vicinity of the Village Center area, and the Hanover Corporate Center, south of Schick Rd.
 - The L-I Limited Industrial District –including the Mallard Lakes Industrial Park
 - B-1 – Convenience Shopping district at the western boundary of the Village, just south of Schick Rd.
 - B-2 Local Business District - along Irving Park Rd.
 - B-2 Local Business District - along Devon Ave.

Several municipalities within DuPage County have formed a working group/Committee to discuss and address this issue. The committee is tasked to provide information on medical marijuana to the membership of the DuPage Mayors and Managers Conference, determine what actions communities may or may not be taking to address cultivation and dispensary facilities, and provide a recommendation by December 11 to the Conference’s Managers Committee. The next meeting for this committee is on Nov. 12. Staff shall incorporate any feedback from this meeting into our review discussions.

ZONING CODE TEXT AMENDMENTS:

Following discussion at the Nov. 14. Public Hearing, staff will provide additional information as needed and determine the changes that will be necessary. This information will be brought back to the Development Commission at a future meeting (date of the continued public hearing). Since this is an emerging land use the current Zoning Ordinance does not have a definition for a medical cannabis dispensing organization.

The following definitions could be considered to be added to Section 110-2.3 Definitions:

“Cannabis Cultivation Center – a facility operated by an organization or business that is registered by the Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis grown and cultivated to be packaged and distributed to registered medical cannabis dispensing organizations with usable medical cannabis in accordance with the laws of the State of Illinois. In addition a cultivation center must be located at least 2500 feet from any daycare center, school or area zoned for residential use.”

“Medical Cannabis Dispensing Centers – a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients in accordance with the laws of the State of Illinois. In addition a dispensary cannot be located within 1000 feet of a school or daycare center or located in a residential neighborhood.”

There are other text amendments that will be determined following the Development Commission's discussion on Nov. 14. Staff shall draft these and bring them back to a future meeting for consideration, as part of the public hearing process.

ISSUES TO BE CONSIDERED:

It appears that while a large portion of the Village is covered under the 2500-ft buffer for the Cultivation center, there are several areas, which are not covered for the dispensing facilities within the 1000-ft radius of schools and daycares. These areas are close to residential uses and in the close proximity of parks, churches, and other public gathering places, which is not desirable.

At this time, the following issues need to be considered, as zoning regulations are developed for Cultivation Centers as well as Dispensing Facilities:

- ✓ What zoning districts should these uses be allowed in?
- ✓ Should specific Special Use criteria be developed to evaluate potential locations?
- ✓ Should these be stand-alone buildings or is it acceptable for these uses to be located in a multi-tenant building?
- ✓ Is there any additional information that the Commission would like to see prior to making a recommendation?

RECOMMENDATION

Staff recommends that the Development Commission discuss the issues, including those identified above, provide feedback to staff, and **continue the public hearing**.

ATTACHMENTS

Exhibit 1 – Public Act Summary

Exhibit 2 – Resolution R-13-04

Exhibit 3 – Map showing areas prohibited from having cultivation/dispensing facilities

MEDICAL MARIJUANA DISTRIBUTION FACILITIES

PUBLIC HEARING – NOV. 14, 2013

PUBLIC ACT 098-0122

- On Aug. 1, 2013, Governor signed HB 1, creating the Medical Marijuana Pilot Program.
- Called “**Compassionate Use of Medical Cannabis Pilot Program Act**”, it creates the legal framework for a statewide allowance of medical cannabis.
- The law goes into effect on January 1, 2014.
- This is a “pilot program” with a sunset provision of 4 years from the date it goes into effect, if program is not renewed.

PUBLIC ACT 098-0122

- State will have 4 months from the effective date to implement rules for the program.
- The law sets parameters for prescription, cultivation, distribution, and usage of medicinal cannabis
- While municipalities cannot wholly prohibit the use, they can adopt 'reasonable zoning regulations'
- There are 33 medical conditions specified to be eligible - Patient will need state issued ID.

CULTIVATION CENTERS & DISPENSARIES

- Patients cannot grow their own medical marijuana. Only state-regulated cultivation centers are authorized.
- Patients can obtain med. Marijuana only from a specific state-regulated dispensary.
- Cultivation centers cannot dispense.
- No consumption allowed on premise of cultivation center or dispensaries

LOCATION RESTRICTIONS

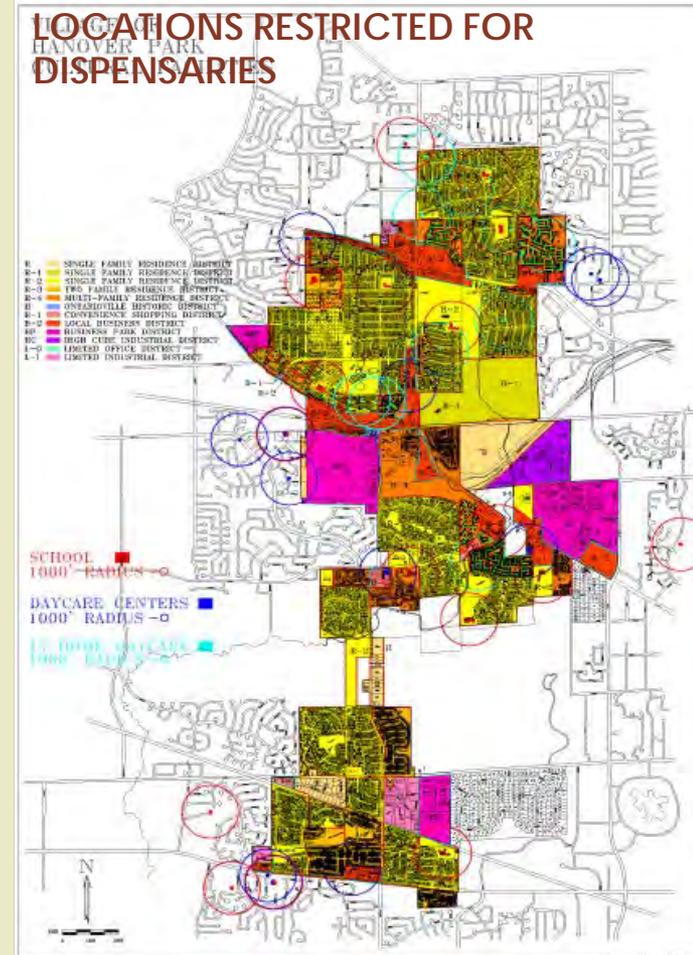
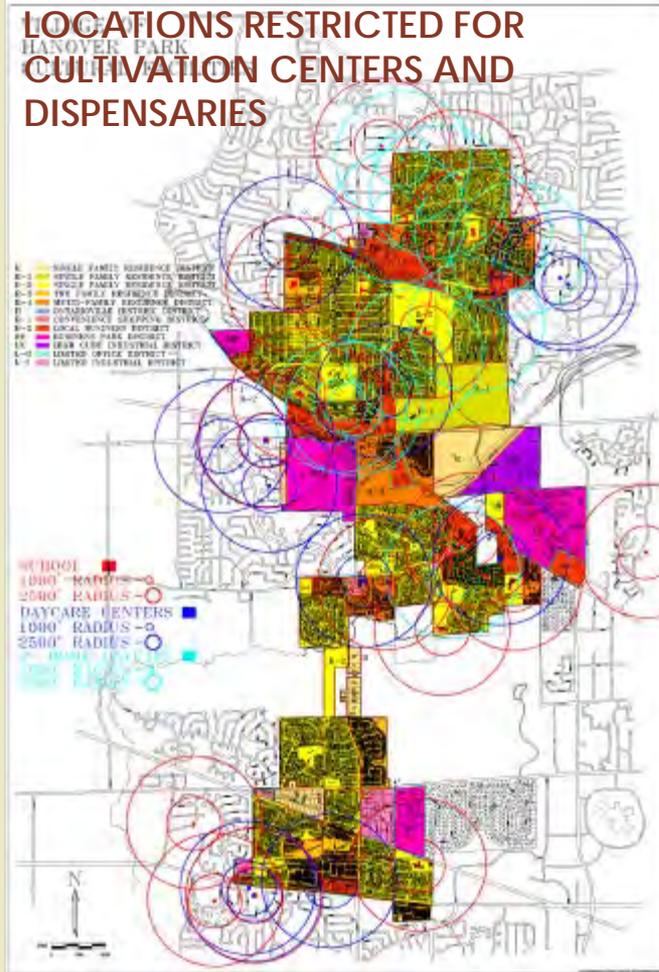
CULTIVATION CENTERS

- One cultivation center allowed per state police district.
- Total of 22 in the state
- Cultivation Centers cannot locate within 2,500 feet of schools or day-cares or an area zoned for residential use

DISPENSARIES

- Total of 60 dispensaries in the state
- Dispensaries cannot locate within 1,000 feet of schools or day-cares or an area zoned for residential use

LOCATIONS RESTRICTED IN HANOVER PARK



LOCATIONS RESTRICTED IN HANOVER PARK

Cultivation Centers:

- Certain areas in the HC, BP, L-I and B-1 districts remain unrestricted, using state's criteria

Dispensing Facilities:

- Certain areas in the HC, BP, L-I, B-1 and B-2 districts remain unrestricted, using state's criteria

ISSUES FOR DISCUSSION

- **What zoning districts should this use be allowed in?**
- **Is it acceptable to have this use along highly travelled/visible corridors or away from residential zones?**
- **Should this be a permitted, special or conditional use?**
- **Should this be a principal use in a structure? Should other uses be allowed in the same location?**
- **Retail sales of drug paraphernalia are currently not permitted in our code**

OTHER MUNICIPAL EXAMPLES

- **Lombard**: Considering permitting as Conditional use in Office District (similar to other medical uses)
- **Bartlett**: Special use in Light Industry and Eco. Dev. Overlay Districts
- **Naperville**: Under review for cultivation centers as conditional uses in some Research, Office and Industrial districts and dispensaries as permitted uses within some Business, Research, Office and Industrial Districts.
- DuPage Medical Marijuana working group will be submitting a report to the DuPage Managers and Mayors' Conference by Dec. 11, 2013



Founded June 19, 1962

DUPAGE MAYORS AND MANAGERS CONFERENCE

an association of municipalities representing 1,000,000 people

1220 Oak Brook Road
Oak Brook, Illinois 60523
(630) 571-0480
Fax: (630) 571-0484
www.dmmc-cog.org

MEMBER MUNICIPALITIES

Addison
Aurora
Bartlett
Bensenville
Bloomington
Bolingbrook
Burr Ridge
Carol Stream
Clarendon Hills
Downers Grove
Elmhurst
Glen Ellyn
Glendale Heights
Hanover Park
Hinsdale
Itasca
Lisle
Lombard
Naperville
Oak Brook
Oakbrook Terrace
Roselle
St. Charles
Villa Park
Warrenville
Wayne
West Chicago
Westmont
Wheaton
Willowbrook
Winfield
Wood Dale
Woodridge

December 5, 2013

To: DMMC Managers Committee
From: Joe Breinig, Medical Marijuana Working Group
Re: Medical Marijuana Municipal Report

Attached is the Working Group's draft of the report: *Medical Marijuana – What You Need to Know*.

Also attached are the compiled survey responses submitted by DMMC members on this issue. Members are encouraged to submit their responses if they have not already done so, and to update their information with any changes.

The report is similar in format to the *Concealed Carry – What You Need to Know* report which this Committee recently issued. However, there are several differences between these issues that are worth noting:

- Most municipalities already have ordinances and policies in place which relate to use, possession, distribution and/or manufacturing of marijuana. As a result, there is a need not only to institute new laws and policies but also to review and amend existing ones.
- Illinois is an early adopter of state medical marijuana legislation, but was one of the last to implement a concealed carry statute. As a result, there is much less historic guidance from other jurisdictions available for this issue.
- In addition, state statutes relating to medical marijuana and more multifaceted and varied than those relating to concealed carry, so that court rulings from other states, of which there are very few, are of quite limited application in Illinois.
- Finally, unlike the Department of State Police draft rules which are available to guide implementation of concealed carry, the three state departments (Agriculture, Public Health, and Financial and Professional Regulation) which are directed to establish rules for various aspects of the medical marijuana have thus far given no indication of what these rules may contain or when they may be available for review.

The net result of these distinctions is that the medical marijuana issue will certainly evolve in substantive ways in the coming months. This report should be read in that light.

Finally, I wish to thank the members of the Working Group whose dedicated efforts in a very short period of time made this report possible: Don Bastian, Carol Stream; Katie Bowman, Hanover Park; Kristen Foley, Naperville; Shubhra Govind, Hanover Park; Bob Mellor, Carol Stream; Caryl Rebholz, Carol Stream; Al Stonitsch, Glen Ellyn; and Mark Baloga, DMMC.

Medical Marijuana Issues

Municipality	Name	Title	Phone No.	Municipality	Has your municipality approved any zoning changes to address Medical Marijuana cultivation centers or dispensing organizations?		If your municipality has not yet approved any zoning changes, are such changes being considered?		Comment	
					No	Yes	No	Yes		
1	Addison	Joseph Block	Village Manager	6306937503	Addison		1		1	
2	Elmhurst	Nathaniel Werner	Planning and Zoning Administrator	630-530-6019	Elmhurst	1			1	
4	Wheaton	Donald Rose	City Manager	630 260-2011	Wheaton	1			1	
6	Roselle	Patrick Watkins	Community Development Director	(630) 671-2820	Roselle	1			1	Public hearing occurs on November 19 before the Planning and Zoning Commission
7	Villa Park	Rich Keehner	Village Manager	630.592.6052	Villa Park	1			1	Already made changes
8	Woodridge	Michael Mays	Community Development Director	630-719-4766	Woodridge		1		1	already approved
9	Itasca	Evan Teich	Village Administrator	630-773-5568	Itasca	1			1	Yes, the Itasca Plan Commission is holding a public hearing on the subject on Nov. 20
10	Hinsdale	Kathleen Gargano	Village manager	630-789-7013	Hinsdale	1			1	Hinsdale is reviewing this matter and once the applicability to the Village is determined may take the additional steps identified below. At this point it is premature to respond to this level of detail.

Medical Marijuana Issues

Municipality	Name	Title	Phone No.	Municipality	Has your municipality approved any zoning changes to address Medical Marijuana cultivation centers or dispensing organizations?		If your municipality has not yet approved any zoning changes, are such changes being considered?		Comment
					No	Yes	No	Yes	
11	Willowbrook	Tim Halik	Village Administrator	6309202261	Willowbrook	1		1	
12	West Chicago	Michael Guttman	City Administrator	630-293-2200	West Chicago	1		1	
14	Bloomingtondale	Marty Bourke	VA	630-671-5611	Bloomingtondale	1		1	Still trying to figure out the ramifications of new law.
15	lisle	Gerald Sprecher	Village Manager	630-271-4116	lisle	1		1	
16	St. Charles	Kathy Livernois	Director of HR	6303774470	St. Charles	1		1	
17	Wayne	Patricia Engstrom	clerk	630-584-3090	Wayne	1		1	
18	Naperville	Douglas Krieger	City Manager	630-420-6040	Naperville	1		1	
19	Carol Stream	Joseph Breinig	Village Manager	(630) 871-6250	Carol Stream	1		1	Staff is evaluating options for both cultivation centers and dispensaries. We have mapped the statutory setbacks for both and will utilize that information in or decision making. The lead time for the state to generate its rules seems to take some of the pressure to act immediately.
20	Hanover Park	Shubhra Govind	Community and Economic Development Director	630-823-5781	Hanover Park	1		1	We have a public hearing scheduled in November to begin looking at potential zoning regulations.

Medical Marijuana Issues

Municipality	In which zoning district(s) does your new or proposed ordinance allow Medical Marijuana cultivation centers?	Briefly describe the zoning district(s) listed in your answer to the prior question.	In which district(s) does your new or proposed ordinance allow Medical Marijuana dispensing organizations?	Briefly describe the zoning district(s) listed in your answer to the prior question.	Does your new or proposed ordinance designate Medical Marijuana cultivation center as:			Comment
					Permitted Use	Special Use	Other Use (please describe)	
1	Addison	M2 General Manufacturing District	M2 General Manufacturing District		1			
2	Elmhurst							
4	Wheaton	None	No area in Wheaton would qualify under State law.	Manufacturing			1	
6	Roselle	Limited Industrial(M)and Light Industrial(all ORI)	Limited industrial is our manufacturing districts in the Village. It allows outside storage. The Light Industrial (all ORI) applies to our districts that are primarily big box office/warehouse facilities with no outside storage. Deliberation may narrow it down to only being allowed in a Limited Manufacturing District (M).	Limited Industrial(M)and Light Industrial(all ORI)	Limited industrial is our manufacturing districts in the Village. It allows outside storage. The Light Industrial (all ORI) applies to our districts that are primarily big box office/warehouse facilities with no outside storage.		1	Deliberation could change this to a Permitted Use.
7	Villa Park	M-1	Industrial zone	M-1 Industrial Zone				
8	Woodridge	none	none	RBC - Regional Business Center	Office/warehouse/industrial		1	N/A
9	Itasca	M - Manufacturing District	M - Manufacturing District allows for various manufacturing and warehouse uses. Also only district in which adult uses are allowed.	M - Manufacturing District	M - Manufacturing District allows for various manufacturing uses. Also only district in which adult uses area allowed.		1	Village Board wants to formally review each proposal for special requirements, such as security.
10	Hinsdale							

Medical Marijuana Issues

Municipality	In which zoning district(s) does your new or proposed ordinance allow Medical Marijuana cultivation centers?	Briefly describe the zoning district(s) listed in your answer to the prior question.	In which district(s) does your new or proposed ordinance allow Medical Marijuana dispensing organizations?	Briefly describe the zoning district(s) listed in your answer to the prior question.	Does your new or proposed ordinance designate Medical Marijuana cultivation center as:			Comment
					Permitted Use	Special Use	Other Use (please describe)	
11 Willowbrook	none, based on state requirements.	Given the required 2,500 foot setback from schools, daycare or residential uses, a cultivation center could not be located in Willowbrook.	M-1	Light Manufacturing		1		
12 West Chicago								
14 Bloomingdale								
15 lisle								
16 St. Charles								
17 Wayne	presumably District B	Business	B	Business - Local Shopping				Not sure
18 Naperville	Industrial	Industrial - mostly light commercial, also have stuck a microbrewery into this zoning classification,	Industrial	We don't have "medical" in Naperville, want to keep it away from "Main Street"	1			State ordinance basically ensures Naperville will not get one based on prohibited radii.
19 Carol Stream	Undetermined.		Undetermined.					Undetermined.
20 Hanover Park								

Medical Marijuana Issues

Municipality	Does your new or proposed ordinance designate Medical Marijuana disbursement organizations as:				Briefly describe the rationale behind the selections made by your municipality as described in the prior Questions.	Does your new or proposed ordinance:			Does your new or proposed ordinance include restrictions on non-Medical Marijuana retail sales at Medical Marijuana dispensing organizations?
	Permitted Use	Special Use	Other (please specify)	Comment		refer expressly to Medical Marijuana cultivation or dispensing as a use, OR	include Medical Marijuana cultivation or dispensing within a more general use.	Comment	
1	Addison	1			We use the M2 classification to zone potentially problematical uses in order to keep them out of commercial centers. These include such uses as title loans, tattoo shops, pawn shops, payday loans, day labor, and adult uses.	1			No, only what was permitted by statute
2	Elmhurst								
4	Wheaton		1	Havent decided		1			
6	Roselle	1		Deliberation could change it to a Special Use	It was based upon available land inventory, areas than minimize the impact of what would be perceived as a less than desirable use. We also considered locations of schools and churches and the necessity to provide some legitimate areas for these two uses.	1		We called it out as a separate use.	It does not.
7	Villa Park		1	Conditional Use	Village wants to control locations				No - Conditional Use
8	Woodridge	1			Best zoning district that complies with state regs regarding use.	1			no
9	Itasca		1	Village Board wants to formally review each proposal for special requirements, such as security.	Until more communities in Illinois have experience with medical marijuana facilities, Itasca wishes to treat them like we do adult uses.	1			No.
10	Hinsdale								

Medical Marijuana Issues

Municipality	Does your new or proposed ordinance designate Medical Marijuana disbursement organizations as:			Briefly describe the rationale behind the selections made by your municipality as described in the prior Questions.	Does your new or proposed ordinance:		Does your new or proposed ordinance include restrictions on non-Medical Marijuana retail sales at Medical Marijuana dispensing organizations?
	Permitted Use	Special Use	Other (please specify)		Comment	refer expressly to Medical Marijuana cultivation or dispensing as a use, OR	
11 Willowbrook		1		Although our Plan Commission, during initial discussions, seems to support regulating dispensaries similar to a pharmacy type use (i.e., to be located within retail districts), the Village Board does not want such uses located within shopping centers, etc. within the community. Their concern is that signage and other advertising associated with dispensaries would change the image of the Village.	1		No.
12 West Chicago							
14 Bloomingdale							
15 lisle							
16 St. Charles							
17 Wayne				Not sure			
18 Naperville	1			Council is split on this one, but looks like there are legs to put it through as a permitted use in Industrial.	Not much concern about cultivation centers based on state ordinance prohibitions for schools. On the "disbursement organization" front, we have a couple of councilman who are supportive of the medical value of the drug and would like to have it be marketed with other holistic medicines.	1	not sure, headed to Plan Commission first
19 Carol Stream				Undetermined.			Undetermined. Undetermined, but likely something of concern. In addition, having dealt previously with bath salts being sold from behind the counter/backroom we may address storage/inventory areas.
20 Hanover Park							

Medical Marijuana Issues

Municipality	Has your municipality amended, or is your municipality considering amending, personnel rules or policies to address employees who qualify to purchase and use Medical Marijuana?		Has your municipality considered any employee training or notifications as a result of the Compassionate Use of Medical Cannabis Pilot Program Act?		If Yes, describe briefly:
	No	Yes	No	Yes	
1 Addison	1			1	Our HR Director has advised staff as to how to handle situations with employees who may have access to medical marijuana.
2 Elmhurst	1		1		
4 Wheaton	1		1		
6 Roselle	1		1		
7 Villa Park	1		1		
8 Woodridge	1		1		
9 Itasca		1		1	Being developed now.
10 Hinsdale		1			

Medical Marijuana Issues

Municipality	Has your municipality amended, or is your municipality considering amending, personnel rules or policies to address employees who qualify to purchase and use Medical Marijuana?		Has your municipality considered any employee training or notifications as a result of the Compassionate Use of Medical Cannabis Pilot Program Act?		If Yes, describe briefly:
	No	Yes	No	Yes	
11 Willowbrook	1			1	We sent several employees to a recent police training session.
12 West Chicago		1		1	We are in the initial stages of consideration.
14 Bloomingdale		1	1		
15 lisle	1		1		
16 St. Charles		1		1	We discussed it and chose not to conduct employee training but instead to conduct supervisory training on the new policy and issues that may surround it.
17 Wayne	1		1		
18 Naperville		1		1	Haven't written the regs yet, but will need to make changes.
19 Carol Stream		1		1	Nothing formal yet but under contemplation.
20 Hanover Park	1		1		

Medical Marijuana Issues

Municipality	Has your municipality amended the municipal code to decriminalize marijuana possession and/or use, particularly as it relates to individuals possessing a valid Medical Marijuana card?			Has your municipality amended the municipal code regarding the sale or possession of drug paraphernalia particularly as it relates to the use of Medical Marijuana?			Has your municipality made any changes to code or policy regarding prosecution of cannabis possession or use, particularly as it relates to individuals possessing a valid Medical Marijuana card?			Please list any additional issues or impacts, you or your municipality have identified related to Medical Marijuana cultivation centers or dispensing organizations:
	No	Yes	Comment	No	Yes	Comment	No	Yes	Comment	
1 Addison	1			1			1			
2 Elmhurst	1			1			1			
4 Wheaton	1			1			1			
6 Roselle	1			1			1			
7 Villa Park		1			1		1			
8 Woodridge	1			1			1			
9 Itasca	1			1			1			Under zoning ordinance - we are also addressing parking requirements by specifically listing parking requirements for medical marijuana dispensaries and medical marijuana cultivation centers, so it is not open to interpretation.
10 Hinsdale										

Medical Marijuana Issues

Municipality	Has your municipality amended the municipal code to decriminalize marijuana possession and/or use, particularly as it relates to individuals possessing a valid Medical Marijuana card?			Has your municipality amended the municipal code regarding the sale or possession of drug paraphernalia particularly as it relates to the use of Medical Marijuana?			Has your municipality made any changes to code or policy regarding prosecution of cannabis possession or use, particularly as it relates to individuals possessing a valid Medical Marijuana card?			Please list any additional issues or impacts, you or your municipality have identified related to Medical Marijuana cultivation centers or dispensing organizations:
	No	Yes	Comment	No	Yes	Comment	No	Yes	Comment	
11 Willowbrook	1			1			1			
12 West Chicago	1		We are in the process of reviewing the ordinances and are working on amendments.	1			1		We are in the process of reviewing the ordinances and are working on amendments.	
14 Bloomingdale	1			1			1			Can you send me a list of these questions? I don't need the answers of the surveyed right now, I can wait for those. The questions are very interesting and can provide us with a framework for additional staff discussions.
15 lisle	1			1			1			
16 St. Charles	1			1			1			
17 Wayne	1			1			1			
18 Naperville	1		not yet	1		not yet	1		not yet	
19 Carol Stream	1			1			1			
20 Hanover Park	1			1			1			



DuPage Mayors and Managers Conference
Medical Marijuana and Local Government: What You Need to Know
Effective Date: December 6, 2013

Disclaimer: Information provided in the following material is meant only to give general guidance. The information is not meant to replace statutory language and should not be considered legal advice.

Medical Marijuana Background

Effective January 1, 2014, the Compassionate Use of Medical Cannabis Pilot Program Act (Public Act 98-0122, the Act) will provide for the lawful use of marijuana by qualifying state residents and establish a process for the licensing and operation of cultivation centers (where marijuana will be grown) and dispensaries (where marijuana will be sold) throughout the state.

Under the Act, twenty-two cultivation centers are allowed (not more than one in each State Police district). Sixty dispensing organizations are permitted throughout the state and are not limited in number in each State Police district.

Four state agencies have responsibility for implementing the Act. The Illinois Department of Agriculture (IDOA) is charged with licensing and regulating the twenty-two cultivation centers allowed under the Act. The Illinois Department of Financial & Professional Regulation (IDPFR) is charged with licensing and regulating dispensing organizations. The Illinois Department of Public Health (IDPH) is charged with creating one system for issuing registry identification cards to Qualifying Patients and another system for physicians (who act as the gatekeepers for access to medical marijuana) for recommending patients for inclusion in the registry.

Each state agency is currently developing the administrative rules needed to implement its section of the Act. These administrative rules are to be filed with the Joint Commission on Administrative Rules (JCAR) within 120 days of the effective date of the Act. The review and approval process followed by JCAR is defined by state law. The process can take three to four months. During that period, an opportunity will be provided for public comment on the proposed rules. IDOA has advised on its website that it does not anticipate accepting applications for cultivation centers until the fall of 2014. IDPFR and IDPH will be similarly

unable to act until their respective rules are finalized. Communities are encouraged to track the development of the proposed rules and comment as they feel appropriate.

1. Qualifying Patient Information

Qualifying Patients may obtain up to 2.5 ounces of medical marijuana in a 14 day period from an authorized dispensary. IDPH may grant a waiver allowing the possession of more than 2.5 ounces in a 14 day period. Marijuana used in marijuana infused products is counted toward the limit on the total amount of marijuana a Qualifying Patient may possess at one time.

To become a Qualifying Patient, an individual must be diagnosed by a physician as having a debilitating medical condition. Debilitating medical conditions are defined in the Act. An individual may petition IDPH for the addition of new debilitating conditions or treatments. IDPH will develop a process for considering these petitions. It should be noted that legislation has already been introduced to modify the list of debilitating medical conditions articulated in the Act. Under the Act, a physician is limited to a doctor of medicine or osteopathy with a current controlled substances license. No other licensed profession, including dentists, may recommend a patient for medical marijuana.

Only Illinois residents meeting the program requirements can participate in the program. There is no reciprocity with programs in other states.

IDPH will issue registry cards to Qualifying Patients and maintain a registry of Qualifying Patients. The infrastructure to implement this part of the Act is under development with the administrative rules. The registry will be accessible to each police department in the state through the LEADs database. In addition, IDPH is to notify the Secretary of State of card holder status for inclusion into the driving records of Qualifying Patients.

2. Land Use and Zoning Regulations

What You Need to Know

- "Cultivation center" is a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. Cultivation centers may not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility, or an area zoned for residential use.
- "Dispensary" is a facility operated by an organization or business that is registered by the IDFPR to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. Dispensaries may not be located within 1,000 feet of the property line of a pre-existing public or private preschool or

elementary or secondary school or day care center, day care home, group day care home or part day child care facility and may not be located in any area zoned for residential use.

- Communities may enact reasonable zoning ordinances or resolutions that do not conflict with the Act or its regulations; however, their home rule authority is pre-empted. Cultivation centers and dispensaries must demonstrate compliance with local zoning prior to authorization by the respective state agencies.
- An outright ban on either cultivation centers or dispensaries is not likely to survive a legal challenge.

What You Should Do

- Identify and map the schools, day care facilities, child care facilities, and residential land uses in your municipality to determine where cultivation centers and dispensaries may be sited.
- Contact the Illinois Department of Children and Family Services for information on licensed day care facilities in your municipality.
- Familiarize yourself with schools, day care facilities, child care facilities, and residential land uses in adjoining communities and map the statutory setbacks for those facilities and uses.
- Determine whether the cultivation center or dispensary uses should be identified as permitted, special, or conditional uses under their zoning ordinance. Designation as a permitted use will likely result in one text amendment and no opportunity for future public comment, whereas a special or conditional use will require petitions or applications to be handled on a case-by-case basis and allow for continued public comment.
- Consider defining these specific uses in the zoning ordinance versus drawing analogies or comparisons to other uses such as drug stores.
- In assessing petitions from a cultivation center or dispensary to locate within an allowable zoning district, consider the impact of other activities on the premises. Paraphernalia, for example, may be sold in an establishment as a means for the delivery of the medical marijuana to the patient. Reasonable restrictions on floor area for other activities such as retail sales or prohibitions on sales from stock rooms might also need evaluation and consideration.
- Tracking development of the state's administrative rules being developed for cultivation centers and dispensaries will help inform municipalities on the timeframe within which municipalities must take action, especially in regard to zoning. The state departments have up to 120 days after January 1, 2014 to propose their respective rules. Some municipalities are considering moratoria on accepting applications for these facilities; the DMMC Managers Committee makes no recommendation or analysis of the enforceability of such an action. However, it seems clear that the lag in adoption of state rules gives additional time for municipalities to consider what actions they will take.

3. **Police Enforcement Activities**

What You Need to Know

- Qualifying Patients must be 18 years of age or older.
- Qualifying Patients are limited in the locations in which they can smoke. Smoking is prohibited in any indoor place where smoking is prohibited by the Smoke-free Illinois Act, in motor vehicles, on school grounds, and in any public place where a patient could be observed by others.
- Employers may prohibit the use of medical marijuana on their premises.
- Neither the driver nor any passenger can use medical marijuana while operating motor vehicle on a highway. If there is a suspicion of driving under the influence of medical marijuana, impairment will need to be shown through standardized field sobriety tests. No objective standard akin to the 0.08% blood alcohol content for alcohol exists for marijuana impairment. Possession of a registry card alone does not constitute reasonable suspicion of impairment.
- Medical marijuana must be stored in a sealed, tamper evident container while in a motor vehicle.

What You Should Do

- Examine your existing ordinances for paraphernalia it relates to medical marijuana sales, possession and use.
- Evaluate existing training programs and consider modifications to address the presence of medical marijuana in the community.

4. **HR Procedures and Actions**

What You Need to Know

- Employers cannot discriminate against employees for being a Qualified Patient.
- As noted previously, employers may prohibit the use of medical marijuana on their premises. Provided that the policy is applied in a non-discriminatory manner, employers can enforce a drug free workplace policy. Employers who do not prohibit the use of medical marijuana may adopt reasonable regulations concerning the consumption, storage or timekeeping requirements for Qualifying Patients.
- Employers can discipline an employee for failing a drug test if failing would put the employer in violation of federal law or cause it to lose a federal contract or funding. Employers are encouraged to review grant agreements and other contracts for provisions addressing drug use in the workplace. Employees can be disciplined for violating a workplace drug policy. The Act does not exempt holders of CDL licenses from random drug testing, nor does it protect them from the consequences of failed tests. Qualified Patients can be disciplined in a non-discriminatory manner.

- Qualifying Patients will test positive. No objective standard exists for marijuana impairment.
- The Act does not create a cause of action for:
 - Actions based on the employer’s good faith belief that a registered Qualifyi Patient used or possessed marijuana while on the employer’s premises or during the hours of employment;
 - Actions based on the employer’s good faith belief that a registered Qualifying Patient was impaired while working on the employer’s premises during the hours of employment; or
 - Injury or loss to a third party if the employer neither knew nor had any reason to know that the employee was impaired.
- The above immunities are not absolute nor have they been tested in court.
- Implications of the Act with respect to the Family Medical Leave Act (FMLA), Americans with Disabilities Act (ADA) and other employment related laws are yet to be determined. For example, the relationship between a “serious health condition” under the FMLA and “debilitating medical condition” in the Act is unclear.

What You Should Do

- Employers should evaluate existing policies for drug use in the workplace and make revisions as necessary to address medical marijuana concerns including, but not limited to on premises use, on premises possession, workplace impairment, circumstances for testing, and workplace safety. Policies should be placed in writing and incorporated into personnel rules and negotiated into collective bargaining agreements.
- Since there is no objective standard for marijuana impairment, employers should rely upon objective, observable factors when addressing suspected impairment. These factors will likely be similar to those for impairment due to alcohol or prescription or illegal drug use.
- Employers can require employees to provide notification of medical marijuana use; however employees cannot be penalized solely for being a Qualified Patient.
- Since implications of the Act with respect to the FMLA, ADA, and other employment related laws are yet to be determined, employers are urged to consult their legal counsel when confronted with employment related matters concerning medical marijuana.