Emails regarding any agenda item are welcomed. Please email contactcouncil@winnetka.org, and your email will be relayed to the Council members. Emails for the Tuesday Council meeting must be received by Monday at 4 p.m. Any email may be subject to disclosure under the Freedom of Information Act.

Winnetka Village Council
REGULAR MEETING
Village Hall
510 Green Bay Road
Tuesday, February 18, 2014
7:00 p.m.

AGENDA

1) Call to Order
2) Pledge of Allegiance
3) Quorum
   a) March 4, 2014 Regular Meeting
   b) March 11, 2014 Study Session
   c) **Thursday**, March 20, 2014 Rescheduled Regular Meeting
4) Approval of Agenda
5) Consent Agenda
   a) Approval of Village Council Minutes
      i) February 4, 2014 Regular Meeting 3
   b) Approval of Warrant List dated February 18, 2014 7
   c) Resolution R-3-2014: Non-Resident Fire Service Fees – Adoption 8
   d) Bid #014-003: Utility Line Clearance (Tree Trimming) 17
6) Stormwater Monthly Summary Report 20
7) Ordinances and Resolutions
   a) Ordinance MC-2-2014: Adding Chapter 13.16 and Establishing a Stormwater Utility – Amend 29
   b) Resolution R-4-2014: Establishing Stormwater Utility Fees and Charges – Introduction 69
   c) Ordinance MC-5-2013: Establishing an Administrative Hearing Process – Amend & Adopt (To be renumbered as Ordinance MC-1-2014) 72
8) Public Comment
9) Old Business: None.
10) New Business: None.
11) Appointments

12) Reports

13) Executive Session

14) Adjournment

NOTICE

All agenda materials are available at villageofwinnetka.org (Government > Council Information > Agenda Packets & Minutes); the Reference Desk at the Winnetka Library; or in the Manager's Office at Village Hall (2nd floor).

Broadcasts of the Village Council meetings are televised on Channel 10 and AT&T Uverse Channel 99 every night at 7 PM**.** Webcasts of the meeting may also be viewed on the Internet via a link on the Village's web site: http://winn-media.com/videos/

The Village of Winnetka, in compliance with the Americans with Disabilities Act, requests that all persons with disabilities who require certain accommodations to allow them to observe and/or participate in this meeting or have questions about the accessibility of the meeting or facilities, contact the Village ADA Coordinator – Megan Pierce, at 510 Green Bay Road, Winnetka, Illinois 60093, 847-716-3543; T.D.D. 847-501-6041.

MINUTES
WINNETKA VILLAGE COUNCIL
REGULAR MEETING
February 4, 2014

(Approved: xx)

A record of a legally convened meeting of the Council of the Village of Winnetka, which was held in the Village Hall Council Chambers on Tuesday, February 4, 2014, at 7:00 p.m.

1) Call to Order. President Greable called the meeting to order at 7:01 p.m. Present: Trustees Arthur Braun, Patrick Corrigan, Richard Kates, and Stuart McCrary. Absent: Trustees Joe Adams and Jack Buck. Also present: Village Manager Robert Bahan, Assistant to the Village Manager Megan Pierce, Village Attorney Katherine Janega, Public Works Director Steve Saunders, Finance Director Ed McKee and approximately 8 persons in the audience.

2) Pledge of Allegiance. President Greable led the group in the Pledge of Allegiance.

3) Quorum.

   a) February 11, 2014 Study Session. All of the Council members present indicated that they expected to attend.

   b) February 18, 2014 Regular Meeting. All of the Council members present, with the exception of Trustees McCrary and Corrigan, indicated that they expected to attend.

   c) March 4, 2014 Regular Meeting. All of the Council members present, with the exception of Trustee Braun, indicated that they expected to attend.

4) Approval of the Agenda. Trustee McCrary, seconded by Trustee Braun, moved to approve the Agenda. By roll call vote the motion carried. Ayes: Trustees Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustees Adams and Buck.

5) Consent Agenda

   a) Village Council Minutes.

      i) January 14, 2014 Study Session.

      ii) January 21, 2014 Regular Meeting.

   b) Warrant List. Approving Warrant List dated February 4, 2014.

   c) Ordinance M-2-2014. An Ordinance, introduced at the January 21st Council Meeting, abating the 2013 property taxes levied for 2014 debt service on the Series 2014 GO Bonds.

   d) Purchase of Police Patrol Vehicle. An item approving the purchase, through the Suburban Purchasing Cooperative, of a 2014 Dodge Charger Police Sedan for $25,318, to replace a 2008 Police Sedan with 91,000 miles.

   e) NWMC Suburban Purchasing Cooperative: Street Sweeper Replacement. An item approving the purchase, through the Suburban Purchasing Cooperative, of a 2014 Pelican P Three-Wheel Rear-Steer Street Sweeper for $163,206.

Trustee Braun, seconded by Trustee McCrary, moved to approve the foregoing items on the Consent Agenda by omnibus vote. By roll call vote, the motion carried. Ayes: Trustees Braun, Corrigan, Kates and McCrary. Nays: None. Absent: Trustees Adams and Buck.

6) Stormwater Update. None.

7) Ordinances and Resolutions.

a) Ordinance MC-2-2014: Adding Code Chapter 13.16 and Establishing a Stormwater Utility – Introduction. Attorney Janega explained that after much study, the Council has chosen to use a stormwater utility to fund improvements for the Village's Stormwater Management Program. New Chapter 13.16 creates and implements a stormwater utility based on Council direction from its October 1, 2013 Council Meeting. At that meeting, the Council deferred making a final decision on the issue of allowing fee credits and incentives for users of the stormwater utility.

Trustee Buck arrived at 7:10 p.m.

After Attorney Janega completed a section-by-section explanation of the Ordinance, President Greable called for questions from the Council or the public. There being none, the Council discussed the draft Ordinance.

Trustees Corrigan and McCrary said they favor adding a limited amount of credits and incentives, since doing so strengthens the argument that the stormwater utility is a fee and not a tax. In addition, credits/incentives could slightly boost capacity of the storm sewers, and the community supports them.

Trustee Kates said he could only endorse credits/incentives if they are based on the credit program in the City of Highland Park stormwater utility ordinance. Trustee Buck stated his opposition to any credit/incentive provision.

Responding to a question about the legal advantages of a credit/incentive program, Attorney Janega explained that the threat of litigation has been raised at prior Council Meetings. Case law on the issue suggests that a credit/incentive program can help to establish that a stormwater utility is a user fee and not a tax. She added that it is her advice to follow the credit/incentive model recommended by the Village's stormwater utility feasibility consultant, using a limited first-come, first-served approach.

Trustee Braun questioned Section 13.16.130 in the draft Ordinance, which provides for the Council to negotiate exemptions for institutional users if certain conditions are met, saying that the provision seems unfair.

Attorney Janega explained that institutional users are singled out because they are the only parcels that have enough land available to be of significant help in providing stormwater management to the Village. She noted that the provision in no way compels the Village to enter into any exemption agreements, and the Council would have the sole discretion to make that decision.

There was a lengthy discussion on the merits of Section 13.16.130, in which no consensus was reached. President Greable said the stormwater utility will be discussed at next week's Study Session and he called for a motion to introduce.

Trustee Kates, seconded by Trustee McCrary, moved to introduce Ordinance MC-2-2014. By roll call vote, the motion failed. Ayes: Trustees Kates and McCrary. Nays: Trustees Buck, Braun, and Corrigan. Absent: Trustee Adams.

Trustee Buck, seconded by Trustee Braun, moved to introduce Ordinance MC-2-2014, excluding Section 13.16.130(B). By roll call vote, the motion carried. Ayes: Trustees Buck, Braun, and Corrigan. Nays: Trustees Kates and McCrary. Absent: Trustee Adams

Attorney Janega said the Ordinance would be discussed at the February 11 Study Session, where more details would be provided on the issue of credits and incentives, along with a draft of the rate Resolution.

President Greable reminded the Council that the Ordinance needed to be approved so that a utility billing database could be created with enough time to send sample bills to residents prior to implementation of the stormwater utility in July.

b) Ordinance MC-3-2014: Adding Code Chapter 4.23 – Natural Gas Use Tax – Introduction. Attorney Janega explained that the Village's natural gas use tax was implemented in 2003, when most users purchased their gas from the local utility. Now that the utilities are deregulated, customers of out-of-state gas providers do not pay the tax, leading to a decline in the Village's revenues. The Subject Ordinance was considered by the Council last fall, but no action was taken, as issues with a contractor needed to be resolved.

Attorney Janega said Ordinance MC-3-2014 establishes a new gas tax that will be collected by the gas utility that pays the gross receipts tax and issues bills to local customers of out-of-state providers. The new tax will recoup some of the revenues that have been missing, though not all, as some of the largest users are tax exempt institutions.

Trustee Kates commented that the new tax would treat everyone fairly, as all except the tax-exempt gas users will now pay the tax.

Trustee Buck recommended eliminating the tax altogether and making up the revenue in property taxes, as he thought that would be more transparent.

The Council had a lengthy discussion about the issue of eliminating the gas tax and increasing property taxes instead, and no consensus was reached.

Laurie Morse, 271 Hawthorn, Glencoe. Ms Morse asked if the gas would be subject to aggregation like the electric utilities. Attorney Janega explained that only electric utilities are subject to aggregation.

Trustee Buck suggested a sunset provision be added to the Ordinance.

Attorney Janega requested time to discuss a sunset provision with the two utilities that would be creating a database to collect the tax, as it could impact their implementation of the tax.

Trustee Kates said he would not want to bind the next Council.

Manager Bahan suggested adding a mandatory review stipulation timed with the budget cycle, instead of a sunset provision.

The Council directed Attorney Janega to follow up with the utilities regarding implementation of the tax and to insert language requiring mandatory review of the tax at budget time.

Trustee Kates, seconded by Trustee McCrary, moved to introduce Ordinance MC-3-2014. By roll call vote, the motion carried. Ayes: Trustees Braun, Buck, Corrigan, Kates and McCrary. Nays: None. Absent: Trustee Adams.

8) Public Comment.

Carol Fessler, 1314 Trapp Lane: Ms. Fessler thanked the Village's Public Works staff for working 12-hour shifts to plow Winnetka's streets and sidewalks in the extreme cold weather.

9) Old Business. None.

10) New Business. None.

11) Appointments. None.

12) Reports.

a) Village President. President Greable announced that he had appeared on WGN radio last Friday on the Bill & Wendy Show, and he thanked Little Ricky's for hosting.

b) Trustees.

i) Trustee Kates said rumors that the Hubbard Woods Metra station would be closing are untrue. He reported that the Plan Commission would like a role implementation of the ULI Report, and the Commissioners feel that commercial rents should have been addressed, as high rents affect the vacancy rate in the business districts.

ii) Trustee McCrary announced that the Park District will have a meeting this Thursday to discuss the bike plan for Winnetka.

iii) Trustee Braun reported that the BCDC did a good job reviewing the ULI recommendations, and the Commission is ready to discuss their recommendations with the Council.

c) Attorney. No report.

d) Manager. No report.

13) Executive Session. None.

14) Adjournment. Trustee Buck, seconded by Trustee Braun, moved to adjourn the meeting. By voice vote, the motion carried. The meeting adjourned at 8:50 p.m.

_____

Recording Secretary

Agenda Item Executive Summary

Title: Warrant List

Presenter: Robert M. Bahan, Village Manager

Agenda Date: 02/18/2014

Consent: ☑ YES ☐ NO

☐ Ordinance
☐ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☑ Informational Only

Item History:

None.

Executive Summary:

Warrant List dated 02/18/2014 was emailed to each Village Council member.

Recommendation / Suggested Action:

Consider approving Warrant List dated 02/18/2014

Attachments:

None.

Agenda Item Executive Summary

Title: Resolution R-3-2014: Non-Resident Fire Service Fees - Adoption

Presenter: Alan Berkowsky, Fire Chief

Agenda Date: 02/18/2014

Consent: ☑ YES ☐ NO

☐ Ordinance
☑ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☐ Informational Only

Item History: *(reference past Council reviews, approvals, or authorizations)*

The Village annually calculates an unincorporated fire service fee based on a formula. Because of the 2013 short fiscal year ending 12/31/2013, covering only nine months of operations, the Village needed to wait until now to calculate the fee for 2014. The rate changes will transition to the new fiscal year over the next two years.

Executive Summary:

The Village of Winnetka provides water and fire suppression service to some unincorporated areas adjacent to the Village. In addition to paying for water, those customers also pay for the fire suppression service, as they benefit from the fire hydrants in the area. As required by Village Code, the fire service fee for these non-resident customers is assessed based on a formula that takes into account the equalized assessed value of the area served, calls for service, and Fire Department expense data. This formula is designed to ensure an equitable charge for unincorporated customers. (See page 6 of the attached Fire Contract Worksheet.)

Resolution R-3-2014 sets the individual homeowner amount at $90.13 per month ($1,081.56 per year). The new fee will be effective April 1, 2014.

The Village also provides fire service to the Village of Kenilworth. The calculated annual fee for the Village of Kenilworth for 2014 is $493,913.87. (See page 4 of the attached Fire Contract Worksheet.)

Recommendation / Suggested Action: *(briefly explain)*

1) Adopt Resolution R-3-2014, setting the annual fee for fire service to individual homeowners outside of the corporate limits at $90.13 per month.

2) Set the annual fee for the Village of Kenilworth at $493,913.87.

Attachments: *(please list individually)*

1) R-3-2014, titled "A Resolution Establishing the Annual Fee for the Maintenance and Availability of Fire Suppression Services to Certain Premises in Unincorporated New Trier Township"

2) Fire Contract Worksheet for Calendar Year 2014

RESOLUTION NO. R-3-2014

A RESOLUTION
ESTABLISHING THE ANNUAL FEE
FOR THE MAINTENANCE AND AVAILABILITY OF
FIRE SUPPRESSION AND RESCUE SERVICES
TO CERTAIN PREMISES IN UNINCORPORATED NEW TRIER TOWNSHIP

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including, but not limited to, the powers (i) to regulate for the protection of the public health, safety, morals and welfare, (ii) to license, (iii) to tax, and (iv) to incur debt; and

WHEREAS, the Village of Winnetka ("Village") owns and operates a water utility that provides all water service within the Village of Winnetka; and

WHEREAS, the Village's water utility also provides water service to certain customers located in unincorporated areas outside the corporate limits; and

WHEREAS, the Council finds that all matters pertaining to the operation of the Village's water utility, including but not limited to providing water service to residents in nearby unincorporated areas and establishing the rates, terms and conditions for such service, are matters pertaining to the affairs of the Village; and

WHEREAS, Section 13.04.120 of the Winnetka Village Code, "Charges for the maintenance and availability of fire suppression and emergency paramedical and rescue services," provides for the establishment of an annual fee for providing such services to any customer of the Village of Winnetka water utility located outside of the corporate limits of the Village and in the vicinity of one or more fire hydrants maintained by the Village for fire protection purposes; and

WHEREAS, Section 13.04.120 of the Winnetka Village Code establishes the formula for determining that annual fee; and

WHEREAS, calculations performed by Village staff pursuant to Section 13.04.120 of the Winnetka Village Code previously established that, for the fiscal year that began on April 1, 2013, the monthly amount to be charged to each of the premises in unincorporated New Trier Township that receives fire suppression and rescue services from the Village of Winnetka should be Ninety Dollars and Thirteen Cents ($90.13); and

WHEREAS, on November 19, 2013, the Village Council adopted Resolution R-38-2013, setting the monthly amount to be charged to each of the premises in unincorporated New Trier Township that receives fire suppression and rescue services from the Village of Winnetka at Eighty-Two Dollars and Sixteen Cents ($82.16), pending recalculation following the close of the fiscal year; and

WHEREAS, the Council finds that it is fair and reasonable to maintain the monthly charges for non-resident fire suppression and rescue services at Ninety Dollars and Thirteen Cents ($90.13), effective April 1, 2014.

NOW, THEREFORE, be it resolved by the Council of the Village of Winnetka as follows:

SECTION 1: The foregoing recitals are hereby adopted as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Effective April 1, 2014, the monthly amount to be charged to each premises that is located in unincorporated New Trier Township and that is receiving fire suppression and rescue services from the Village of Winnetka is hereby established in the amount of Ninety Dollars and Thirteen Cents ($90.13).

SECTION 3: All non-resident water customers who are subject to the foregoing fire suppression fee shall pay for emergency medical services on a per call basis, at the rates established in the Village's general fee and rate resolutions.

SECTION 4: **Home Rule.** This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 5: **Effect of Resolution.** This resolution supersedes Resolution R-38-2013.

SECTION 6: **Effective Date.** This resolution shall be in full force and effect immediately upon its adoption.

ADOPTED this ___ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

FIRE CONTRACT WORKSHEET FOR CALENDAR YEAR 2014 (beginning January 1, 2014) Revised 1.10.14

The annual reimbursement for fire suppression and emergency paramedical and rescue service provided by the Village of Winnetka to the Village of Kenilworth and to certain premises locate in unincorporated New Trier Township is based upon the following terms

		ACTUAL	
A. POPULATION (latest decennial census figures available)	2010		
Total New Trier Township.....		56,205	
Incorporated New Trier Township:			
Village of Kenilworth.....	(2,513)		
Village of Winnetka.....	(12,187)		
New Trier Township portion of Village of Glencoe.....	(8,723)		
New Trier Township portion of Village of Wilmette.....	(27,087)		
New Trier Township portion of Village of Glenview.....	(3,173)		
New Trier Township portion of Village of Northfield.....+	(1,696)		
Total Incorporated New Trier Township.....=		(55,379)	
Unincorporated New Trier Township .....=		826	
Fire Service Area:			
Village of Kenilworth.....		2,513	(16.19%)
Village of Winnetka.....		12,187	(78.49%)
Unincorporated New Trier Township.....+		826	(5.32%)
Total Fire Service Area.....=		15,526	
B. EQUALIZED ASSESSED VALUATION (latest figures available)	2012		
Total New Trier Township.....		$4,594,620,759	
Incorporated New Trier Township:			
Village of Kenilworth.....	$292,920,004		
Village of Winnetka.....	$1,337,599,518		
New Trier Township portion of Village of Glencoe.....	$867,762,429		
New Trier Township portion of Village of Wilmette.....	$1,728,827,628		
New Trier Township portion of Village of Glenview.....	$122,230,922		
New Trier Township portion of Village of Northfield.....+	$129,984,337		
Total Incorporated New Trier Township.....=		$4,479,324,838	
Unincorporated New Trier Township .....=		$115,295,921	
Fire Service Area:			
Village of Kenilworth.....		$292,920,004	(16.78%)
Village of Winnetka.....		$1,337,599,518	(76.62%)
Unincorporated New Trier Township.....+		$115,295,921	(6.60%)
Total Fire Service Area.....=		$1,745,815,443	
C. CALLS (for fire suppression and emergency paramedical and rescue services, including false for twelve-month period January 1st through December 31st)		2013	
Fire Service Area:			
Village of Kenilworth.....		179	(8.31%)
Village of Winnetka (including auto and mutual aid calls).....		1,919	(89.05%)
Unincorporated New Trier Township.....+		57	(2.65%)
Total Fire Service Area.....=		2,155	

D. FIRE SERVICE AREA ANNUAL BUDGET (for fiscal year for contract term)

		Calendar Year 2014
Winnetka Fire Department annual budget....including capital		$5,084,115
Less:		
Fire Prevention -- salaries & retirement <*>.....	($1,000,154)	
Fire Prevention -- services.....	(62,850)	
Fire Prevention -- employee insurance benefits <*>.....	(101,976)	
Foreign Fire Tax (2014-No longer in FD Budget)	0	
Building Improvements	0	
Major capital in proposed budget.....	0	
Total subtractions.....		($1,164,980)
Plus:		
Amortized Major Capital <**>.....	$130,634	
Total Additions.....		$130,634
Kenilworth contract annual budget calculation		$4,049,769

<*> These figures each equal exactly 25% of total budgeted departmental expenditures fo salaries, retirement and employee insurance benefits. The resulting dollar figures show are estimates of the department's respective budgeted amounts allocated to fire preventio activities within Winnetka.

<**> This figure is the sum of:

1993		Public Safety Bldg Renovation Plans (Fire); $30,000 over 30 years	
		installment #22 of 30; installments required through FY 2022/23	$1,000
1995		Pumper Engine; $211,000 over 20 years;	
		installment #20 of 20; installments required through FY 2014/15	$10,550
2007		Training Tower $290,000 over 20 years	
		installment #8 of 20; installments required through FY2027	$14,500
1998		Conversion of Pumper to Rescue/Pumper; $42,000 over 17 years	
		installment #17 of 17; installments required through FY 2014/15	$2,471
2000		Pumper Engine; $290,000 over 20 years;	
		installment #15 of 20; installments required through FY 2019/20	$14,500
2011		Command Vehicle;$60,000 over 10 years	
		installment #4 of 10; installments required through FY 2021/2022	$6,000
~~2008~~		~~Staff Vehicle; $35,000 over 6 years;~~	
	~~d/c~~	~~*installment #6 of 6; installments required through FY 2014/2015*~~	[redacted]
2010		Ladder/Quint truck; $674,400 over 20 years	
		installment # 5 of 25;…….....	$33,720
2004		Self Contained Breathing Apparatus; $60,000 over 14 years;	
		installment #11 of 14; installments required through FY 2019/2020	$4,143
2012		Ambulance:$275,000 over 12 years	
		installment #3 of 12; installments required through FY 2024/2025	$22,917
2007		Ambulance:$180,000 over 12 years	
		installments #8 of 12; installments required through FY 2019/2020	$15,000
2012		Staff Vehicle;$35,000 over 6 years;	
	chief	*installment #2 of 6; installments required through FY 2019/2020*	$5,833
		Total amortized major capital .....=	$130,634

E. CREDIT FOR PAYMENTS MADE TO THE VILLAGE OF WINNETKA EXCEEDING
EXPENSES (for latest available audited fiscal year): <2012/2013>

Amount budgeted for Winnetka Fire Department Operations.....	$5,006,849	
Final audit amount for Winnetka Fire Department.....-	($4,758,085)	
reflects operating expenses	---	
Rebate.....=		$248,764
		==========

Fire Service Area budget costs were apportioned that year as follows

Village of Kenilworth.....*	13.40%
Village of Winnetka.....*	81.89%
Unincorporated New Trier Township.....+/*	4.71%

Total.....=/*	100.0%
	==========

Therefore, the following amounts equal the respective credits
(Rebate multiplied by respective percent)

Village of Kenilworth.....=	$33,334.38
Village of Winnetka.....=	203,712.84
Unincorporated New Trier Township.....=/+	11,716.78

Total Rebate.....=	$248,764.00
	==========

F. ANNUAL COST OF FIRE SUPPRESSION AND EMERGENCY PARAMEDICAL AND RESCUE SERVICES PROVIDED TO THE VILLAGE OF KENILWORTH:

Village of Kenilworth population.....	2,513
Fire Service Area population...../	15,526

Village of Kenilworth population as a proportion of Fire Service Area population.....=	16.19%
	==========
Village of Kenilworth equalized assessed valuation.....	$292,920,004
Fire Service Area equalized assessed valuation.....	1,745,815,443

Village of Kenilworth equalized assessed valuation as a proportion of Fire Service Area equalized assessed valuation.....=	16.78%
	==========
Village of Kenilworth calls.....	179
Fire Service Area calls...../	2,155

Village of Kenilworth calls as a proportion of Fire Service Area calls.....=	8.31%
	==========

Fire Service Area annual budget.....	4,049,769
Average Village of Kenilworth proportion of Fire Service Area.....'	13.76%

Village of Kenilworth portion of Fire Service Area annual budget.....=	$557,248.25
Less Village of Kenilworth Budget Rebate.....	(33,334.38)
Village of Kenilworth Joint Services Credit……	(30,000.00)

Village of Kenilworth annual amount due.....=	$493,913.87
	==========

G. ANNUAL COST OF FIRE SUPPRESSION AND EMERGENCY PARAMEDICAL AND RESCUE SERVICES
PROVIDED TO THE VILLAGE OF WINNETKA (required for computation purposes only)

Village of Winnetka population.....	12,187
Fire Service Area population...../	15,526

Village of Winnetka population as a proportion of Fire Service Area population.....=	78.49%
	==========
Village of Winnetka equalized assessed valuation.....	$1,337,599,518
Fire Service Area equalized assessed valuation.....	1,745,815,443

Village of Winnetka equalized assessed valuation as a proportion of Fire Service Area equalized assessed valuation.....=	76.62%
	==========
Village of Winnetka calls.....	1,919
Fire Service Area calls...../	2,155

Village of Winnetka calls as a proportion of Fire Service Area calls.....=	89.05%
	==========

Fire Service Area annual budget.....	$4,049,769
Average Village of Winnetka proportion of Fire Service Area.....*	81.39%

Village of Winnetka portion of Fire Service Area annual budget.....=	$3,295,976.61
Less Village of Winnetka latest credit.....-	(203,712.84)

Village of Winnetka annual amount "due".....=	$3,092,263.77
	==========

H. ANNUAL COST OF FIRE SUPPRESSION AND EMERGENCY PARAMEDICAL AND RESCUE SERVICES PROVIDED TO UNINCORPORATED NEW TRIER TOWNSHIP:

Unincorporated New Trier Township population.....	826	
Fire Service Area population...../	15,526	
Unincorporated New Trier Township population as a proportion of Fire Service Area population.....=	5.32%	
Unincorporated New Trier Township equalized assessed valuation ……	$115,295,921	
Fire Service Area equalized assessed valuation.....	1,745,815,443	
Unincorporated New Trier Township equalized assessed valuation as a proportion of Fire Service Area equalized assessed valuation.....=	6.60%	
Unincorporated New Trier Township calls.....	57	
Fire Service Area calls...../	2,155	
Unincorporated New Trier Township calls as a proportion of Fire Service Area calls.....=	2.65%	
Fire Service Area annual budget.....		$4,049,769
Average Unincorporated New Trier Township proportion of Fire Service Area.....*		4.86%
Unincorporated New Trier Township portion of Fire Service Area annual budget …=		$196,673.67
Less Unincorporated New Trier Township latest credit.....-		(11,716.78)
Unincorporated New Trier Township annual amount "due".....=		$184,956.88
Number of fire contracts between Winnetka Fire Department and Unincorporated New Trier Township...../		171
Annual amount due per contract in Unincorporated New Trier Township.....=		$1,081.62
	Monthly Amount	$ 90.13

cc: Winnetka Village Manager
Winnetka Fire Chief
Winnetka Finance Director
Kenilworth Village Manager

Agenda Item Executive Summary

Title: Bid #014-003: Utility Line Clearance (Tree Trimming)

Presenter: Brian Keys, Director of Water & Electric

Agenda Date: 02/18/2014

Consent: ☑ YES ☐ NO

☐ Ordinance
☐ Resolution
☑ Bid Authorization/Award
☐ Policy Direction
☐ Informational Only

Item History:

The Village of Winnetka issued Bid #014-003 for the cyclical trimming of trees near overhead power lines and emergency storm assistance for the months of April 1, 2014 through March 31, 2015. The current agreement with Asplundh Tree Expert Company is scheduled to end on March 31, 2014.

Executive Summary:

Two companies submitted bids for the Village's line clearance work. Both companies have previously performed the work. Staff is recommending acceptance of the bid submitted by Asplundh Tree Expert Company based on the lower hourly rates. Asplundh Tree Expert Co. has performed line clearance for the Water & Electric Department in a satisfactory manner during the last three years.

The FY 2014 budget (account #500.42.30-567) contains $140,000 for line clearance work.

Recommendation / Suggested Action:

Consider authorizing the Village Manager to issue a purchase order to Asplundh Tree Expert Co. in an amount not to exceed $140,000 in accordance with the terms and conditions of Bid #014-003.

Attachments:

Agenda Report dated February 12, 2014

Exhibit A - Bid Detail

AGENDA REPORT

Subject: **Bid #014-003: Utility Line Clearance (Tree Trimming)**

Prepared by: Brian Keys, Director Water & Electric

Ref: October 14, 2013 Budget Meeting

Date: February 12, 2014

The Village of Winnetka issued Bid #014-003 for the cyclical trimming of trees near overhead power lines and emergency storm assistance for the months of April 1, 2014 through March 31, 2015. The current agreement with Asplundh Tree Expert Company is scheduled to end on March 31, 2014.

The bid document required contractors to provide rates for each classification of worker and equipment used on an hourly basis for normal work hours and during after hour situations. Rates were also requested for two additional years with annual renewals at the Village's option.

The bid notice was published in the Pioneer Press and notices were sent to five companies. Four companies requested bid packets with two companies submitting bids. Exhibit A contains the unit prices for labor and equipment as bid by each company in each year for three years. First year labor rates are as follows:

Labor Rates for Utility Line Clearance – Normal Working Hours

	Asplundh Tree Expert Co.	**Nels J. Johnson Tree Experts Inc.**
Crew Leader	$47.28	$70.00
Trimmer	$43.14	$68.00
Apprentice Trimmer	$37.76	$68.00
Groundman	$29.32	$68.00
General Foreman	$47.60	$70.00

Both companies that submitted bids have performed line clearance for the Village. Staff is recommending acceptance of the bid submitted by Asplundh Tree Expert Company based on the lower hourly rates. Asplundh Tree Expert Co. has performed line clearance for the Water & Electric Department in a satisfactory manner during the last three years. No safety incidents occurred during this period. In addition, the contractor identified additional vegetation hazards such as diseased trees and/or dead limbs outside the trimming area for further review by staff.

The FY 2014 budget (account #500.42.30-567) contains $140,000 for line clearance work.

Recommendation:
Consider authorizing the Village Manager to issue a purchase order to Asplundh Tree Expert Co. in an amount not to exceed $140,000 in accordance with the terms and conditions of Bid #014-003.

Exhibit A

SCHEDULE OF PRICES FOR UTILITY LINE CLEARANCE DURING NORMAL WORK DAY

	4/1/14 to 3/31/15		4/1/15 to 3/31/16		4/1/16 to 3/31/17	
Personnel	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**
Crew Leader	$47.28	$70.00	$48.46	$72.00	$49.67	$74.00
Trimmer	$43.14	$68.00	$44.22	$70.00	$45.32	$72.00
Apprentice Trimmer	$37.76	$68.00	$38.70	$70.00	$39.67	$72.00
Groundman	$29.32	$68.00	$30.05	$70.00	$30.80	$72.00
General Foreman	$47.60	$70.00	$48.79	$72.00	$50.01	$74.00
Equipment						
Pick Up Truck	$9.25	$10.00	$9.25	$10.00	$9.71	$10.00
Trim Truck with 2 power saws	$10.00	$12.00	$10.00	$12.00	$10.50	$12.00
Chipper	$4.75	$10.00	$4.75	$10.00	$4.99	$10.00
Aerial Device with hydraulic tools and 1 gas power saw	$16.00	$15.00	$16.00	$15.00	$16.00	$15.00
Extra power saw	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge

SCHEDULE OF PRICES FOR UTILITY LINE CLEARANCE AFTER NORMAL WORK HOURS

	4/1/14 to 3/31/15		4/1/15 to 3/31/16		4/1/16 to 3/31/17	
Personnel	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**	**Asplundh Tree Expert Co.**	**Nels J. Johnson Tree Experts Inc.**
Crew Leader	$64.46	$95.00	$66.07	$95.00	$67.72	$98.00
Trimmer	$58.43	$90.00	$59.89	$90.00	$61.39	$98.00
Apprentice Trimmer	$50.57	$90.00	$51.83	$90.00	$53.13	$98.00
Groundman	$38.23	$90.00	$39.19	$90.00	$40.17	$95.00
General Foreman	$67.95		$69.65		$71.39	
Equipment						
Pick Up Truck	$9.25	$12.00	$9.25	$12.00	$9.71	$12.00
Trim Truck with 2 power saws	$10.00	$12.00	$10.00	$12.00	$10.50	$12.00
Chipper	$4.75	$12.00	$4.75	$12.00	$4.99	$12.00
Aerial Device with hydraulic tools and 1 gas power saw	$16.00	$15.00	$16.00	$15.00	$16.80	$15.00
Extra power saw	No Charge	No Charge	No Charge	No Charge	No Charge	No Charge

Agenda Item Executive Summary

Title: Stormwater Monthly Summary Report

Presenter: Steven M. Saunders, Director of Public Works/Village Engineer

Agenda Date: 02/18/2014

Consent: ☐ YES ☑ NO

☐ Ordinance
☐ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☑ Informational Only

Item History:

Monthly Report

Executive Summary:

The Village's Stormwater Project Manager has prepared a monthly report for the Village Council that brings together status, cost, and schedule information, for each separate stormwater project, in one place. The report consists of four documents, explained below:

AT Group Project Summary Report (Attachment #1)
This report provides a brief outline and summary of each major stormwater project currently being undertaken by the Village.

One Year Look-Ahead Schedule (Attachment #2)
This document provides an overview schedule for each project.

Program Budget (Attachment #3)
This report provides financial information for the stormwater and sanitary sewer improvement programs.

Program Organization Chart (Attachment #4)
This document presents a one-page "snapshot" view of the status of each project, and how each project fits into the overall stormwater and sanitary sewer management program.

Recommendation / Suggested Action:

Informational report

Attachments:

1. AT Group Project Summary Report
2. One Year Look-Ahead Schedule
3. Program Budget
4. Program Organization Chart

AT Group, Inc.
Managing the Design & Construction Process

James H. Johnson, P.E.

M E M O R A N D U M

DATE: February 12, 2014

TO: Steven Saunders, P.E.
Village of Winnetka

SUBJECT: Project Summary

Spruce Outlet (Tower)

Activity Summary The Village opened bids for the project on September 26, and the Council awarded the contract to Copenhaver on October 15, in the amount of $976,036. Tentatively, construction is scheduled to begin in spring, 2014.

Budget Summary The Village budgeted $90,000 for engineering and committed $111,429, and budgeted $1,000,000 for construction and committed $976,036.

6-Month Look Ahead The project team will:

1. Conduct a neighborhood pre-construction meeting on the project
2. Construct the project

Spruce Outlet (Lloyd)

Activity Summary The Village Council authorized a contract with Lenny Hoffman Excavating for the project on August 20. Underground work is complete, and the storm sewer system is operational. Paving of the area will occur in 2014 in coordination with the Park District.

Budget Summary The Village budgeted $90,000 for engineering and committed $37,143. The bid award was for $251,488. Based on the bid award, the total project cost estimate has been reduced from $398,786 to $288,631.

6-Month Look Ahead The project team will:

1. Complete paving in 2014

Winnetka Avenue Pump Station

Activity Summary The Village opened bids for the project on September 10, and the Village Council awarded the contract on September 15. Boller Construction was the low responsible bidder with a bid of $1,038,300. The contractor started work, and plans to complete the project in June, 2014. The construction sequencing maintains the functionality of the pump station throughout the upgrade.

1469 W Fork Drive | Lake Forest, Illinois 60045

Budget Summary The adjusted project budget is $1,188,562, including engineering and construction.

6-Month Look Ahead The project team will:

1. Construct the project

NW Winnetka (Greenwood/Forest Glen)

Activity Summary Village staff and consultants met with area residents (Boal Parkway, as well as Heather, Hickory, Sumac and Hazel Lanes) to present the proposed design and obtain resident input on stormwater concerns. The project team conducted a follow-up meeting with two residents, one adjacent to the pond and one adjacent to the diversion ditch. Additionally, the Village retained Baxter & Woodman (B&W) to review the CBBEL modeling used for the project design. Based on the review and the modeling performed by B&W for adjacent drainage areas, the project team will investigate potential improvements to address drainage concerns for the residents in the Boal Parkway and Heather, Hickory, sumac and Hazel areas.

The Village has received preliminary notice that a grant funding partner will be providing a substantial cost share of this project. Details are still being finalized and will be reported as soon as possible.

Budget Summary The Village budgeted $250,000 for engineering and committed $226,874 for engineering. The total project cost estimate – including the Forest Glen improvements - remains $4,266,924.

6-Month Look Ahead The project team will:

1. Complete the permit process (Forest Preserve District of Cook County)
2. Complete the review of adjacent drainage areas
3. Let the contract with Village Council approval
4. Construct the project

AT Group, Inc.

Willow Road Tunnel

Activity Summary The Village retained the services of MWH to proceed with permitting and design of the project. The project team and MWH held a kick-off meeting to discuss the project schedule and short-term action items, including the Concept Review, Permitting Plan, and Modeling Verification.

Budget Summary The Village's agreement with MWH is for $2,023,818. The total project cost estimate remains $34,369,048.

6-Month Look Ahead The project team will:

1. Proceed with the Concept Review, Permitting Plan, and Modeling Verification
2. Present the Review Point #1 findings to the Village Council

Stormwater Master Plan (SMP)

Activity Summary B&W completed the draft Plan document, which is posted on the Village's Stormwater Master Plan website for comment. It will remain posted until March 7, after which time public comments will be compiled and reviewed.

Budget Summary The Village budgeted $50,000 and committed $101,220.

6-Month Look Ahead The project team will:

1. Address the comments on the draft Stormwater Master Plan
2. Present the Stormwater Master Plan to the Council for formal adoption

Stormwater Utility Feasibility Study

Activity Summary The project team and Municipal & Financial Services Group (MFSG) are proceeding with the implementation phase for a stormwater utility. The Village created an online utility fee estimator, which is also available on the Stormwater Master Plan website. The Village Council introduced the Utility ordinance on February 4, 2014, and further discussed the ordinance on February 11.

Budget Summary The Village budgeted $50,000 and awarded an agreement in the amount of $72,100 for the feasibility study. The Council awarded a contract to MFSG for implementation assistance in the amount of $89,766.

6-Month Look Ahead The project team will:

1. Proceed with implementation

Sanitary Sewer Evaluation

Activity Summary B&W is proceeding with the detailed I/I evaluation in select areas of the Village to identify specific system repairs and corrections needed.

Budget Summary The Village has budgeted $150,000 and committed $152,157.

6-Month Look Ahead The project team will:

1. Complete detailed evaluations
2. Report findings to the Council
3. Complete design engineering of initial system improvements

Public Outreach

Activity Summary The project team continues to update the website and monitor the activity. The Stormwater Management Program Special Report was published in August and two Town Hall Meetings were held in September. Responses to the questions raised at the Town Hall Meetings were posted to the Master Plan website in November. A second Stormwater Management Program Special Report is scheduled for publication in March. Additionally, the project team plans to publish weekly E-Winnetka news blasts, reporting on key components of the Village's Stormwater Management Program such as stormwater runoff, green improvements, environmental issues and stormwater utilities.

Budget Summary There is no separate budget associated with this project.

6-Month Look Ahead The project team will continue to update the website and monitor activity.

Ravine/Sheridan Road Improvements

Activity Summary IDOT is planning pavement and drainage improvements for the area with paving tentatively scheduled for 2014. Due to the need for easement acquisition, the drainage is scheduled for 2015. Staff met with IDOT to review the preliminary plans and discuss the project in general.

Budget Summary This project is funded in its entirety by IDOT.

6-Month Look Ahead The project team will:

1. Monitor IDOT activities
2. Update the Council as needed

AT Group, Inc.
Managing the Design & Construction Process

James H. Johnson, P.E.

Ash Street Pump Station

Activity Summary CBBEL completed plans and specifications for the station, including pump and electrical equipment replacement. Staff also reviewed the project scope as part of the FY 14 budget. Construction is tentatively scheduled for 2014.

Budget Summary This project is funded within the Stormwater Fund Capital Budget.

6-Month Look Ahead The project team will:

1. Budget for the project
2. Proceed with final engineering and construction

Attached are the following documents:

1. One-Year Look-Ahead Schedule including Council Meeting Presentations
2. Program Budget
3. Program Organization Chart

If you have any questions or need additional information, please call me at 847-691-9832, or send an e-mail to jjohnson@theatgrp.com.

1469 W Fork Drive | Lake Forest, Illinois 60045

Village of Winnetka
Stormwater Management Program

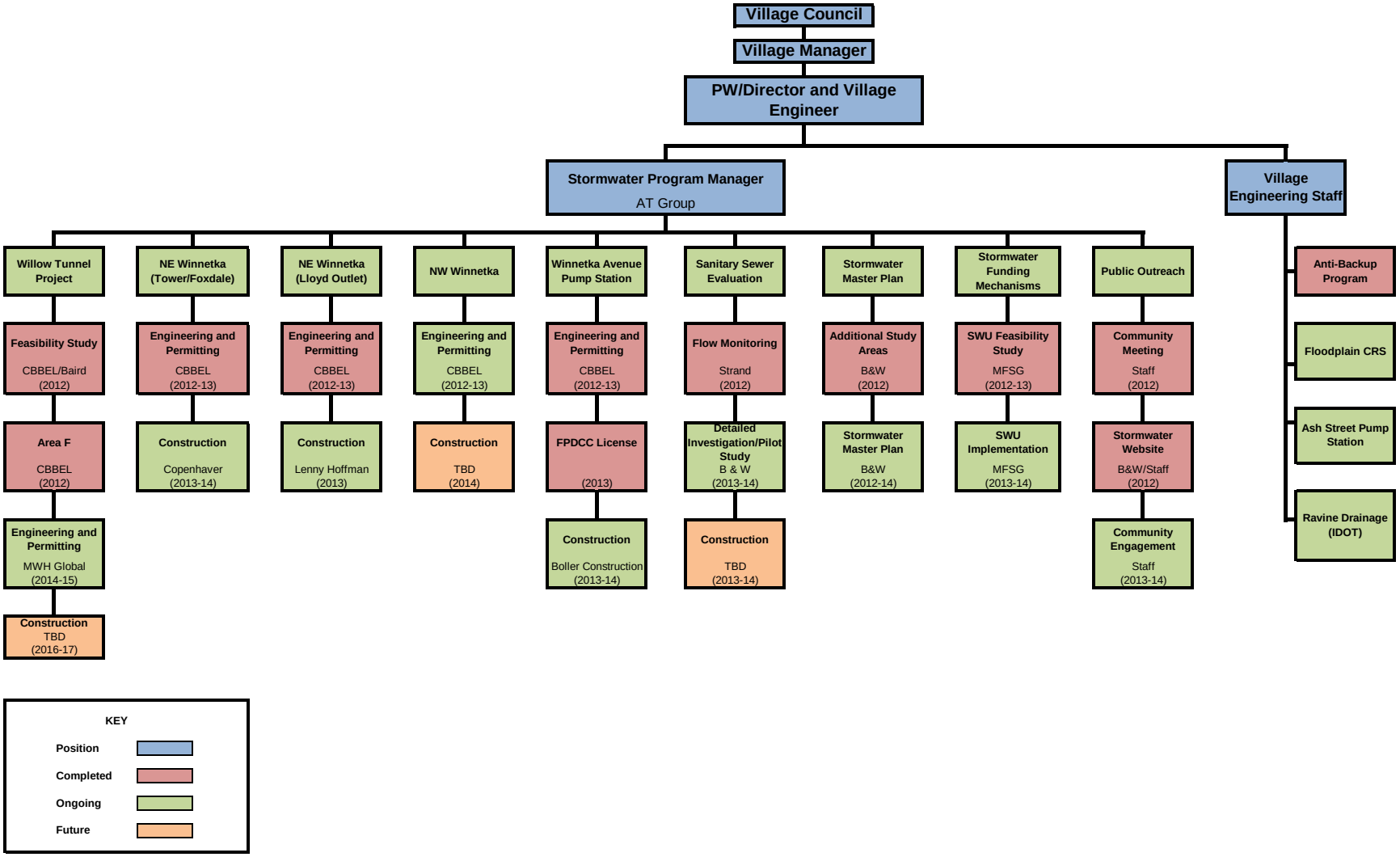
One-Year Look Ahead Schedule

2/12/2014

	Feb 14	Mar 14	Apr 14	May 14	Jun 14	Jul 14	Aug 14	Sep 14	Oct 14	Nov 14	Dec 14	Jan 15
Tower/Foxdale												
Bid Authorization/Bidding												
Construction												
Lloyd Outlet												
Construction (Paving)												
Tunnel (Willow North, Willow South, Provident, Cherry Outlet, Underpass)												
Preliminary Engineering												
NW Winnetka (Greenwood/Forest Glen)												
Bid Authorization/Bidding												
Construction												
Winnetka Avenue Pump Station												
Construction												
Sanitary Sewer												
Engineering												
Construction												
Stormwater Master Plan												
Develop SMP												
Community Outreach												
Stormwater Program Special Report Newsletter												
eWinnetka												
Village Council Meeting Presentations												
SWU Ordinance												
Stormwater Monthly Report												
MWRD WMO Ordinance												
Stormwater Monthly Report												
Stormwater Monthly Report												

Village of Winnetka
Stormwater Management Program Budget

Project	Initial Estimated Project Costs	Curent Estimated Project Costs	2013/2014 Budget	Council Authorized	Spent	Comments
Stormwater Fund 58.75.640.601						
Winnetka Ave. pump station	$ 1,188,562	$ 1,067,600	$ 750,000	$ 1,067,600	$ 29,300	Council Award 9/17/13
Tower Road/Foxdale	$ 1,419,544	$ 1,087,465	$ 1,000,000	$ 1,087,465	$ 110,457	Council Award 10/15/13
Lloyd Park/Spruce Street	$ 601,030	$ 288,631	$ 414,000	$ 288,631	$ 221,967	Council Award 8/20/13
NW Winnetka Greenwood/Forest Glen	$ 2,880,887	$ 4,266,924	$ 4,040,000	$ 226,874	$ 217,880	Added Forest Glen and included utilities from different line item
Willow Rd tunnel	$ 32,498,697	$ 34,369,048	$ 800,000	$ 37,750	$ 37,705	CBBEL October 2011 budget w/Kenny and Baird estimates
Proposed Area F				$ 17,600	$ 17,407	
Permitting and Design				$ 2,023,818	$ -	MWH Global
Stormwater rate study	$ 50,000	$ 167,316	$ 10,000	$ 167,316	$ 121,641	DPW 2011/12 Budget vs proposal. Additional fee for fifth workshop. Includes Implementation Phase
Stormwater master plan	$ 50,000	$ 101,220	$ 60,000	$ 101,220	$ 100,932	DPW 2011/12 Budget vs proposal (added 6 drainage areas)
Total Stormwater Costs	$ 38,688,720	$ 41,348,204	$ 7,074,000	$ 5,018,274	$ 857,289	
Sanitary Sewer Fund 54.70.640.201						
Sanitary Sewer Studies/Engineering	$ 150,000	$ 152,157	$ 50,000	$ 152,157	$ 155,346	
System I & I repairs	$ 1,000,000	$ 1,000,000	$ 300,000	$ -	$ -	
Total Sanitary Sewer Costs	$ 1,150,000	$ 1,152,157	$ 350,000	$ 152,157	$ 155,346	


Village Council
Village Manager
PW/Director and Village Engineer
Stormwater Program Manager
AT Group
Village Engineering Staff
Willow Tunnel Project
Feasibility Study
CBBEL/Baird
(2012)
Area F
CBBEL
(2012)
Engineering and Permitting
MWH Global
(2014-15)
Construction
TBD
(2016-17)
NE Winnetka (Tower/Foxdale)
Engineering and Permitting
CBBEL
(2012-13)
Construction
Copenhaver
(2013-14)
NE Winnetka (Lloyd Outlet)
Engineering and Permitting
CBBEL
(2012-13)
Construction
Lenny Hoffman
(2013)
NW Winnetka
Engineering and Permitting
CBBEL
(2012-13)
Construction
TBD
(2014)
Winnetka Avenue Pump Station
Engineering and Permitting
CBBEL
(2012-13)
FPDCC License
(2013)
Construction
Boller Construction
(2013-14)
Sanitary Sewer Evaluation
Flow Monitoring
Strand
(2012)
Detailed Investigation/Pilot Study
B & W
(2013-14)
Construction
TBD
(2013-14)
Stormwater Master Plan
Additional Study Areas
B&W
(2012)
Stormwater Master Plan
B&W
(2012-14)
Stormwater Funding Mechanisms
SWU Feasibility Study
MFSG
(2012-13)
SWU Implementation
MFSG
(2013-14)
Public Outreach
Community Meeting
Staff
(2012)
Stormwater Website
B&W/Staff
(2012)
Community Engagement
Staff
(2013-14)
Anti-Backup Program
Floodplain CRS
Ash Street Pump Station
Ravine Drainage (IDOT)
KEY
Position
Completed
Ongoing
Future

Agenda Item Executive Summary

Title: MC-2-2014 - Adding Chapter 13.16 and Establishing a Stormwater Utility

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 02/18/2014

Consent: ☐ YES ☑ NO

☑ Ordinance
☐ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☐ Informational Only

Item History:

May 14, 2013 Study Session
October 1, 2013 Council Meeting, Agenda pp. 35 - 62
February 4, 2014 Council Meeting, Agenda pp. 27 - 59
February 11, 2014 Study Session, Agenda pp. 22 - 120

Executive Summary:

Ordinance MC-2-2014 adds new Chapter 13.16 to the Village Code, to establish and implement a stormwater utility.

As presented to the Village Council in the February 4, 2014, agenda materials, Section 13.16.130(B) of new Village Code Chapter 13.16 allowed the Village, in its discretion, to consider entering into agreements with institutions that could provide "significant stormwater management assistance to the Village" in addition to meeting applicable requirements ("Partnership Credit"). In return, the Village, in its discretion, could exempt the institution from all or part of the stormwater utility fee. Following a lengthy discussion, the Council deleted that provision before introducing the Ordinance.

The Council discussed the issue of credits at greater length at the February 11th Study Session, and directed that a modified credit provision should be included in Chapter 13.16. The modified provision would include a modified Partnership Credit, based on the original draft, and would also include a new individual credit, based on the credit provisions in the Highland Park City Code.

The attached Agenda Report provides a detailed explanation of the amendments, and once again provides an overview of the related amendments to the Village Code.

Recommendation / Suggested Action:

Consider a motion to amend Ordinance MC-2-2014, as reflected in the Agenda materials.

Attachments:

Agenda Report
Ordinance MC-2-2014 (Clean draft)
Attachment 1 – Original Partnership Credit provision
Attachment 2 – Highland Park Stormwater Credit provision
Attachment 3 – Amended draft of MC-2-2014 (Tracked changes)

AGENDA REPORT

SUBJECT:	**Ordinance MC-2-2014 – Adding a New Chapter 13.16 to Title 13 and Making Related Amendments to the Winnetka Village Code to Establish a Stormwater Utility**	
PREPARED BY:	Katherine S. Janega, Village Attorney	
REFERENCE:	May 14, 2013	Study Session
	October 1, 2013	Council Meeting, Agenda pp. 35 – 62
	February 11, 2014	Study Session, pp. 72 - 120
DATE:	February 14, 2014	

Introduction

Ordinance MC-2-2014, which was introduced at the February 4, 2014, Village Council meeting, adds new Chapter 13.16 to the Village Code, to establish and implement a stormwater utility. As noted at the time of introduction, Chapter 13.16 is based in part on the sample ordinance provided by the Village's stormwater utility consultant, Municipal & Financial Services Group (MFSG), as well as on a review of similar ordinances in other Illinois communities. Chapter 13.16 has also been crafted so that it is consistent with Village Code Chapters 13.04, 13.08 and 13.12, which govern the Village's water, electric and sanitary sewer utilities.

As presented to the Village Council in the agenda materials, Ordinance MC-2-2014, Section 13.16.130(B) of new Village Code Chapter 13.16 would have allowed the Village, in its discretion, to consider entering into agreements with institutions that not only met applicable stormwater requirements, but that also would provide "significant stormwater management assistance to the Village" ("Partnership Credit"). In return, the Village, in its discretion, could exempt the institution from all or part of the stormwater utility fee. Following a lengthy discussion, the Council deleted that provision before introducing the Ordinance.

The Council discussed the issue of credits at greater length at the February 11th Study Session, and directed that a modified credit provision should be included in Chapter 13.16. This Agenda Report provides a detailed explanation of the amendments, and once again provides an overview of the related amendments to the Village Code.

Stormwater Fee Credits

After reviewing and discussing examples of credit provisions at the February 11th Study Session, the Council determined that the new Chapter 13.16 should provide for a form of Partnership Credit. The Council also determined that Partnership Credits should be limited so that proposed partnerships would not be presented after the system is designed or built, since that

would be less likely to produce a financial benefit to the Village and could thus shift the "partners" costs to the rest of the stormwater customers.

In addition, the Council determined that Chapter 13.16 should also provide for stormwater fee credits to individual property owners, similar to the credits the City of Highland Park offers to its stormwater utility customers.

The following paragraphs describe the amendments made to Ordinance MC-2-2014 to implement the policy direction the Council gave on February 11th. An updated draft of Ordinance MC-2-2014 follows this Agenda Report, showing the proposed text of Chapter 13.16 in its final form, without tracking. A draft of Ordinance MC-2-2014 with red-lined tracking of the changes to Chapter 13.16 since adoption is attached as Attachment 3. The page references below are the same for either version of the Ordinance.

Definition of Credit. On page 3, the term "Credit" has been added to the definitions in Section 13.16.020. As defined, a credit is "a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility."

Section 13.16.130 Exemptions. On page 7, the Exemption provision has been modified by striking the subsection A reference. The text exempting public rights of way has been retained, without change. When Ordinance MC-2-2014 was originally presented to the Council, this section contained a subsection B, which contained the initial Partnership Credit provision. Because that provision was deleted, the subsection A reference is no longer necessary.

Section 13.16.140 Credits. This new section, on pages 7 and 8 of Ordinance MC-2-2014, contains the heart of the amendments. Section 13.16.130 has been divided into two subsections. Subsection A is captioned "Partnership Credits," and Subsection B is captioned "Individual Credits."

Partnership Credits. On page 7, Paragraph 1 of the Partnership Credits provision restores the language that was originally in subsection B of Section 13.16.130. (See Attachment 1.) Paragraph 2 of the Partnership Credit provision is new and is unique to Winnetka's Ordinance. The new provision reserves the Village's "sole and exclusive right and discretion" to limit when proposals for Partnership Credits can be submitted and considered, with the stated purpose of the reservation being to "avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system."

The "reservation of rights and discretion" approach in paragraph 2 was arrived at after several unsuccessful attempts to set a bright line deadline for Partnership Credit applications. Staff has concluded that a bright line is not possible, because the Village has several different projects in the Stormwater Master Plan, any of which might generate a partnership approach.

Because setting a fixed date or milepost as a cut-off could have the unintended consequence of discouraging partnerships in future projects, Staff has concluded that a clear statement of the Village's reservation of its discretion to limit when credits will be considered, coupled with a statement of the purpose for that limitation, will send the appropriate signal to potential partners for initial projects while keeping the doors open for future cooperative efforts.

Individual Credits. The individual credits provisions, in subsection B on page 8, are based on the Highland Park model. (See Attachment 2.) The individual credits are of two types: (i) a 50% credit for qualifying stormwater detention, and a 100% credit for direct discharge. Conditions for the credits include providing engineering documentation and providing annual proof that the individual stormwater facilities are being maintained. In addition, the credits are limited to a period of 5 years, and must then be renewed.

Other Amendments to Ordinance MC-2-2014

Ordinance MC-2-2014 has several less significant amendments. On page 4, technical amendments to the definitions of "Stormwater System" and "Stormwater Utility" provide consistency in those two terms. On page 5, the second sentence in the base fee provision for the stormwater utility fee in Section 13.16.070 has been deleted. As noted at the time of introduction, that sentence had proved to be both unnecessary and confusing. The only other changes in the draft of Chapter 13.16 are in the section numbers, which have changed due to the insertion of the new Credits provision.

Summary of Remaining Sections of Ordinance MC-2-2014

The preceding discussion addressed amendments to Section 2 of the Ordinance, which adds Chapter 13. The following table, taken from the initial Agenda Report at the time of introduction, summarizes the other Village Code amendments necessary to establish the Stormwater Utility.

In the first column, numbers preceded by the word "Section" refer to the Section numbers in the Ordinance. The indented numbers preceded by the section symbol (§) refer to sections in the Winnetka Village Code (WVC).

Section	**Description**
Section 3	Amends WVC Chapter 1.04, "General Provisions."
§ 1.04.140(A)	This amendment inserts a reference to stormwater in the definition of delinquent accounts in WVC § 1.04.140 of the Village Code's general provisions
Section 4	Amends WVC Chapter 2.48, "Finance Department."
§2.48.010 to §2.48.050	This section contains non-substantive and substantive amendments to Chapter 2.48. Non-substantive amendments: The non-substantive amendments restructure the chapter, which is currently a single section, by assigning

Section	Description
	separate section numbers to what are now subsections. This restructuring mirrors the other chapters in Title 2 and facilitates searches, as only section numbers are listed in the table of contents. Substantive Amendments: The two substantive amendments insert the word "stormwater" in paragraphs 6 and 8 of what is now Section 2.48.050.
Section 5	Amends WVC Chapter 2.64, "Department of Public Works."
§2.64.010 to §2.64.040	This section contains non-substantive and substantive amendments to Chapter 2.48. Non-substantive amendments: The chapter has been restructured in the same manner as Chapter 2.48. Substantive amendment: The only substantive amendment is in the addition of a new paragraph 6 in what is now Section 2.64.040, to place the operation and maintenance of the stormwater utility system in the Department of Public Works.
Section 6	Boilerplate: Refers to the Village's exercise of its home rule powers.
Section 7	Boilerplate: States that the Ordinance is to be effective immediately.

Attachments:
Ordinance MC-2-2014 (Clean text)
Attachment 1 – Original Partnership Credit provision
Attachment 2 – Highland Park Stormwater Credit provision
Attachment 3 – Amended draft of MC-2-2014 (Tracked changes)

Recommendation:

Consider a motion to amend Ordinance MC-2-2014, as reflected in the Agenda materials.

ORDINANCE NO. MC-2-2014

AN ORDINANCE
ADDING A NEW CHAPTER 13.16 TO TITLE 13
AND MAKING RELATED AMENDMENTS
TO THE WINNETKA VILLAGE CODE
TO ESTABLISH A STORMWATER UTILITY

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the Village owns and operates a system of storm sewers, drains, pipes, pump stations and outlets that collects stormwater that drains from properties located within the corporate limits of the Village and transports that stormwater for delivery into open watercourses ("Stormwater System"); and

WHEREAS, the principal watercourses that drain stormwater runoff from the Village are the Skokie River and Lake Michigan; and

WHEREAS, in response to a series of storms that inundated numerous areas of the Village, the Village has embarked on the development and implementation of a stormwater management plan that provides for a series of capital improvements, upgrades and additions to the Stormwater System throughout the Village ("Stormwater Projects"); and

WHEREAS, the Winnetka Village Council ("Village Council") finds and determines that, due to the high cost of some of the Stormwater Projects and the long life of stormwater facilities once they are in place, it is in the best interests of the Village and its residents that the cost of the Stormwater Projects be spread over a long period of time, so that, to the extent reasonably possible, the Stormwater Projects are paid for as the improvements are used and current users of the Stormwater System do not pay for the use of the Stormwater System by future users; and

WHEREAS, the Village Council finds and determines that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the Stormwater Projects and for the operation and maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that all land in the Village contributes to stormwater runoff and either uses or benefits from the maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that it is in the best interests of the health, safety and general welfare of the Village and its residents that the Stormwater System be operated as a municipal utility that is funded through user fees rather than property taxes; and

WHEREAS, the Village Council finds and determines that owning and operating the Stormwater System, and financing the operation, maintenance and improvement of the

Stormwater System through user fees, are matters pertaining to the government and affairs of the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Winnetka, as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 13 of the Winnetka Village Code, "Municipal Utility Services," is hereby amended by adding a new Chapter 13.16, which shall be titled "Stormwater Utility System" and shall provide as follows:

Chapter 13.16
Stormwater Utility System

Sections:

13.16.010 Legislative findings, policy and purpose.
13.16.020 Definitions.
13.16.030 Stormwater utility established.
13.16.040 Scope of responsibility of stormwater utility.
13.16.050 Rules and regulations.
13.16.060 Charges for stormwater utility service.
13.16.070 Stormwater utility fee.
13.16.080 Billing and collection procedures.
13.16.090 Effect of nonpayment of bill.
13.16.100 Requests for adjustment of the stormwater utility fee.
13.16.110 Stormwater utility fund.
13.16.120 Impervious area database.
13.16.130 Exemptions from stormwater utility fee.
13.16.140 Credits.
13.16.150 Stormwater service connections.
13.16.160 Interference with stormwater system.
13.16.170 Responsibility for damage to stormwater system.

Section 13.16.010 Legislative findings; policy and purpose.

A. Legislative findings. The Village Council finds:

1. that all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system;

2. that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village of Winnetka stormwater system; and

3. that it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village of Winnetka stormwater system be operated as a municipal utility that is funded through user fees.

B. Statement of policy.

1. It is the policy of the Village of Winnetka to provide a dedicated funding source for the construction, maintenance, operation and improvement of stormwater facilities in the Village, so that the Village is able to proactively manage stormwater for the benefit of all residents and owners of real property within the Village.

2. It is the policy of the Village of Winnetka that, except as provided in this chapter, the owner or owners of any real property in the Village that uses or benefits from the Village's stormwater system be charged a stormwater utility fee, whether or not the owner or parcel is exempt from taxation.

C. Purpose. The purpose of this chapter is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Winnetka from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this chapter to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

Section 13.16.020 Definitions.

The following words, terms and phases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Credit means a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility.

Developed Land means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

Direct Discharge means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

Equivalent Runoff Unit (ERU) means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand four hundred (3,400) square feet of impervious area or any fraction thereof.

Impervious Area means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

NPDES or *National Pollutant Discharge Elimination System* means the national permitting program implemented under the Clean Water Act.

Parcel means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

Stormwater Service Connection means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Winnetka stormwater system.

Stormwater System, or *Village Stormwater System,* means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

Stormwater Utility, or Village Stormwater Utility, means the Village of Winnetka stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

Undeveloped Parcel means a parcel of land that remains in its natural state with no impervious area.

User means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

Section 13.16.030 Stormwater utility established.

A. Stormwater Utility. The Village hereby establishes a stormwater utility to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater system, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

Section 13.16.040 Scope of responsibility of stormwater utility.

A. The stormwater utility shall be responsible for the operation, maintenance, management and improvement of the stormwater system owned by the Village in accordance with all applicable permits, licenses and regulations, including all activities required by the NPDES Stormwater Permit.

B. The Village of Winnetka stormwater utility shall be operated by the Department of Public Works established in Chapter 2.64 of this code.

Section 13.16.050 Rules and regulations.

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

Section 13.16.060 Charges for stormwater utility service.

A. Establishing Rates and Fees. Effective July 1, 2014, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for stormwater utility service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

Section 13.16.070 Stormwater utility fee.

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The stormwater utility fee for all parcels in the Village shall be based on the measured number of ERUs on the parcel, rounded to the nearest 10th of an ERU. Parcels with an impervious area of 170 square feet or less shall not be subject to the stormwater utility fee.

B. Fee Resolution. The stormwater utility fee shall be set by resolution as provided in section 13.16.060 of this Chapter.

C. Fee components. The stormwater utility fee shall consist of the sum of the following:

1. Base Fee. The base fee shall be the amount to be charged each month per ERU in order to produce the amount of principal and interest on any outstanding stormwater utility system debt that is due and payable during the fiscal year for which the Base Fee is calculated.

2. Such other rates, fees and charges that the Village Council determines are necessary to recover all costs related to operating, maintaining and improving the stormwater system utility.

Section 13.16.080 Billing and collection procedures.

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department may include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater utility fee. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

Section 13.16.090 Effect of nonpayment of bill.

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of five percent shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

Section 13.16.100 Requests for adjustment of the stormwater utility fee.

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Village Manager or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and
4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Village Manger shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee. The Village Manager's decision on a request for correction of the fee shall be final.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Village Manager to make a determination on the request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

Section 13.16.110 Stormwater utility fund.

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility enterprise fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Council.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

Section 13.16.120 Impervious area database.

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

Section 13.16.130 Exemptions from stormwater utility fee.

Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

Section 13.16.140 Credits.

A. Partnership Credits.

1. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village Council reserves the sole and exclusive right and discretion to enter into agreements with

such owners to provide for such contributions to the Village's stormwater system, and to grant a credit to such owners for all or part of the stormwater utility fee in exchange for such contribution.

2. To avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system, the Village reserves the sole and exclusive right to limit the time period during which requests or proposals for partnerships for any stormwater project may be submitted and considered.

B. Individual Credits.

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the stormwater utility fee charged to that property pursuant to section 13.16.070 may apply for one of the following credits against the stormwater utility fee:

a. A credit of up to 50% if not less than one half of the stormwater emanating from the relevant property for the 100-year design storm is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. A credit of 100% if none of the stormwater emanating from the parcel in question discharges into the Village stormwater utility system, either directly or indirectly.

2. Applications for credits against the stormwater utility fee filed pursuant to this subsection shall be filed in writing with the Village Manager or his or her designee, along with documentation that the Rules and Regulations of the Village of Winnetka Stormwater Utility require for the assessment of the application, which documentation shall include, but not be limited to:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the Village stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the Village stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the stormwater utility fee, and shall either grant or deny the requested credit, within 60 days after the date on which the application is received. The Village Engineer shall only grant the requested credit upon determining, in the exercise of his professional judgment that the applicant meets the criteria for the credit, as defined in paragraph 1 of this subsection.

4. The owner of any parcel granted a credit under this subsection shall be responsible for keeping the qualifying private stormwater management facilities in good working order, and shall provide an annual report of maintenance and repair activities to

the Village Engineer, and the Village shall have the right to enter on the property to inspect the private stormwater maintenance facilities to confirm that they remain in good working order. Failure by the owner to maintain the private stormwater management facilities will result in the loss of stormwater utility fee credits.

5. Provided the owner has continued to maintain the private stormwater maintenance facilities as required by paragraph 4 of this subsection, a stormwater utility fee credit granted under this subsection shall remain in effect for 5 years from the date of approval. The owner of the property in question may apply for renewal of the credits for successive 5-year periods, subject to meeting all of the applicable conditions then in effect. The approval of a stormwater fee credit shall not create a property right to renew or be granted a credit upon the expiration of the credit's 5-year term.

C. Application of credits; refund of overpayments. The Finance Director shall apply approved credits to the applicant's account, and shall refund to the applicant any overpayments made from the date of the application. If the amount overpaid is less than the full amount of the customer's bill, the refund shall be in the form of a credit against the customer's next bill. If the amount overpaid equals or exceeds the full amount of the customer's prior bill, then the overpayment shall be refunded directly to the customer within 30 days after the date the credit is approved.

Section 13.16.150 Stormwater service connections.

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works Department and shall be performed in accordance with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

Section 13.16.160 Interference with stormwater system.

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

Section 13.16.170 Responsibility for damage to stormwater system.

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

SECTION 3: Subsection A of Section 1.04.140, "Delinquent accounts," of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

A. Delinquent Account Defined. For purposes of this section, any account that is not current and for which the person owing the account has not entered into and remained in compliance with an enforceable payment plan pursuant to subsection C of this section, shall be considered to be a delinquent account. Such accounts shall include, but not be limited to, accounts with unpaid stormwater, water and electric fees, accounts with unpaid fees for false alarms, accounts with unpaid parking tickets, accounts with unpaid license or permit fees, and accounts with unpaid late fees or collection charges.

SECTION 4: Chapter 2.48, "Finance Department," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

Chapter 2.48
FINANCE DEPARTMENT

Sections:

2.48.010 Creation of Finance Department.
2.48.020 Finance Director.
2.48.030 Bond.
2.48.040 Compensation.
2.48.050 Powers and Duties.
2.48.060 Purchasing Agent.
2.48.070 Requisitions for Supplies, Services and Materials.
2.48.080 Approval of Village Bills.
2.48.090 Local Tax Administrator.

Section 2.48.010 Creation of Finance Department.
There is created the Finance Department, an administrative department of the Village. The Finance Department shall consist of a Finance Director and such other officers and employees as may be provided from time to time by the Council.

Section 2.48.020 Finance Director.

There is created the office of Finance Director, an administrative office of the Village. The Finance Director shall be appointed by the Village Manager.

Section 2.48.030 Bond.
Before entering upon the duties of the office of Finance Director, the Finance Director shall execute and file with the Village Clerk a bond with security to be approved by the Council. The bond shall be payable to the Village in the penal sum directed by resolution of the Council, and shall be conditioned upon the faithful performance of the duties of the office of Finance Director, according to law and the ordinances of the Village. The premiums for such bond shall be paid by the Village.

Section 2.48.040 Compensation.
The compensation of the Finance Director shall be fixed by the Village Council, upon the recommendation of the Village Manager.

Section 2.48.050 Powers and Duties.
The Finance Director shall be subject to the control and direction of the Village Manager and shall be head of the Finance Department. Subject to the approval of the Village Manager, the Finance Director shall have both control over all of the property and employees of the Finance Department and the power to appoint and remove such employees as may be required for the efficient operation of the Department. In addition to the duties required by state law, the Finance Director shall have the following duties, functions and responsibilities:

1. To assist the Budget Officer in the preparation of the annual budgets, and to prepare tax levy and tax abatement ordinances;

2. To supervise all expenditures of the Village and to maintain accurate records of such expenditures;

3. To keep the financial records of the Village;

4. To oversee all purchases made by the Village and to develop and recommend procedures for such purchases;

5. To prepare financial reports and statements;

6. To issue bills and collect fees for water, electric, sewer, refuse, stormwater and other services rendered by the Village;

7. To invest Village funds with the approval of the Treasurer;

8. To collect, and to maintain accurate records of, the following: all special assessments; all cash deposits required by the Village, including deposits for electric, sewer, water and stormwater service; all fees for licenses and permits issued by the Village; and all payments of fines and fees, as provided in this code;

9. To collect late fees and to recover costs related to the collection of any unpaid or delinquent fees, fines, deposits or other payments due and owing to the Village;

10. To retain deposits and excess payments that may otherwise be subject to refunds, for the sole purpose of applying the retained amount to pay all or part of a delinquent account owed by the person making the deposit;

11. To develop and implement procedures to detect, prevent, and mitigate the impact of identity theft in accordance with section 4.04.020 of this Code and applicable federal laws, rules and regulations; and

12. To perform such other services as may be required by the Village Manager.

Section 2.48.060 Purchasing Agent.

The Finance Director shall be ex officio Purchasing Agent for the Village, and shall purchase all supplies, services and materials for use in all departments of the Village, pursuant to the written purchasing policy developed by the Village Manager as provided in this code.

Section 2.48.070 Requisitions for Supplies, Services and Materials

Upon the receipt of a requisition made by the proper officer of any Village department in conformity with the purchasing policy for the purchase of any supplies, services or materials for use in that department, the Purchasing Agent shall issue a purchaser order, which shall be numbered and approved in accordance with the purchasing policy.

Section 2.48.080 Approval of Village Bills.

All bills rendered against the Village will be certified as correct by the Finance Director and approved for payment by the Village Manager before being submitted to the Treasurer and the Council.

(Ord. MC-228-99 § 1 (part), 1999: prior code § 3.05)

Section 2.48.090 Local Tax Administrator.
The Finance Director shall be ex-officio Local Tax Administrator for the Village, and shall be responsible for administering and collecting all locally imposed and administered taxes, as provided in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code.

(MC-7-2008 § 2, Amended, 11/6/2008; MC-9-2000, Amended, 01/02/2001, Paragraph I added, Local Tax Administrator)

SECTION 5: Chapter 2.64, "Department of Public Works," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

Chapter 2.64
DEPARTMENT OF PUBLIC WORKS

Sections:

2.64.010 Creation of Department of Public Works.
2.64.020 Director of Public Works.
2.64.030 Compensation.
2.64.040 Powers and Duties.

Section 2.64.010 Creation of Department of Public Works.
There is created the Department of Public Works, an administrative department of the Village. The Department of Public Works shall consist of a Director of Public Works and such other officers and employees as may be provided from time to time by the Council.

Section 2.64.020 Director of Public Works.
There is created the office of Director of Public Works, an administrative office of the Village. The Director of Public Works shall be appointed by the Village Manager.

Section 2.64.030 Compensation.
The compensation of the Director of Public Works shall be fixed by the Village Manager, with the approval of the Council.

Section 2.64.040 Powers and Duties.
The Director of Public Works shall be subject to the control and direction of the Village Manager and shall be head of the Department of Public Works. Subject to the approval of the Village Manager, the Director of Public Works shall have both control over all of the

property and employees of the Department of Public Works and the power to appoint and remove employees as required for the efficient operation of the Department. In addition, the Director of Public Works shall have the following duties, functions and responsibilities:

1. To maintain all public streets, alleys, roads, bridges, culverts, sidewalks and other structures pertaining to such public streets, alleys, roads, bridges, culverts, sidewalks and other structures in the Village;

2. To operate and maintain all public sewers and drains in the Village;

3. To maintain and protect trees located in the public streets and upon other public property;

4. To maintain all buildings, grounds and equipment belonging to the Village, except that which is expressly delegated to the supervision of other officers and departments;

5. To operate the municipal waste system in accordance with the provisions of Chapter 8.16 of this code.

6. To operate and maintain the stormwater utility system in accordance with the provisions of Chapter 13.16 of this code.

(Ord. MC-228-99 § 1 (part), 1999: Ord. MC-192-97 § 3, 1997: prior code § 3.09)

SECTION 6: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 7: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this 18th day of February, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this 18th day of February, 2014.

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

Published by authority of the President and Board of Trustees

of the Village of Winnetka, Illinois, this _____ day of _____ 2014.

Introduced: February 4, 2014

Passed and Approved:

ATTACHMENT 1

MC-2-2014

Original Partnership Credit Provision

Excerpted from February 4, 2014 Draft

MC-2-2014
Original Credit Provision, from February 4, 2014 Draft

Section 13.16.130 Exemptions from stormwater utility fee.

A. Public Rights-of-Way. Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

B. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village Council reserves the sole and exclusive right and discretion to enter into agreements with such owners to provide for such contributions to the Village's stormwater system, and to grant an exemption to such owners from all or part of the stormwater utility fee in exchange for such contribution.

ATTACHMENT 2

City of Highland Park

Stormwater Credit Provision

Highland Park Credit Provisions

E. Credits and Reimbursement.

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the Stormwater Utility Fee charged to that property by this Section may apply for a credit against the Stormwater Utility Fee.

2. Applications for credits against the Stormwater Utility Fee filed pursuant to this Subsection shall be filed in writing with the City Engineer, along with documentation required by the City Engineer for the assessment of the application, which documentation shall include, without limitation:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the City stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the City stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the Stormwater Utility Fee, and shall either grant or deny the requested credit, within 30 days after the date on which the application is received. The amount of the credit shall be in the amount set forth in the Annual Fee Resolution. The Village Engineer shall only grant the requested credit upon determining, in his or her discretion, that either:

a. Not less than one half of the stormwater emanating from the relevant property is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. The emanation of stormwater from the relevant property has no impact on the Village stormwater utility system.

4. The Finance Director shall apply credits granted by the Village Engineer to the applicant's account, and shall refund any overpaid monies to the applicant within 30 days of receipt of the Village Engineer's review of the application.

ATTACHMENT 3

ORDINANCE MC-2-2014

(with red-line tracking of changes since introduction)

ORDINANCE NO. MC-2-2014

AN ORDINANCE
ADDING A NEW CHAPTER 13.16 TO TITLE 13
AND MAKING RELATED AMENDMENTS
TO THE WINNETKA VILLAGE CODE
TO ESTABLISH A STORMWATER UTILITY

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970 and, pursuant thereto, has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including the power to regulate for the protection of the public health, safety and welfare; and

WHEREAS, the Village owns and operates a system of storm sewers, drains, pipes, pump stations and outlets that collects stormwater that drains from properties located within the corporate limits of the Village and transports that stormwater for delivery into open watercourses ("Stormwater System"); and

WHEREAS, the principal watercourses that drain stormwater runoff from the Village are the Skokie River and Lake Michigan; and

WHEREAS, in response to a series of storms that inundated numerous areas of the Village, the Village has embarked on the development and implementation of a stormwater management plan that provides for a series of capital improvements, upgrades and additions to the Stormwater System throughout the Village ("Stormwater Projects"); and

WHEREAS, the Winnetka Village Council ("Village Council") finds and determines that, due to the high cost of some of the Stormwater Projects and the long life of stormwater facilities once they are in place, it is in the best interests of the Village and its residents that the cost of the Stormwater Projects be spread over a long period of time, so that, to the extent reasonably possible, the Stormwater Projects are paid for as the improvements are used and current users of the Stormwater System do not pay for the use of the Stormwater System by future users; and

WHEREAS, the Village Council finds and determines that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the Stormwater Projects and for the operation and maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that all land in the Village contributes to stormwater runoff and either uses or benefits from the maintenance of the Stormwater System; and

WHEREAS, the Village Council finds and determines that it is in the best interests of the health, safety and general welfare of the Village and its residents that the Stormwater System be operated as a municipal utility that is funded through user fees rather than property taxes; and

WHEREAS, the Village Council finds and determines that owning and operating the Stormwater System, and financing the operation, maintenance and improvement of the

Stormwater System through user fees, are matters pertaining to the government and affairs of the Village.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Winnetka, as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 13 of the Winnetka Village Code, "Municipal Utility Services," is hereby amended by adding a new Chapter 13.16, which shall be titled "Stormwater Utility System" and shall provide as follows:

Chapter 13.16
Stormwater Utility System

Sections:

13.16.010 Legislative findings, policy and purpose.
13.16.020 Definitions.
13.16.030 Stormwater utility established.
13.16.040 Scope of responsibility of stormwater utility.
13.16.050 Rules and regulations.
13.16.060 Charges for stormwater utility service.
13.16.070 Stormwater utility fee.
13.16.080 Billing and collection procedures.
13.16.090 Effect of nonpayment of bill.
13.16.100 Requests for adjustment of the stormwater utility fee.
13.16.110 Stormwater utility fund.
13.16.120 Impervious area database.
13.16.130 Exemptions from stormwater utility fee.
13.16.140 Credits.
13.16.150~~140~~ Stormwater service connections.
13.16.160~~150~~ Interference with stormwater system.
13.16.170~~160~~ Responsibility for damage to stormwater system.

Section 13.16.010 Legislative findings; policy and purpose.

A. Legislative findings. The Village Council finds:

1. that all real property in the Village contributes to runoff and either uses or benefits from the maintenance of the stormwater system;

2. that, in order to provide an effective and long term approach to stormwater management within the Village, it is necessary to provide an adequate and stable revenue stream for the construction, maintenance, operation and improvement of the Village of Winnetka stormwater system; and

3. that it is in the best interests of the health, safety and general welfare of the Village, its residents and property owners, that the Village of Winnetka stormwater system be operated as a municipal utility that is funded through user fees.

B. Statement of policy.

1. It is the policy of the Village of Winnetka to provide a dedicated funding source for the construction, maintenance, operation and improvement of stormwater facilities in the Village, so that the Village is able to proactively manage stormwater for the benefit of all residents and owners of real property within the Village.

2. It is the policy of the Village of Winnetka that, except as provided in this chapter, the owner or owners of any real property in the Village that uses or benefits from the Village's stormwater system be charged a stormwater utility fee, whether or not the owner or parcel is exempt from taxation.

C. Purpose. The purpose of this chapter is to establish a stormwater utility to protect the public health, safety and welfare of the residents of the Village of Winnetka from damage to property and local waterways from stormwater runoff and floods, through the construction and operation of flood reduction and control facilities, and through water quality management and floodplain management. It is also the purpose of this chapter to provide an effective and long-term approach to stormwater management within the Village by identifying and providing an adequate and stable funding source for stormwater management.

Section 13.16.020 Definitions.

The following words, terms and phases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Credit means a conditional, recurring reduction in the amount of a stormwater user fee to an individual property that meets the qualification standards established in this Chapter and the Rules and Regulations of the Village of Winnetka Stormwater Utility.

Developed Land means a parcel within the corporate limits of the Village that has been altered from its natural state by the addition of impervious area.

Direct Discharge means the conveyance of stormwater runoff directly from a parcel of property to a receiving stream or Lake Michigan, without using any part of the stormwater system.

Equivalent Runoff Unit (ERU) means the base billing unit for the stormwater utility fee, used as an index to compare runoff generated by different types and uses of parcels with different stormwater runoff characteristics. One ERU is defined as the runoff generated by a typical single family residential parcel and shall equal three thousand four hundred (3,400) square feet of impervious area or any fraction thereof.

Impervious Area means the area within a parcel that prevents or significantly impedes the infiltration of stormwater into the soil. Impervious areas shall include, but are not limited to buildings, roofed structures, paved areas, walkways, driveways, parking lots, patios, decks, swimming pools, and similar non-porous areas.

NPDES or *National Pollutant Discharge Elimination System* means the national permitting program implemented under the Clean Water Act.

Parcel means an area of land within the corporate limits of the Village that has been established by a plat or other legal means and has been assigned a Property Index Number (PIN) by the County of Cook, Illinois.

Stormwater Service Connection means such pumps, pipes, drains and other appurtenances necessary to drain and channel runoff from any parcel into the Village of Winnetka stormwater system.

Stormwater System, or *Village ~~of Winnetka~~ Stormwater System,* means the system of conveyances owned and operated by the Village and designed for or used in the collection, control, transportation, treatment or discharge of stormwater, including but not limited to storm sewers, storm drains, curbs, gutters, ditches, detention ponds or basins, dams, river impoundment, manmade channels or storm drains, and flood control facilities, and any appurtenances thereto.

Stormwater Utility, or Village Stormwater Utility, means the Village of Winnetka stormwater utility established by this chapter for the management, operation, maintenance, engineering, planning and capital investments related to the stormwater system.

Undeveloped Parcel means a parcel of land that remains in its natural state with no impervious area.

User means the owner of a parcel that uses, benefits from or connects to the Village's stormwater system.

Section 13.16.030 Stormwater utility established.

A. Stormwater Utility. The Village hereby establishes a stormwater utility to provide for the management, operation, maintenance, engineering, planning, construction, enhancement and rehabilitation of the Village's stormwater system, as defined in this chapter.

B. Terms and Conditions of Service. All stormwater management service within the Village shall be provided in accordance with the provisions of this chapter and the rules and regulations promulgated pursuant to this chapter.

Section 13.16.040 Scope of responsibility of stormwater utility.

A. The stormwater utility shall be responsible for the operation, maintenance, management and improvement of the stormwater system owned by the Village in accordance with all applicable permits, licenses and regulations, including all activities required by the NPDES Stormwater Permit.

B. The Village of Winnetka stormwater utility shall be operated by the Department of Public Works established in Chapter 2.64 of this code.

Section 13.16.050 Rules and regulations.

The Village Manager shall adopt such rules and regulations as may be necessary to give effect to and explain the provisions of this chapter. The Director of Public Works shall make recommendations to the Village Manager regarding the content of the rules and regulations and shall enforce the rules and regulations once they are adopted.

Section 13.16.060 Charges for stormwater utility service.

A. Establishing Rates and Fees. Effective July 1, 2014, the owner of any parcel that uses, benefits from or connects to the stormwater utility shall be charged for such service in accordance with rates, fees and charges established from time to time by resolution of the Village Council. All resolutions setting or amending rates, fees and other charges for stormwater utility service shall be introduced at one meeting and adopted at a subsequent meeting.

B. Basis of Rates and Fees. The stormwater utility fee shall be based on the extent to which each parcel creates a need for stormwater management; the amount of impervious area on each parcel; and the cost of operating, maintaining, and improving the stormwater system.

Section 13.16.070 Stormwater utility fee.

A. Fee Imposed. A stormwater utility fee is hereby imposed on the owners of property in the Village. The stormwater utility fee for all parcels in the Village shall be based on the measured number of ERUs on the parcel, rounded to the nearest 10th of an ERU. Parcels with an impervious area of 170 square feet or less shall not be subject to the stormwater utility fee.

B. Fee Resolution. The stormwater utility fee shall be set by resolution as provided in section 13.16.060 of this Chapter.

C. Fee components. The stormwater utility fee shall consist of the sum of the following:

1. Base Fee. The base fee shall be the amount to be charged each month per ERU in order to produce the amount of principal and interest on any outstanding stormwater utility system debt that is due and payable during the fiscal year for which the Base Fee is calculated. ~~Notwithstanding the foregoing, the Base Fee for 2014 shall be that portion of principal and interest on outstanding stormwater utility system debt that will become due and payable in the second half of the 2014 Fiscal Year.~~

2. Such other rates, fees and charges that the Village Council determines are necessary to recover all costs related to operating, maintaining and improving the stormwater system utility.

Section 13.16.080 Billing and collection procedures.

A. Issuance of bill. The Finance Department shall issue all bills for stormwater utility fees.

1. For users of the stormwater system that have an existing utility account with the Village, the Finance Department may include the stormwater utility fee on the same statement issued for such other utility service.

2. The Finance Department may issue a separate bill to the owner of any parcel that does not have an existing utility account with the Village. If the owner of such parcel has not provided the Finance Department with a billing address, then the Finance Department may mail the stormwater utility bill to the same person who receives property tax bills for that parcel.

B. Responsibility for payment. The owner of any parcel, building or premises and the occupant thereof and the customer of the utility service of said system shall be jointly and severally liable to pay for such stormwater utility fee for said premises.

C. Application of payments. If the stormwater utility fee is included on a common statement and the user does not pay the total amount due on the statement, the payment shall be applied first to the stormwater utility fee. If any amount on a utility bill is past due, the payment will first be applied to such past due amounts.

Section 13.16.090 Effect of nonpayment of bill.

A. Additional Charges for Failure to Pay Bill. If any bill for stormwater service is not paid by the date due, as shown on the utility bill, a late payment penalty of five percent shall be added to the bill and collected from the user.

B. Collection Costs. Any unpaid bill that is turned over for collection shall be subject to an additional charge, the amount of which shall be established by the Village Manager, upon the recommendation of the Finance Director, in an amount sufficient to recover the Village's costs of carrying and collecting the debt.

C. Unpaid Accounts Constitute Lien. All unpaid amounts of rates, fees and charges for stormwater utility service shall constitute a lien against the property to which service was provided, to the extent such lien is authorized by law.

D. Effect of Delinquent Accounts. All delinquent stormwater utility accounts shall be subject to the provisions of Section 1.04.140 of this code. In addition, no person with a delinquent stormwater utility account shall be allowed either a new utility service at another location in the Village, or a change or upgrade of the service at the premises for which the delinquent account has accrued, unless the account is paid in full.

Section 13.16.100 Requests for adjustment of the stormwater utility fee.

A. The owner of a parcel, or the owner's authorized agent, may request correction of the stormwater utility fee by submitting a written request to the Village Manager or his or her designee on or before the date payment is due. The owner of the parcel is solely responsible for initiating any review of the amounts of the stormwater utility fee. Grounds for correction of the stormwater utility fee include:

1. Incorrect classification of the property for purposes of determining the fee;
2. Errors in the square footage of the impervious surface area of the property;
3. Mathematical errors in calculating the fee to be applied to the property; and

4. Errors in the identification of the owner of a parcel subject to the fee.

B. The Village Manger shall make a determination within 30 days after receipt of the property owner's completed written request for correction of the fee. The Village Manager's decision on a request for correction of the fee shall be final.

C. Any owner of a parcel who submits a request for correction of a fee shall comply with all rules and procedures adopted by the Village and must provide all information necessary for the Village Manager to make a determination on the request for correction of the fee. Failure to comply with the provisions of this subsection shall be grounds for denial of the request.

D. If an adjustment or correction is approved by the Village, the adjustment will be incorporated into the stormwater utility fee calculation for the specified parcel and will apply to the next regularly generated bill.

Section 13.16.110 Stormwater utility fund.

A. Revenues. All revenues from the stormwater utility fee shall be deposited in the stormwater utility enterprise fund and shall be used solely for the operation, maintenance, expansion and rehabilitation of the stormwater infrastructure as deemed appropriate by the Village Council.

B. Financial records. The Finance Director shall maintain and report on the financial records of the stormwater utility in accordance with generally accepted government accounting principles.

Section 13.16.120 Impervious area database.

The impervious area for all parcels in the Village is established by the Village. The Village shall maintain an impervious area database for all parcels within the Village which will serve as the basis for determination of the number of ERUs associated with each parcel. The database will be based on available information, including geographic information systems analysis, aerial photographs, mapping information, site examination and other available information, and will be periodically updated based on available information.

Section 13.16.130 Exemptions from stormwater utility fee.

~~A. Public Rights-of-Way.~~ Dedicated public rights-of-way, such as roadways, sidewalks and alleys, shall not be subject to the stormwater utility fee.

Section 13.16.140 Credits.

A. Partnership Credits.

1. The Village Council recognizes that, in certain unique circumstances, some institutions in the Village, such as schools, parks and churches, have sufficient resources that, in addition to complying with applicable stormwater detention requirements, they are also able to provide significant stormwater management assistance to the Village, through such actions as the donation of land for use in the stormwater system, significant capital contributions for the stormwater system or other such activities. The Village

Council reserves the sole and exclusive right and discretion to enter into agreements with such owners to provide for such contributions to the Village's stormwater system, and to grant a credit to such owners for all or part of the stormwater utility fee in exchange for such contribution.

2. To avoid delay in the design and construction of stormwater projects, and to assure that a proposed partnership credit will not shift the costs of stormwater compliance from the party proposing the partnership to the other users of the stormwater system, the Village reserves the sole and exclusive right and discretion to limit the time period during which requests or proposals for partnerships for any stormwater project may be submitted and considered.

B. Individual Credits.

1. Any property owner whose property does not impact on the Village stormwater utility system to the extent of the stormwater utility fee charged to that property pursuant to section 13.16.070 may apply for one of the following credits against the stormwater utility fee:

a. A credit of up to 50% if not less than one half of the stormwater emanating from the relevant property for the 100-year design storm is detained and cleaned, in accordance with effective engineering practices and techniques, prior to discharge into the Village stormwater utility system; or

b. A credit of 100% if none of the stormwater emanating from the parcel in question discharges into the Village stormwater utility system, either directly or indirectly.

2. Applications for credits against the stormwater utility fee filed pursuant to this subsection shall be filed in writing with the Village Manager or his or her designee, along with documentation that the Rules and Regulations of the Village of Winnetka Stormwater Utility require for the assessment of the application, which documentation shall include, but not be limited to:

a. Detailed specifications of any on-site cleaning of stormwater performed prior to discharge into the Village stormwater utility system, along with sufficient evidence that any on-site cleaning system is in good working order and is maintained on a regular basis;

b. Topographical depictions of the runoff patterns and directions of all stormwater emanating from the relevant property that does not impact the Village stormwater utility system; and

c. Relevant photographic evidence in support of the application.

3. The Village Engineer shall review an application for a credit against the stormwater utility fee, and shall either grant or deny the requested credit, within 60 days after the date on which the application is received. The Village Engineer shall only grant the requested credit upon determining, in the exercise of his professional judgment that the applicant meets the criteria for the credit, as defined in paragraph 1 of this subsection.

4. The owner of any parcel granted a credit under this subsection shall be responsible for keeping the qualifying private stormwater management facilities in good

working order, and shall provide an annual report of maintenance and repair activities to the Village Engineer, and the Village shall have the right to enter on the property to inspect the private stormwater maintenance facilities to confirm that they remain in good working order. Failure by the owner to maintain the private stormwater management facilities will result in the loss of stormwater utility fee credits.

5. Provided the owner has continued to maintain the private stormwater maintenance facilities as required by paragraph 4 of this subsection, a stormwater utility fee credit granted under this subsection shall remain in effect for 5 years from the date of approval. The owner of the property in question may apply for renewal of the credits for successive 5-year periods, subject to meeting all of the applicable conditions then in effect. The approval of a stormwater fee credit shall not create a property right to renew or be granted a credit upon the expiration of the credit's 5-year term.

C. Application of credits; refund of overpayments. The Finance Director shall apply approved credits to the applicant's account, and shall refund to the applicant any overpayments made from the date of the application. If the amount overpaid is less than the full amount of the customer's bill, the refund shall be in the form of a credit against the customer's next bill. If the amount overpaid equals or exceeds the full amount of the customer's prior bill, then the overpayment shall be refunded directly to the customer within 30 days after the date the credit is approved.

Section 13.16.150 ~~13.16.140~~ Stormwater service connections.

A. No stormwater service connection shall be installed, repaired, maintained or replaced except by a licensed plumber who has first notified the Public Works Department. All such work shall be subject to the approval of the Public Works Department and shall be performed in accordance with the rules, regulations, standards and practices of the Public Works Department.

B. Any person who performs any work on a stormwater service connection shall first obtain a permit from the Village as provided in Title 15 of this Code. All such work shall be done in accordance with the terms of the permit authorizing the work and with the rules, regulations, standards and practices of the Public Works Department.

C. Penalties. Any person who engages in any work on a stormwater service connection that requires a permit, without first obtaining such permit, shall be subject to such additional fines, fees and penalties as may be set by the Village Council from time to time pursuant to Title 15 of this Code.

D. Responsibility of Owner. The installation, connection, alteration, maintenance, repair and replacement of stormwater service connections shall be at the sole expense of the owner of the premises to which the water service is supplied.

E. This section does not apply to work performed by employees of the Village.

Section 13.16.160 ~~13.16.150~~ Interference with stormwater system.

A. No person shall alter, interfere with or disturb the stormwater system or appurtenances thereto without the permission of the Village Manager or his/her designee.

B. No person shall willfully or negligently break, injure or deface such stormwater system and appurtenances, or commit any act which is intended to or which shall obstruct or impair the intended use thereof.

Section 13.16.170 ~~13.16.160~~ Responsibility for damage to stormwater system.

A. Damage to stormwater utility system. Any person who causes damage to any part of the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs.

B. Damage to stormwater service connections. Any person who causes damage to any part of any service connection in the Village's stormwater utility system shall be responsible for the cost of repairing such damage. The Village shall have the sole discretion and authority to determine the nature and extent of the damage and necessary repairs, the manner in which such repairs shall be done, and the persons who shall perform such repairs. All such repairs shall be made by a licensed plumber in accordance with all applicable provisions of the rules, regulations, standards and practices of the Public Works Department.

C. Village rights reserved. The Village reserves all rights to recover the cost of repairing any damage to any part of the Village's stormwater utility system or to any part of any service connection in the Village's stormwater utility from the person or persons that caused the damage necessitating the repairs.

SECTION 3: Subsection A of Section 1.04.140, "Delinquent accounts," of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

A. Delinquent Account Defined. For purposes of this section, any account that is not current and for which the person owing the account has not entered into and remained in compliance with an enforceable payment plan pursuant to subsection C of this section, shall be considered to be a delinquent account. Such accounts shall include, but not be limited to, accounts with unpaid stormwater, water and electric fees, accounts with unpaid fees for false alarms, accounts with unpaid parking tickets, accounts with unpaid license or permit fees, and accounts with unpaid late fees or collection charges.

SECTION 4: Chapter 2.48, "Finance Department," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

Chapter 2.48
FINANCE DEPARTMENT

Sections:

2.48.010 Creation of Finance Department.
2.48.020 Finance Director.
2.48.030 Bond.
2.48.040 Compensation.
2.48.050 Powers and Duties.
2.48.060 Purchasing Agent.
2.48.070 Requisitions for Supplies, Services and Materials.
2.48.080 Approval of Village Bills.
2.48.090 Local Tax Administrator.

Section 2.48.010 Creation of Finance Department.

~~A. Creation.~~ There is created the Finance Department, an administrative department of the Village. The Finance Department shall consist of a Finance Director and such other officers and employees as may be provided from time to time by the Council.

Section 2.48.020 Finance Director.

~~B. Finance Director.~~ There is created the office of Finance Director, an administrative office of the Village. The Finance Director shall be appointed by the Village Manager.

Section 2.48.030 Bond.

~~C. Bond.~~ Before entering upon the duties of the office of Finance Director, the Finance Director shall execute and file with the Village Clerk a bond with security to be approved by the Council. The bond shall be payable to the Village in the penal sum directed by resolution of the Council, and shall be conditioned upon the faithful performance of the duties of the office of Finance Director, according to law and the ordinances of the Village. The premiums for such bond shall be paid by the Village.

Section 2.48.040 Compensation.

~~D. Compensation.~~ The compensation of the Finance Director shall be fixed by the Village Council, upon the recommendation of the Village Manager.

Section 2.48.050 Powers and Duties.

~~E. Powers and Duties.~~ The Finance Director shall be subject to the control and direction of the Village Manager and shall be head of the Finance Department. Subject to the approval of the Village Manager, the Finance Director shall have both control over all of the property and employees of the Finance Department and the power to appoint and remove such employees as may be required for the efficient operation of the Department. In addition to the duties required by state law, the Finance Director shall have the following duties, functions and responsibilities:

1. To assist the Budget Officer in the preparation of the annual budgets, and to prepare tax levy and tax abatement ordinances;

2. To supervise all expenditures of the Village and to maintain accurate records of such expenditures;

3. To keep the financial records of the Village;

4. To oversee all purchases made by the Village and to develop and recommend procedures for such purchases;

5. To prepare financial reports and statements;

6. To issue bills and collect fees for water, electric, sewer, refuse, stormwater and other services rendered by the Village;

7. To invest Village funds with the approval of the Treasurer;

8. To collect, and to maintain accurate records of, the following: all special assessments; all cash deposits required by the Village, including deposits for electric, sewer, ~~and~~ water and stormwater service; all fees for licenses and permits issued by the Village; and all payments of fines and fees, as provided in this code;

9. To collect late fees and to recover costs related to the collection of any unpaid or delinquent fees, fines, deposits or other payments due and owing to the Village;

10. To retain deposits and excess payments that may otherwise be subject to refunds, for the sole purpose of applying the retained amount to pay all or part of a delinquent account owed by the person making the deposit;

11. To develop and implement procedures to detect, prevent, and mitigate the impact of identity theft in accordance with section 4.04.020 of this Code and applicable federal laws, rules and regulations; and

12. To perform such other services as may be required by the Village Manager.

Section 2.48.060 Purchasing Agent.

~~F. Purchasing Agent.~~ The Finance Director shall be ex officio Purchasing Agent for the Village, and shall purchase all supplies, services and materials for use in all departments of the Village, pursuant to the written purchasing policy developed by the Village Manager as provided in this code.

Section 2.48.070 Requisitions for Supplies, Services and Materials

~~G. Requisitions for Supplies, Services and Materials.~~ Upon the receipt of a requisition made by the proper officer of any Village department in conformity with the purchasing policy for the purchase of any supplies, services or materials for use in that department, the Purchasing Agent shall issue a purchaser order, which shall be numbered and approved in accordance with the purchasing policy.

Section 2.48.080 Approval of Village Bills.

~~H. Approval of Village Bills.~~ All bills rendered against the Village will be certified as correct by the Finance Director and approved for payment by the Village Manager before being submitted to the Treasurer and the Council.

(Ord. MC-228-99 § 1 (part), 1999: prior code § 3.05)

Section 2.48.090 Local Tax Administrator.

~~I. Local Tax Administrator.~~ The Finance Director shall be ex-officio Local Tax Administrator for the Village, and shall be responsible for administering and collecting all locally imposed and administered taxes, as provided in the Local Taxpayers' Rights and Responsibilities Ordinance, Chapter 4.44 of this Code.

(MC-7-2008 § 2, Amended, 11/6/2008; MC-9-2000, Amended, 01/02/2001, Paragraph I added, Local Tax Administrator)

SECTION 5: Chapter 2.64, "Department of Public Works," of Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended in its entirety to provide as follows:

Chapter 2.64
DEPARTMENT OF PUBLIC WORKS

Sections:

2.64.010 Creation of Department of Public Works.
2.64.020 Director of Public Works.
2.64.030 Compensation.
2.64.040 Powers and Duties.

Section 2.64.010 Creation of Department of Public Works.

~~A. Creation.~~ There is created the Department of Public Works, an administrative department of the Village. The Department of Public Works shall consist of a Director of Public Works and such other officers and employees as may be provided from time to time by the Council.

Section 2.64.020 Director of Public Works.

~~B. Director of Public Works.~~ There is created the office of Director of Public Works, an administrative office of the Village. The Director of Public Works shall be appointed by the Village Manager.

Section 2.64.030 Compensation.

~~C. Compensation.~~ The compensation of the Director of Public Works shall be fixed by the Village Manager, with the approval of the Council.

Section 2.64.040 Powers and Duties.

~~D. Powers and Duties.~~ The Director of Public Works shall be subject to the control and direction of the Village Manager and shall be head of the Department of Public Works. Subject to the approval of the Village Manager, the Director of Public Works shall have both control over all of the property and employees of the Department of Public Works and the power to appoint and remove employees as required for the efficient operation of the Department. In addition, the Director of Public Works shall have the following duties, functions and responsibilities:

1. To maintain all public streets, alleys, roads, bridges, culverts, sidewalks and other structures pertaining to such public streets, alleys, roads, bridges, culverts, sidewalks and other structures in the Village;

2. To operate and maintain all public sewers and drains in the Village;

3. To maintain and protect trees located in the public streets and upon other public property;

4. To maintain all buildings, grounds and equipment belonging to the Village, except that which is expressly delegated to the supervision of other officers and departments;

5. To operate the municipal waste system in accordance with the provisions of Chapter 8.16 of this code.

6. To operate and maintain the stormwater utility system in accordance with the provisions of Chapter 13.16 of this code.

(Ord. MC-228-99 § 1 (part), 1999: Ord. MC-192-97 § 3, 1997: prior code § 3.09)

SECTION 6: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 7: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this 18th day of February, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this 18th day of February, 2014.

Signed:

_____
Village President

Countersigned:

_____

Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this _____ day of _____ 2014.

Introduced: February 4, 2014

Passed and Approved:

Agenda Item Executive Summary

Title: R-4-2014 - Establishing Stormwater Utility Fees and Charges - Introduction

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 02/18/2014

Consent: ☐ YES ☑ NO

☐ Ordinance
☑ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☐ Informational Only

Item History:

May 14, 2013 Study Session
October 1, 2013 Council Meeting, Agenda pp. 35 - 62
February 4, 2014 Council Meeting, Agenda pp. 27 - 59
February 11, 2014 Study Session, Agenda pp. 22 - 120

Executive Summary:

Resolution R-4-2014 furthers the implementation of the Stormwater Utility established by Ordinance MC-2-2014.

The fee, which was discussed with the Council at the February 11, 2014, Study Session, was developed with the assistance of the Village's stormwater utility consultant, Municipal & Financial Services Group (MFSG).
As provided in new Chapter 13.16, the stormwater fee is based on the amount of impervious surface on any given parcel, measured in Equivalent Runoff Units (ERUs), which Section 13.16.020 of new Chapter 13.16 defines as equal to 3,400 square feet. MFSG has also calculated that there are 6,613 ERUs in the Village.

Based on these numbers, on the outstanding debt, and on the revenue requirements for the new stormwater utility, the annualized charge per ERU for fiscal year 2014 is $262, which translates into a monthly charge of $21.83 per ERU. As directed by the Council, the Resolution provides that charges will be billed beginning July of 2014.

As with all of the Village's utility fee resolutions, Resolution R-4-2014 will be introduced at one meeting and adopted at the next. It is anticipated that, in the future, stormwater rates will be set in conjunction with the annual budget process, as is done with the Village's other utilities.

Recommendation / Suggested Action:

Consider a motion to introduce Resolution R-4-2014, titled "A Resolution Establishing Rates and Fees for Stormwater Utility Service."

Attachments:

Resolution R-4-2014, "A Resolution Establishing Rates and Fees for Stormwater Utility Service"

RESOLUTION NO. R-4-2014

A RESOLUTION
ESTABLISHING RATES AND FEES
FOR STORMWATER UTILITY SERVICE

WHEREAS, the Village of Winnetka is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village, including, but not limited to, the powers (i) to regulate for the protection of the public health, safety, morals and welfare, (ii) to license, (iii) to tax, and (iv) to incur debt; and

WHEREAS, the Village of Winnetka ("Village") operates and maintains a public stormwater utility to provide stormwater management services to all properties within the Village; and

WHEREAS, the Council finds that all matters pertaining to the operation and maintenance of the Village's stormwater system, including but not limited to establishing rates for sewer service, are matters pertaining to the affairs of the Village.

NOW, THEREFORE, be it resolved by the Council of the Village of Winnetka as follows:

SECTION 1: Stormwater Service Fee. The fee for stormwater utility service provided in the Village of Winnetka pursuant to Chapter 13.16 of the Winnetka Village Code is hereby established at $21.83 per month per Equivalent Runoff Unit (ERU), as defined in Section 13.16.04 of the Winnetka Village Code.

SECTION 2: Fee for Returned Payments. A fee of $30.00 shall be charged for any payment that is returned to the Village for any reason, including, but not limited to, insufficient funds, account closed, or referred to maker.

SECTION 3: Payment Period; Late Fees. All bills issued for stormwater utility service shall be paid in full within the payment period specified in the bill. The payment period shall be established by the Director of Finance, and shall be no less than 21 nor more than 30 days from the date of the issuance of the bill. Pursuant to Section 13.16.090.A of the Winnetka Village Code, if any bill for stormwater utility service is not paid within the specified payment period, a late payment penalty of 5% of the amount due shall be added to the bill and collected from the user.

SECTION 4: Home Rule. This Resolution is adopted by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 5: Effect of Resolution. The rates established herein shall apply to all bills issued for stormwater utility service on or after July 1, 2014.

[Remainder of this page intentionally left blank.]

<u>SECTION 6</u>: Effective Date. This resolution shall be in full force and effect immediately upon its adoption.

ADOPTED this ___ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

Introduced:
Adopted:

Agenda Item Executive Summary

Title: MC-5-2013 - Establishing an Administrative Hearing Process (Amend & Adopt)

Presenter: Katherine S. Janega, Village Attorney

Agenda Date: 02/18/2014

Consent: ☐ YES ☑ NO

☑ Ordinance
☐ Resolution
☐ Bid Authorization/Award
☐ Policy Direction
☐ Informational Only

Item History:

January 7, 2014 - Council Meeting, Agenda pp. 145 - 187
September 17, 2013 - Council Meeting, Agenda pp. 93 - 124
April 16, 2013 - Council Meeting, Agenda pp. 70 - 88
October 9, 2012 - Council Study Session, Agenda pp. 2 - 24
May 11, 2010 - Council Study Session, Agenda pp. 42-62
January 19, 2010 - Council Meeting, Agenda pp. 80 - 94

Executive Summary:

Ordinance MC-5-2013 was introduced at the September 17, 2013, Council meeting, after discussions at a series of meetings. The Ordinance establishes an Administrative Adjudication System to allow all parking violations, vehicle compliance tickets and certain other Village Code violations to be heard by an administrative hearing officer at the Village, rather than requiring all such violations to be heard in the Circuit Court. Under MC-5-2013, the new hearing process is limited to violations of Code provisions enforced by the Police Department. Thus, with the sole exception of construction hour offenses, which the Police Department enforces, building, construction and zoning violations would continue to go to court and could not be heard administratively without further amendments to the Village Code.

In addition to establishing the Administrative Adjudication System, and creating the office of Administrative Hearing Officer, MC-5-2013 incorporates all of the provisions required by the State enabling statute that authorizes home rule municipalities to establish administrative adjudication systems, subject to certain limitations. (65 ILCS 5/1-2.1-1, et seq.)

An amended draft of Ordinance MC-5-2013 was discussed at the January 7, 2014, Council meeting, and further amendments have been made since then. The Ordinance now sets fixed fines for all of the Code provisions within the Hearing Officer's jurisdiction, while preserving the full range of existing fines for matters that go to the court system. Second, it restructures portions of the Liquor Ordinance by moving violations by persons other than licensees to the Code's disorderly conduct and nuisance chapters, so the Liquor Ordinance applies only to businesses. Third, it more clearly addresses offenses related to drug paraphernalia, tobacco use and possession by minors, fireworks and petty theft. Finally, MC-5-2013 increases the base parking fines by $10.00, clarifies fines for offenses under the Illinois Vehicle Code, and refines the new administrative procedures. The attached Agenda Report and accompanying attachments provide a more detailed explanation of the proposed amendments.

Recommendation / Suggested Action:

1. Consider amending Ordinance MC-5-2013, titled "An Ordinance Amending the Winnetka Village Code to Establish a System of Administrative Adjudication."

2. Consider adopting Ordinance MC-5-2013, as amended.

Attachments:

Agenda Report
MC-5-2013 - An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process (amended draft)
Attachment 1 - Table of Fines and Offenses
Attachment 2 - Memorandum pertaining to fiscal analysis
Attachment 3 - Agenda Report and Draft Ordinance from January 7, 2014 Council meeting.

AGENDA REPORT

SUBJECT: **Ordinance MC-5-2013 – Amending the Winnetka Village Code to Establish a System of Administrative Adjudication**

PREPARED BY: Katherine S. Janega, Village Attorney
Patrick Kreis, Chief of Police

REFERENCE:

January 19, 2010	Council Meeting, Agenda pp. 80 – 94
May 11, 2010	Study Session, Agenda pp. 42 – 62
October 9, 2012	Study Session, Agenda pp. 2 – 24
April 16, 2013	Council Meeting, Agenda pp. 70 – 88
September 17, 2013	Council Meeting, Agenda pp. 93 – 124
January 7, 2014	Council Meeting, Agenda pp. 149 – 187

DATE: February 14, 2014

I. Introduction

Ordinance MC-5-2013, which was introduced on September 17, 2013, amends various provisions of the Village Code to establish an administrative adjudication system and to set fixed fines for Code violations that would be heard by the hearing officer.

The Ordinance would add two new chapters to the Village Code:

- Section 2 of MC-5-2013 adds Chapter 2.72, which would establish the Administrative Adjudication System, defines the substantive scope of the system, defines the scope of the hearing officer's jurisdiction and authority, establishes a records unit, and establishes procedures for the full range of the process from the issuance of citations through the enforcement of judgments. Chapter 2.72 also incorporates all of the provisions required by the State enabling statute that authorizes home rule municipalities to establish administrative adjudication systems, subject to certain limitations. (65 ILCS 5/1-2.1-1, et seq.)
- Section 3 of MC-5-2013 adds Chapter 2.34, which would create the office of Administrative Hearing Officer, provides for the appointment and compensation of the hearing officer, incorporates the qualifications required by the State enabling statute, and briefly defines the hearing officer's duties.

At the January 7, 2014, Council meeting, pursuant to the Council's direction, staff presented an updated draft with a detailed analysis of each section of the Ordinance. (See Attachment 3.) The Council took no action on the Ordinance at that time, and staff was directed to bring the revised ordinance back for Council consideration after responding to issues raised in the course of the Council's discussion.

To that end, Police Chief Kreis has provided an updated table of fines proposed for various Village Code violations. (See Attachment 1) Chief Kreis has also analyzed the financial

aspects of the administrative adjudication process, as requested by the Council. (See Attachment 2.)

In addition, the Village Attorney has worked with Chief Kreis to refine the procedural provisions of the Ordinance, and has further amended several substantive provisions after conferring with trustees who had raised questions at the January 7th meeting.

As a result, there have been substantial amendments to the notice and procedure provisions (Sections 2.72.070 through 2.70.030) of new Chapter 2.72. To avoid confusion and to allow the Council to review the new Administrative Adjudication process as a whole, the attached draft of MC-5-2013 does not track the changes made to the draft of new Chapter 2.72. The remainder of the Ordinance, however, contains tracking indicating all changes to existing Code provisions, and the complete packet from the January 7th Council meeting is attached for the Council's reference. (See Attachment 3.)

II. Scope of the Administrative Hearing System

As previously explained, the new hearing process is limited to violations of Village Code provisions that are enforced by the Police Department. The Village Code provisions that correspond to that enforcement jurisdiction are listed in the Scope of Jurisdiction statement in Section 2.72.020(B) of the new Chapter 2.72.

With the sole exception of Section 15.32.140, the scope of jurisdiction does not include any provisions from either Title 15 of the Village Code (which contains all of the building and construction regulations) or Title 17 (which contains the Zoning Ordinance). Section 15.32.140 pertains to limitations on construction hours. Because the Police Department has officers on duty around the clock, the Police Department has issued citations for construction hour violations since the provision was added to the Village Code.

Thus, except for construction hour violations, all citations for building, construction and zoning violations would continue to go to court, and those matters could not be heard in the administrative hearing system unless the Village Council amended the scope of Chapter 2.72.

III. Summary of New Amendments

As explained at the January 7th Council meeting, Ordinance MC-5-2013 restructures portions of the Liquor Ordinance by moving provisions governing the behavior of persons other than licensees and their employees to the Code's disorderly conduct and nuisance chapters, so the Liquor Ordinance applies only to businesses. It also more clearly addresses offenses related to tobacco use and possession by minors, drug paraphernalia, fireworks and petty theft.

Several other substantive amendments have been made since the January 7th meeting. The key amendments are as follows:

- Section 9 restores subsection B, which had been stricken in the earlier draft.
- Section 12 deletes the former administrative process for dog owner violations.

- References to the prostitution provisions have been deleted, since they would be processed under the Criminal Code.
- Section 31 adds a penalty provision for Public Nuisances.
- Section 34 makes further amendments to the parking ticket provisions, to correspond to the addition of parking procedures in Chapter 2.72.
- Sections 35 and 36 modify the penalty and impounding procedures for skateboard offenses to make them the same as for bicycles.
- Section 38 deletes the $5 penalty for bicycle violations.

IV. Conclusion

Staff recommends that the Council consider amending Ordinance MC-5-2013, to reflect the changes shown in the attached updated draft, and then proceed to adopt the Ordinance, as amended. The Council should also note that, once the Council amends the Ordinance, it will also be re-numbered administratively as MC-1-2014, in keeping with past practices where an ordinance was introduced in one year with final action deferred until the following year.

Finally, Staff continues to recommend that Duncan Solutions Professional Account Management, LLC, which already administers the Village's parking ticket system, be engaged to handle all of the administrative processing, as it would be easily implemented and therefore appears to be preferable to handling the records management in-house. Therefore, once the Ordinance is adopted, Staff will begin the implementation process by firming up administrative details and expanding the scope of Duncan's services to include the processing and management of records, as well as the collection of fines and fees for the administrative adjudication system.

ATTACHMENTS:

MC-5-2013	An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process (amended draft)
Attachment 1	Table of Fines and Offenses
Attachment 2	Memorandum pertaining to fiscal analysis
Attachment 3	Agenda Report and Draft Ordinance from January 7, 2014 Council meeting.

RECOMMENDATION:

1. Consider amending Ordinance MC-5-2013, titled "An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process," as presented in the agenda materials.
2. Consider adopting Ordinance MC-5-2013, as amended.

AN ORDINANCE
AMENDING THE WINNETKA VILLAGE CODE
TO ESTABLISH A SYSTEM OF ADMINISTRATIVE ADJUDICATION

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, Article 1, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, *et seq.*, authorizes home rule units to provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution of 1970; and

WHEREAS, pursuant to said Article 1, Division 2.1, and pursuant to Section 5/11-208.3 of the Illinois Vehicle Code, 625 ILCS 5/11-208.3, the Village is authorized to establish a system of administrative adjudication for the adjudication of any violation of the Winnetka Village Code, except for (i) moving vehicle offenses under the Illinois Vehicle Code or similar traffic regulations, (ii) offenses reportable under Section 6-204 of the Illinois Vehicle Code, and (iii) any other proceedings not within the Village's statutory or home rule authority; and

WHEREAS, the Village Council finds and determines that instituting a system of administrative adjudication to adjudicate contested matters with respect to violations of Village vehicular regulations, such as parking, standing, equipment and vehicle sticker regulations, and with respect to such other Village regulations as are permitted by the Illinois Constitution of 1970 and Illinois statutes, will facilitate the prompt and just resolution of disputes; and

WHEREAS, this Ordinance has been placed on the Village Council's agenda and made available for public inspection at Village Hall and on the Village's web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Winnetka as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended by adding a new Chapter 2.72, which shall be titled "Administrative Adjudication" and shall provide as follows:

Chapter 2.72
Administrative Adjudication

Section:

2.72.010 Purpose.
2.72.020 Administrative Adjudication System.
2.72.030 Hearing Procedures Not Exclusive.
2.72.040 Organization of Administrative Hearing System.
2.72.050 Administrative Hearing Officer.
2.72.060 Administrative Hearing Records Unit.
2.72.070 Violation Notices; Form; Contents; Records; Admissibility.
2.72.080 Initial Notice of Violation; Service; Contents; Recordkeeping.
2.72.090 Response to initial notice; Pre-payment; Hearing Request.
22.72.100 Failure to Respond to Initial Notice.
2.72.110 Hearing Procedures.
2.72.120 Liability for Failure to Appear at Hearing.
2.72.130 Contesting Violations by Written Statement.
2.72.140 Certified Report and Contesting Certified Report.
2.72.150 Judicial Review.
2.72.160 Debt to Village.
2.72.170 Enforcement of Judgments.
2.72.180 Fines, Penalties, Fees and Costs.

Section 2.72.010 Purpose.

The purpose of this Chapter is to provide for the fair and efficient enforcement of the Village ordinances delineated in this Chapter through an administrative adjudication process and by establishing a schedule of fines and penalties.

Section 2.72.020 Administrative Adjudication System.

A. Administrative Adjudication System Established. There is hereby established and created within the Village a system of administrative adjudication, which shall be responsible for the adjudication of certain violations of this Code, as provided in this Chapter, and shall be administered by the Administrative Hearing Officer and Administrative Hearing Records Unit established in Sections 2.72.050 and 2.72.060 of this Chapter.

B. Scope of Jurisdiction. To the extent permitted by the Illinois Constitution of 1970 and applicable Illinois statutes, the following provisions of this Code, as they may be amended from time to time, shall be subject to enforcement and adjudication in the Administrative Adjudication System established by this Section:

1. Chapter 5.09, Alcoholic Beverages.
2. Chapter 5.48, Peddlers and Solicitors.
3. Chapter 5.68, Taxicabs.

4. Title 6, Animals, including all chapters within Title 6.

5. Chapter 8.08, Fire Safety Code.

6. Chapter 8.16, Garbage and Refuse.

7. Title 9, Public Peace, Morals and Welfare, including all chapters within Title 9.

8. Title 10, Vehicles and Traffic, including all chapters within Title 10, excluding moving violations.

9. Chapter 12.04, Streets and Sidewalks Generally.

10. Section 15.32.140, Construction Hours.

11. Such other Village ordinances and Code provisions as the Village Council may designate from time to time.

12. Any provisions of the Winnetka Park District Code or other ordinances that are enforced by the Winnetka Police Department pursuant to an intergovernmental agreement between the Village of Winnetka and the Winnetka Park District.

Section 2.72.030 Hearing Procedures Not Exclusive.
The provisions of this Chapter shall not preclude the Village from using other methods or proceedings to enforce and adjudicate the Code or other ordinances of the Village, including, without limitation, the institution of an action in the Circuit Court of Cook County, the United States District Court, or any administrative proceeding.

Section 2.72.040 Organization of Administrative Adjudication System.
The Administrative Adjudication System shall consist of one or more Administrative Hearing Officers, as further described in Section 2.72.050 of this Chapter, an Administrative Hearing Records Unit, as further described in Section 2.72.060 of this Chapter, and hearing room personnel assigned by the Chief of Police as provided in Section 2.72.090(I) of this Code.

Section 2.72.050 Administrative Hearing Officer.
A. Appointment. The Administrative Hearing Office shall be appointed by the Village Manager, as provided in Section 2.34.010 of this Code.

B. Qualifications. To qualify as an Administrative Hearing Officer, an individual must:

1. Be an attorney licensed to practice law in the State of Illinois for at least three years;

2. Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission; and

3. Complete a formal training program conducted by the Village Manager and the Village Attorney consisting of:

a. Instruction on the rules of procedure for administrative hearings;

b. Orientation to each subject area of the Code that will be adjudicated;

c. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and

d. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.

C. Authority and Jurisdiction. The Administrative Hearing Officer shall have the duty and authority:

1. To hear testimony and accept evidence that is relevant to the allegation of a violation.

2. To issue subpoenas, upon the request of the parties or their representatives, directing witnesses to appear and give relevant testimony at hearings, as provided in Section 2.72.090.

3. To preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing.

4. To issue a written determination, based on the evidence presented at the hearing, on whether a violation occurred or exists. The written determination shall include a written finding of fact, decision and order, including any corrective measures, fines, penalties, and interest charges, or other actions, with which the defendant must comply.

5. Upon finding a defendant liable for the charged violation, to impose penalties consistent with applicable provisions of this code.

6. Impose administrative costs, upon finding a defendant liable for the charged violation. The costs shall be in an amount not less than the minimum amount set by resolution of the Village Council adopted pursuant to Section 2.72.170 of this Chapter. Unless otherwise specifically provided in this chapter, the Administrative Hearing Officer shall not have authority to waive, or to impose an amount less than, the minimum amount set by the Village Council.

7. Impose late fees and interest charges if a defendant fails to pay the penalty, fine, or administrative costs set by the Administrative Hearing Officer on the day of the hearing. The late fees and interest charges shall be in an amount not less than the minimum amount set by resolution of the Village Council adopted pursuant to Section 2.72.170 of this Chapter. Unless otherwise specifically provided in this chapter, the Administrative Hearing Officer shall not have authority to waive, or to impose interest charges in an amount less than, the minimum interest charges set by the Village Council.

8. Postpone or continue a defendant's Hearing to a later date.

9. Impose, when applicable, Enforcement Expenses pursuant to Section 2.72.160(D) of this Chapter.

10. Ask questions of parties and witnesses.

11. Order the defendant to perform a term of community service, regardless of fines imposed or costs assessed.

Section 2.72.060 Administrative Hearing Records Unit.

A. Establishment. There is hereby established an Administrative Hearing Records Unit within the Administrative Adjudication System.

B. Appointment by Village Manager. The Village Manager will assign one or more employees of the Village to perform the functions set forth in this section and shall have the discretion to designate an employee of the Village to manage the operations of the Administrative Records Unit under the direction and control of the Village Manager. The Village Manager shall have the discretion to retain an independent contractor in addition to or in place of Village employees to perform any or all of the functions of the Administrative Records Unit.

C. Powers and Duties. The Administrative Hearing Records Unit shall have the duty and authority to:

1. Establish procedures reasonably required to manage the scheduling, operations and recordkeeping of the Administrative Adjudication System.

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

3. Collect payments made as a result of fines and/or penalties assessed and transmit such payments to the Director of Finance.

4. Certify reports to the Illinois Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and Section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5).

5. Refer unpaid fines and penalties to the Director of Finance for collection, which may be pursued through private collection agencies that the Village may retain or by filing complaints in the Circuit Court of Cook County.

6. Certify copies of findings, decisions, and orders adjudicated pursuant to this Chapter, and any factual reports verifying the findings, decisions, and orders that are issued in accordance with this Chapter or the laws of the State of Illinois.

7. Oversee the operation and maintenance of the computer programs for the Administrative Adjudication System, including, without limitation:

a. Inputting information for the Notice of Violation provided for in Section 2.72.070 of this Chapter;

b. Establishing hearing dates and notice dates;

c. Recording the assessment of fines and penalties;

d. Recording payments and issuing payment receipts;

e. Issuing notices of hearing dates, notices of default, final notices and such other notices as may be necessary to implement the Administrative Adjudication System; and

f. Keeping accurate records of appearances and non-appearances at hearings, pleas entered, fines, and other penalties assessed and paid.

8. Postpone or continue a defendant's hearing to a later hearing date, if such request is made prior to the first scheduled hearing date.

Section 2.72.070 Violation Notices; Form; Contents; Records; Admissibility.

A. Initial Notice of Violation. The initial notice of any violation will be issued by a person who has been authorized as provided in this chapter. The initial notice of violation shall contain information as to the nature of the violation, shall be certified, and shall constitute prima facie evidence of the violation cited.

B. Authority to Issue Notices. Any sworn law enforcement officer and any Community Service Officer who detects a violation of a provision of this code that is subject to adjudication in the Administrative Adjudication System is authorized to issue a notice of violation and thereafter to serve the notice of violation in the manner set forth in this Section. As used in this chapter, "Community Service Officer" shall mean and include code enforcement officers as defined in this code, and non-police personnel employed by the Winnetka Police Department or New Trier High School who have been duly authorized by the Village of Winnetka Chief of Police or his or her designee to issue citations for parking and non-moving compliance offenses under Title 10 of this code.

C. Form and Content of Notice of Violation. All Notices of Violation shall be issued in writing on a Village form, which may include, but shall not be limited to, pre-printed tickets or citations. Every Notice of Violation shall contain at least the following information:

1. The date, time, and location of the alleged violation;

2. The name and address of the defendant, if known;

3. The type and nature of the alleged violation, including a citation of the provision of this Code alleged to have been violated, and whether the violation is one that can be pre-paid or is one that requires the person receiving the notice to appear before the Administrative Hearing Officer;

4. The manual or electronic signature of the person issuing the notice;

5. The process for responding to the notice of violation, including pre-payment and requesting a hearing date, and the time frame within which to take such actions;

6. The legal authority and jurisdiction under which the hearing is to be held; and

7. The penalties for failure to respond to the notice, including, where applicable, the penalties for late payment and for failure to appear before the Administrative Hearing Officer.

Section 2.72.080 Initial Notice of Violation; Service; Contents; Recordkeeping.

A. Initial Notice of Parking and Certain Other Vehicle Violations. For parking and vehicle violations that are initiated by a pre-printed ticket or citation under Article 10 of this code, the pre-printed ticket or citation shall serve as the initial notice of violation and may be served by posting the pre-printed ticket or citation on the vehicle that is the subject of the violation, or by any other means authorized by the following subsection B or by the Illinois Vehicle Code.

B. Initial Notice of Other Violations. For all other violations, service of the initial notice of violation shall be made in one or more of the following ways:

1. By handing the notice to the person responsible for the violation or to the person's employee or agent;

2. By leaving the notice with any person thirteen years of age or older at the residence of the responsible person, and informing that person of the contents of the notice, provided the person making service shall also send a copy of the notice in a sealed envelope with postage fully pre-paid, addressed to the defendant at his or her usual place of abode;

3. By mailing the notice, with postage fully pre-paid to the last known address of record of the individual/entity or his or her/its registered agent; or

4. In the case of a violation by a corporation or partnership, by serving notice on the corporation or partnership in accordance with the Illinois Code of Civil Procedure (735 ILCS 5/2-201 *et seq.*).

C. Certification of Facts in Notice. The person issuing a notice of violation shall certify the correctness of the facts in the notice.

1. For a manually issued notice, the person issuing the notice shall sign his or her name to the notice at the time of issuance.

2. For electronically produced notices of violation, such as parking citations, the person who controls and operates the device that generates the notice shall certify the correctness of the facts stated therein by signing a single certificate attesting to the correctness of all notices produced by the device while under his or her control.

D. Notice of Payment and Procedural Options. In addition to the general content required by Section 2.72.070 of this chapter, the following information shall be provided in the initial notice.

1. The initial notice of violation shall specify whether the person receiving the notice must appear before the Administrative Hearing Officer, or if the fine or penalty for the violation can be pre-paid, in which case the amount of the fine or penalty shall be stated in the Notice of Violation.

2. If appearance is mandatory, the date, time, and place of the hearing shall be set forth in the initial notice of violation and in such additional notices as are issued in accordance with this chapter, subject to the minimum time periods set forth in Section 2.72.100(C) of this chapter.

E. Recordkeeping. The original or a facsimile of every notice of violation and of electronically generated certifications shall be maintained as a record by the Administrative Hearing Unit in the ordinary course of business.

F. Admissibility of Notice. The notice of violation or a copy thereof is admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.

Section 2.72.090 Response to initial notice; Pre-payment; Hearing Request.

A. Pre-payment. Unless the initial notice of violation requires the recipient to appear before the Administrative Hearing Officer, the person receiving a notice of violation may pre-pay the fine or penalty specified on the notice. If the pre-payment is not made within 10 days after the Notice of Violation is issued, a late fee shall be assessed. The Administrative Hearing Officer shall waive the late fee if a timely request for hearing is made as provided in Section 2.72.090 (C) of this chapter.

B. Request for Hearing. In lieu of paying the fine provided in the initial Notice of Violation, a person who receives a Notice of Violation that may be pre-paid may request a hearing on the violation instead of pre-paying the fine or penalty. The request for hearing may be made by phone or in person, in the manner specified in the Notice of Violation. The request for hearing shall be made within 21 days after the date the Notice of Violation is issued.

C. Notice of Hearing. If the defendant requests a hearing, then the Administrative Hearing Records Unit shall issue a Notice of Hearing to the defendant in accordance with Section 2.72.070 of this Chapter, containing the information required by Section 2.72.100(B) of this section.

Section 2.72.100 Failure to Respond to Initial Notice.

A. Parking Violations: Final Notice. If the fine for the parking violation is not paid within ten (10) days after the date of the citation alleging the violation, the Police Department shall issue a final notice of the parking violation to the registered owner of the vehicle to which the citation refers. The final notice shall be sent by first class United States mail to the address of the owner of the vehicle as shown on the vehicle registration. The final notice shall notify the registered owner that the failure to respond to the final notice by either paying the applicable fine or requesting a hearing on the parking citation within twenty-one (21) days after the date of the violation, shall be deemed a waiver of the right to hearing and shall subject the registered owner to all such fines and penalties for the alleged parking violation as may be authorized under Illinois statutes and this code.

B. Other Violations: Second Notice. Except as provided in the foregoing subsection A, a second Notice of Violation shall be issued to any person who does not pre-pay a fine or penalty and does not request a hearing as provided in Section 2.72.090 (B) of this chapter. The second notice shall be in the same form and content as prescribed in Section 2.72.070 of this chapter. In addition, the notice shall (i) set a date and time for a hearing, (ii) require the person named in the notice to appear at the date and time specified or pay the fine before the hearing date, (iii) state that the failure to pay the fine prior to the hearing date or to appear as directed will result in a finding of default.

C. Period of Notice or Preparation. For hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant will have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection, "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, health, or welfare. If service is provided by mail, the 15-day period begins to run on the date that the notice is deposited in the mail.

Section 2.72.110 Hearing Procedures

All hearings conducted under the Administrative Adjudication System will be conducted by a Hearing Officer in accordance with the following rules and procedures:

A. Audio Recording. A digital or taped audio recording shall be made of every hearing.

B. Representation of Parties. The parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.

C. Subpoenas. Parties may request the Administrative Hearing Officer to issue, and the Administrative Hearing Officer has the authority to issue, subpoenas to direct the attendance and testimony of relevant witnesses and produce relevant documents.

D. Rules of Evidence Do Not Govern. The formal and technical rules of evidence do not apply. Evidence, including hearsay, may be admitted, but only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

E. Burden of Proof. No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a citation of notice of violation notice, or a copy thereof, issued in accordance with this chapter shall be prima facie evidence of the correctness of the facts specified therein.

F. Written Determination. At the end of each hearing, the Administrative Hearing Officer shall issue a written determination of liability or non-liability, or a determination of liability based upon the failure of the defendant to appear at the scheduled hearing, as the case may be. Upon issuance, the written determination of liability must either be personally delivered to the defendant at the time of hearing, or shall be mailed to the defendant via first class mail, postage prepaid, addressed to the defendant's last known residence or place of business**.**

G. Assessment of Fines, Penalties and Costs.

1. Fines and Penalties. Pursuant to, and subject to the limitations set forth in, subsection paragraphs 5 and 7 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer, upon a determination of liability, shall have the discretion to assess fines and penalties in accordance with this Code, assess interest charges for late payments, and order the defendant to undertake corrective actions to remedy the violation.

2. Penalty Limitations. In no event shall the Administrative Hearing Officer have authority to: impose a penalty of incarceration for or a fine that exceeds the amounts set by the Village Council as provided in Section 2.72.170 of this Chapter.

3. Administrative Costs. In addition, pursuant to, and subject to the limitations set forth in paragraph 6 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer will assess administrative costs upon finding a defendant liable for the charged violation.

H. Fines Exclusive of Costs. The maximum monetary fine imposed pursuant to the procedures in this Chapter shall be exclusive of administrative costs, the costs of enforcement, interest charges for late payments, and costs incurred by the Village to secure compliance with the Village's Code and ordinances, all of which costs shall be in

addition to any fines imposed pursuant to this Chapter. The maximum monetary fine also shall not apply to cases to enforce the collection of any tax imposed and collected by the Village.

I. Hearing Room Personnel. Hearing room personnel shall be designated and appointed by the Village's Chief of Police and are authorized and directed to:

1. Maintain hearing room decorum;

2. Execute such authority as is granted to courtroom deputies of the Circuit Court of Cook County; and

3. Perform such other duties or acts as may reasonably be required and as directed by the Administrative Hearing Officer.

Section 2.72.120 Default Liability; Failure to Appear or Respond to Second Notice.

A. Finding of Default. The Administrative Hearing Officer may enter a finding of default in the findings, decision and order, and may impose liability against the defendant, including the assessment of fines and administrative costs, in the following circumstances:

1. If at the time set for hearing, the defendant, or the defendant's attorney or agent of record, fails to appear, and the hearing was neither postponed by the Administrative Hearing Records Unit as provided in paragraph 8 of Section 2.72.060(B) of this chapter, nor continued by the Administrative Hearing Officer as provided in paragraph 8 of Section 2.72.050(C) of this chapter.

2. For parking citations, if the person named in a notice issued pursuant to paragraph 1 of Section 2.72.090 (D) of this chapter fails to pay or request a hearing prior to the date specified in the notice.

B. Notice of Default. A copy of the finding of default, which is a final determination, will be promptly served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the defendant's last known residence or place of business, to notify the defendant of the procedure for setting aside the finding of default and of the opportunity to appeal the finding of default to the Circuit Court of Cook County as provided in Section 2.72.150 of this chapter.

C. Petition to Set Aside Default. A written petition to set aside a finding of default may be filed by a person owing an unpaid fine or penalty assessed for a violation, and will be considered, in accordance with the following procedures:

1. The petition must be filed with the Administrative Hearing Officer not later than 21 days from the date on which the finding of default was served; however, a defendant may file a petition to set aside the finding of default at any time, if such defendant establishes that the Village did not provide proper service of process.

2. Upon receiving a timely filed set-aside petition, the Administrative Hearing Officer shall consider the grounds raised in the petition and enter an order granting or denying the petition.

3. The grounds for setting aside a finding of default are limited to the following circumstances:

a. If, on the date the Notice of Violation was issued, the person against whom the finding of default is made is not the owner or lessee of the cited vehicle, or is not the owner, tenant, or manager of the cited property;

b. If the person against whom the finding of default is made had paid the fine or penalty prior to the finding of default for the violation in question;

c. If the defendant establishes an excusable failure to appear at the hearing or to request a new date for any hearing; or

d. If the defendant establishes that the Village did not provide proper service of process.

C. Findings and Order on Petition to Set Aside Default. In the event the finding of default is set aside, the Administrative Hearing Officer will notify the defendant by first class mail, postage prepaid, to the address set forth in the petition, and service thereof shall be complete on the date the notice is deposited in the United States mail. The notice of findings on the petition shall contain all of the following:

1. A statement that the finding of default, as well as any related administrative costs, has been set aside.

2. Notice of the new date, time, and place for the hearing on the merits of the violation for which the finding of default has been set aside.

3. An order extinguishing any lien that may have been recorded for any debt that became due and owing the Village as a result of the vacated default.

Section 2.72.130 Contesting Violations by Written Statement.

A. Right to Contest Violation in Writing. Any person who has been served with a Notice of Violation for which a personal appearance is not mandatory may contest the alleged violation on its merits without personally appearing at a hearing, pursuant to the following procedures:

1. Requesting and completing, in full, the "Request for Hearing - Appearance Waiver Form;"

2. Acknowledging in the space specified in said form that the person is waiving the right to appear in person and is submitting to an adjudication based upon the notarized statement filed by him or her and the facts contained in the Notice of Violation;

3. Filing the required form with the Administrative Hearing Records Unit within 21 days after the date of the Notice of Violation, with the filing to be done in the manner described on the Notice of Violation; and

4. Filing with the Administrative Hearing Records Unit, at the same time as the Appearance Waiver Form, a notarized statement of facts specifying the grounds for challenging the Notice of Violation.

B. Facts Considered by Hearing Officer. The Hearing Officer will make a decision based upon the facts as contained in the defendant's notarized written statement of facts and in the Notice of Violation.

C. Notice of Hearing Officer's Determination. Notice of the determination of the Administrative Hearing Officer will be served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the address set forth in the statement of facts submitted. Service of the notice of such determination will be complete on the date the notice is deposited in the United States mail.

Section 2.72.140 Certified Report and Contesting Certified Report.

A. Notice of Possible Suspension of Driver's License.

1. A notice of impending suspension of a person's driver's license will be sent to any person determined to be liable for the payment of any fine or penalty that remains due and owing on ten or more vehicular standing, parking, or compliance violations under Section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5). The notice shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State. The notice shall state the following:

a. That the failure to pay the fine or penalty owing within 45 days of the date of the notice will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings; and

b. That the person to whom the notice is directed may obtain a photo-copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the Village along with a request for the photo-copy.

B. Certified Report to the Secretary of State. Upon a failure of a person to pay fines or penalties deemed due and owing to the Village pursuant to Chapter 10.24 of this Code, and after exhaustion of the procedures set forth herein, the Administrative Hearing Records Unit shall make a certified report to the Secretary of State, pursuant to 625 ILCS 5/6-306.5(c), stating that the owner or lessee of a registered vehicle has failed to pay the fine or penalty due or owing the Village as a result of ten or more such violations of Chapter 10.24 of this Code, and thereby initiate the suspension of that person's driver's license.

C. Further Action by Village. The Administrative Hearing Records Unit will take no further action thereafter unless and until (i) the fines and penalties due and owing the Village are paid, or (ii) upon making a determination pursuant to subsection D and E of this section that the inclusion of the person's name on the certified report was in error. In either event, the Code Enforcement Administrator shall submit to the Secretary of State a notification to halt the driver's license suspension proceeding pursuant to 625 ILCS 5/6-306.5(d). The person named therein will receive a certified copy of such notification upon request and at no charge.

D. Within 21 days of the date of the Secretary of State's notice under 625 ILCS 5/6-306.5(b), a person may challenge the accuracy of the certified report by completing and filing a form provided by the Administrative Hearing Records Unit specifying the

grounds on which such challenge is based. Grounds for challenge are limited to the following:

1. The person was neither the owner nor the lessee of the vehicle receiving the ten or more applicable Notices of Violations on the date or dates such notices were issued; or

2. The person has paid the fine and penalty for the ten or more violations indicated on the certified report.

E. The Code Enforcement Administrator shall make a determination within 14 days of receipt of the form challenging the accuracy of the certified report, and will notify the person filing the challenge of the determination, and, if applicable, will notify the Secretary of State.

Section 2.72.150 Judicial Review.

Any final decision by a Hearing Officer that a violation does or does not exist constitutes 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.).

Section 2.72.160 Debt to the Village.

Any fine, penalty or costs imposed,, or part of any fine, penalty or costs imposed in accordance with the provisions of this chapter and remaining unpaid after the exhaustion of, or the failure to exhaust, administrative procedures under this chapter and the conclusion of any judicial review procedures, will be a debt due and owing the Village, and, as such, may be collected in accordance with applicable law and as provided in Section 2.72.160 of this chapter.

Section 2.72.170 Enforcement of Judgments.

A. Enforcement of Fines. All fines and other moneys to be paid to the Village in accordance with this chapter shall be remitted to the Village and deposited in the appropriate Village account as designated by the Village Manager.

B. Compliance Bond.

1. In order to ensure that violations are remedied in a timely manner, the Administrative Hearing Officer, upon issuing a determination of liability that includes an order of compliance, will have the authority to order the defendant in the case to obtain a bond ("Compliance Bond") to ensure defendant's timely compliance in correcting the violation. Any Compliance Bond ordered pursuant to this subsection B shall name the Village as a beneficiary and shall be in the amount specified by the Administrative Hearing Officer, provided that the amount of the Compliance Bond is to be reasonably related to the cost of compliance. If the defendant fails to remedy in a timely manner the violation for which a Compliance Bond has been ordered and issued, and the Village thereafter undertakes remediation or otherwise expends funds related to the violation for which a Compliance Bond has been ordered and issued, the Administrative Hearing Officer, after giving the parties notice and an opportunity to be heard, as provided in subsection F of this section, may issue an order permitting the Village to draw against the

Compliance Bond in an appropriate amount, not to exceed the remediation costs incurred by the Village. Upon proof of compliance, the Administrative Hearing Officer will order the Compliance Bond amount, less the reasonable costs incurred by the Village, returned to the defendant.

2. In the event a defendant ordered to secure a Compliance Bond as provided by this subsection B, seeks judicial review of the portion of the Administrative Hearing Officer's order requiring a Compliance Bond and prevails on that issue, the Village, within 30 days after receiving a copy of the reviewing court's mandate, shall release the Compliance Bond and shall refund to the defendant the total amount the Village drew against the Compliance Bond.

C. Expiration of Judicial Review Period. After expiration of the period that judicial review under the Illinois Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Administrative Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

D. Liability for Village Enforcement Expenses. If the defendant fails to comply with a judgment that orders the defendant to correct a violation or that imposes any fine or other sanction, any expenses incurred by the Village to enforce the judgment entered against that defendant, including without limitation, administrative costs, attorney's fees, court costs, and costs related to property demolition or foreclosure (collectively "Enforcement Expenses"), after they are fixed by a court of competent jurisdiction, or by an Administrative Hearing Officer in accordance with subsection F of this section, shall be a debt due and owing the Village and may be collected in accordance with applicable law, including without limitation, drawing against any Compliance Bond.

E. Lien on Property. In addition to all other enforcement actions set forth in this Chapter, the Administrative Hearing Officer, after providing the notice and opportunity to be heard as provided in subsection F of this section, shall have the authority to impose a lien on the real estate or personal estate, or both, of the defendant, in the amount of any debt due and owing the Village for any violation under this Chapter, including any and all Enforcement Expenses.

F. Final Notice and Hearing. Prior either to imposing Enforcement Expenses pursuant to subsection D of this section, or to imposing a lien pursuant to subsection E of this section, the Administrative Hearing Officer will conduct a hearing pursuant to notice sent to defendant by first-class mail, postage prepaid, not less than seven days prior to the date of the hearing. The defendant's failure to appear at such hearing will not preclude the Administrative Hearing Officer from imposing Enforcement Expenses or a lien.

Section 2.72.180 Fines, Penalties, Fees and Costs.

A. Amount Set by Village Council. Fines and penalties for any violation of any Village ordinance subject to administrative adjudication under this chapter shall be as established by this code. The Village Council may by resolution set penalties and interest charges for late payment, as well as administrative fees in an amount sufficient to recover the costs of administering the Administrative Adjudication System.

B. Maximum Fine. No fines or penalties set by the Village Council shall exceed $50,000 or the statutory maximum, whichever is less.

C. Schedule of Fines and Penalties. The Administrative Hearing Records Unit shall publish a consolidated schedule of fines and penalties, which shall be posted on the Village's web site and at the Winnetka Police Department and shall be updated by the Administrative Hearing Records Unit as necessary to reflect amendments made by the Village Council.

SECTION 3: Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Chapter 2.34
ADMINISTRATIVE HEARING OFFICER

Sections:

2.34.010 Creation of Office; Appointment.
2.34.020 Compensation.
2.34.030 Qualifications.
2.34.040 Duties.

Section 2.34.010 Creation of Office; Appointment.
There is created the office of Administrative Hearing Officer, an administrative office of the Village. The Administrative Hearing Officer shall be appointed by the Village Manager.

Section 2.34.020 Compensation.
The compensation of the Administrative Hearing Officer shall be fixed by the Village Manager with the approval of the Council.

Section 2.34.030 Qualifications.
The qualifications of the Administrative Hearing Officer shall be as provided in Section 2.72.050 of this Code.

Section 2.34.040 Duties.
The Administrative Hearing Officer shall be responsible for conducting hearings and adjudicating matters in the Village's Administrative Hearing System, as provided in Chapter 2.72 of this Code. If so directed by the Village Manager, the Administrative Hearing Officer shall conduct liquor license hearings as provided in Chapter 5.09 of this Code, and vehicle impoundment or removal hearings, pursuant to the procedures established in Section 10.08.090 of this Code.

SECTION 4: Section 1.04.070 of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

Section 1.04.070 Recovery of Village costs and expenses.

A. Attorneys' Fees and Costs. If the judgment or decision of any tribunal is in favor of the Village in any legal proceeding commenced by or on behalf of the Village pursuant to this code, the Village's costs, including reasonable attorneys' fees and, where applicable, administrative hearing costs, late fees and interest charges pursuant to Section 2.72.170 of this code, shall be allowed in favor of the Village and against the defending party.

B. Administrative Charge. An administrative charge shall be added to all fines and fees not paid when due. The administrative charge shall be an amount sufficient to recover the Village's administrative and collection costs, as determined by the Village Manager.

SECTION 5: Section 1.04.100 of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Section 1.04.100 Service by certified mail.

In all actions for violation of any Village ordinance where the fine would not be in excess of seven hundred fifty dollars ($750.00) and no jail term could be imposed, service of summons may be by certified mail, return receipt requested, whether service is to be within or without the state. For any violation subject to the administrative hearing process under chapter 2.72 of this code, notice may also be issued in any manner authorized by that chapter.

SECTION 6: Section 1.08.010 of Chapter 1.08, "General Enforcement and Penalty Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Section 1.08.010 Penalties.

A. General Penalty.

1. Unless another penalty is specifically provided by this code for violation of any particular provision, section or chapter, any person found guilty in a judicial proceeding of violating any provision of this code, or any rule or regulation adopted or issued in pursuance of this code, or any provision of any code adopted in this code by reference, shall upon conviction be subject to a fine of not less than twenty-five dollars ($25.00), ($5.00), nor more than seven hundred fifty dollars ($750.00), and the costs of prosecution. The Village Attorney, or, when directed by the Village Manager, the Village Prosecutor, may file a civil action to recover any penalty or fine against any such

person; provided, however, that the filing of such civil action shall preclude incarceration or imprisonment.

2. Unless another penalty is specifically provided by this code for violation of any particular provision, section or chapter, any person who, in an administrative proceeding in the Administration Adjudication System established by chapter 2.72 of this code, is found liable for violating any provision of this code, or any rule or regulation adopted or issued in pursuance of this code, or any provision of any code adopted by reference by this code, shall be subject to a fine of $ 25.00, plus the applicable administrative hearing costs established pursuant to Section 2.72.180 of this code. Notwithstanding the foregoing, in the event this code does not set a fixed fine or penalty, but sets the fine or penalty by setting a minimum amount or by establishing a range for such fine or penalty, then the fine or penalty imposed by the administrative hearing office shall be equal to the minimum fine or penalty so provided. The Village Attorney or, when directed by the Village Manager, the Village Prosecutor, may file a civil action to recover any penalty or fine against any such person; provided, however, that the filing of such civil action shall preclude incarceration or imprisonment.

B. Revocation of License. When a person is ~~convicted of~~ found guilty of or liable for a violation of any section of this code, any license or permit previously issued to that person by the Village may be revoked by the court or by the Village Council.

C. Each ~~Day of~~ Violation. Each act of violation and each day upon which a violation occurs constitutes a separate offense. Unless otherwise specifically provided, the amount of fine established in this code are the amounts for each violation.

D. Applicability. The penalties established in this code, including but not limited to any ~~The~~ penalty provided by this ~~section~~ chapter, ~~applies~~ shall apply to the amendment of any related section of this code or ~~a~~ any code adopted in this code by reference, whether or not ~~such~~ the penalty is reenacted in the amendatory ordinance.

E. Reference to Section. Reference to a section of this code shall be understood also to refer to and include the penalty section relating to such section, unless otherwise expressly provided.

F. Failure of Officers to Perform Duties. The failure of an officer or employee of the Village to perform an official duty imposed by this code shall not subject such officer or employee to the penalty imposed for violation of this code unless a penalty is specifically provided in the section creating a duty.

G. Election of Remedies. Unless otherwise provided, in all cases where the same offense is made punishable, or is created by, different chapters or sections of this code, the Village Prosecutor may elect under which provision to proceed; provided, that not more than one recovery shall be had against the same person for the same offense. The revocation of a license or permit shall not be considered a recovery or penalty so as to bar any penalty being enforced.

SECTION 7: Section 5.09.260 of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.260 **Sale~~s~~, gift or delivery to minors and intoxicated persons~~—Responsibility of parents and owners or occupants of premises.~~**

A. No licensee nor any officer, associate, member, representative, agent or employee of any licensee shall sell, give or deliver any alcoholic liquor to any of the following:

1. Any person under the age of twenty-one (21) years;

2. Any intoxicated person.

B. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to any of the following:

1. A person under the age of twenty-one (21) years except in the performance of a religious ceremony or service;

2. Any intoxicated person.

C. [Transferred to Chapter 9.04.]~~—It is unlawful for any person to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold.~~

D. Repealed.

E. In addition to all other fines and penalties, the Local Liquor Control Commissioner may revoke any license issued under this chapter for any violation of this section.

F. [Transferred to Chapter 9.04.]~~—It is unlawful for any parent or guardian to permit any child under the age of twenty-one (21) of which he or she is parent or guardian, to violate any provision of this section.~~

G. The failure of any licensee, or of any officer, associate, member, representative, agent or employee of any licensee, to immediately cease serving alcoholic liquor to, and to immediately remove such alcoholic liquor from, any person under the age of twenty-one (21) years after being directed to do so by any law enforcement officer ~~It is unlawful for any owner or occupant of any premises located within the Village who knows, or in the exercise of reasonably care should know, that a person under the age of twenty-one (21) years possesses or is consuming alcoholic liquor while on the premises to allow such minor to remain on such premises. After notice by any police officer of any violation of this Section 5.09.260, such owner or occupant shall immediately terminate any continuing violations. Failure to do so~~ shall constitute a further violation of this section.

SECTION 8: Section 5.09.270 of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.270 ~~Purchase or acceptance of gifts of liquor by underage persons~~Requiring proof of age; Identification cards.

A. [Transferred to Chapter 9.04]~~ No person under the age of twenty-one (21) years shall purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his or her possession.~~

B. If a liquor licensee, his or her agents or employees, believes or has reason to believe that a sale or delivery of alcoholic liquor is prohibited because the prospective recipient may be less than twenty-one (21) years of age, he or she shall, before making such sale or delivery, demand proof of the person's age through the presentation of some form of current, ~~positive~~ government-issued identification~~, containing~~ that includes the person's name, photograph and date of birth, such as a driver's license or passport.~~proof of age, issued by a public officer in the performance of his or her official duties.~~

C. [Transferred to Chapter 9.04]~~ No person shall transfer, alter or deface such an identification card, use the identification card of another, carry or use a false or forged identification card or obtain an identification card by means of false information.~~

D. [Transferred to Chapter 9.04]~~ No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section.~~

SECTION 9: Section 5.09.300, "Violations and Penalties," of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.300 Violations and penalties.

A. Except as provided in subsection B, ~~Any~~ any person who sells alcoholic liquor at any place within the Village without having a current valid license to do so issued under the provisions of this chapter, or who shall make any false statement or otherwise violate any of the provisions of this chapter in obtaining any license under this chapter, or who shall violate any other provisions of this chapter, or who, having obtained a license under this chapter, shall violate any of the provisions of this chapter or of the restrictions of such license with respect to the possession or sale of alcoholic liquor or to the maintenance of the licensed premises, shall for a first offense be fined not less than one hundred fifty dollars ($150.00) ~~($50.00)~~ nor more than seven hundred fifty dollars ($750.00), and for a second or subsequent offense shall be fined not less than ~~one~~ two hundred fifty dollars ($250.00) ~~($100.00)~~ nor more than seven hundred fifty dollars ($750.00). Any fine imposed pursuant to this section may be in addition to or in lieu of the revocation or suspension of any license issued under the provisions of this chapter.

B. Any person who violates section 5.09.260 or 5.09.270 of this chapter shall be subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00). Any fine imposed pursuant to this section may be in addition to or in lieu of the revocation or suspension of any license issued under the provisions of this chapter.~~Each day on or during which any person violates any of the provisions of this chapter shall constitute a separate offense.~~

C.[Transferred to Chapter 9.04] ~~Any person under the age of twenty-one (21) years who, for the purpose of buying or accepting or receiving alcoholic liquor from a licensee, represents that he or she is twenty-one (21) years of age or over, or who accepts or receives alcoholic liquor from a person other than a licensee, shall for a first offense be fined not less than twenty-five dollars ($25.00) nor more than seven hundred fifty dollars ($750.00), and for a second or subsequent offense shall be fined not less than fifty dollars ($50.00) nor more than seven hundred fifty dollars ($750.00).~~

D. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be ~~punishable in the same manner~~ subject to fines and penalties as if such act or omission had been done by him or her personally.

E. Each day on or during which any person violates any of the provisions of this chapter shall constitute a separate offense.

SECTION 10: Chapter 5.48, "Peddlers and Solicitors," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended by adding a new Section 5.48.020, which shall be titled "Violations and penalties," and shall provide as follows:

Section 5.48.020 Violations and penalties.

Any person who engages in peddling in a location that violates subsection B of section 5.48.010 of this chapter, or who engages in a practice or conduct that is prohibited by subsection N of section 5.48.010 of this chapter, shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 11: Section 5.68.190, "Penalties and violations; revocation and suspension," of Chapter 5.68, "Taxicabs," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended by adding new subsections E and F, which shall provide as follows:

E. Fines. Except as provided in subsection F of this section, any person who is found guilty or liable for a violation of this chapter shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

F. Operating without a license. Any person who conducts or engages in the taxicab business in the Village in violation of section 5.68.020 of this chapter shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 12: Subsection C of Section 6.08.020, "Responsibilities of dog owners," of Chapter 6.08, Dogs," of Title 6 of the Winnetka Village Code, "Animals," is hereby amended to provide as follows:

Section 6.08.020 Responsibilities of dog owners.

A. It shall be the responsibility of the owner of any dog in the Village to keep such dog or to cause such dog to be kept under control at all times and to prevent such dog from doing any of the following prohibited acts, each of which is declared to be a public nuisance:

1. Running at Large. "Running at large" means being unconfined on or in property not owned or lawfully possessed by the owner of the dog, including public property, without being under immediate control by the owner of the dog or a responsible member of his or her family or by a responsible agent of the family, by means of a leash, cord, chain or like device.

(Amended, 1/15/08, MC-14-2007 § 2)

2. Entering any church, community house or parish premises, public hall, bank building, automobile gasoline station, public garage, grocery, meat market, bakery or other retail store or shop, excluding any shop for the sale of animal pets, anywhere within the Village during the time that any of such places or establishments are open for use by the public or persons entitled to use the same.

3. Going upon and being upon any private or public school premises or grounds during the hours in which school is in session or school activities are taking place.

4. Jumping upon any person to the annoyance of such person.

5. Chasing a motor vehicle or bicycle on a public or private street or sidewalk.

6. Damaging or destroying private property (including but not limited to gardens, shrubbery and lawns) of any person other than property of the owner of the dog.

7. Defecating upon any property, public or private, other than the property of the owner of the dog, unless the person having immediate control of the dog (as required by subsection (A)(1) of this section) (a) has in that person's immediate possession a device for the removal of excrement and a depository for the transmission of excrement to a receptacle located upon property owned or possessed by the owner or such person, and (b) removes excrement left by such dog to a proper receptacle located upon property owned or possessed by the owner or such person.

8. Barking or howling so as to substantially disturb the quiet of any person.

9. Running at large of a female dog in heat.

B. The provisions of this chapter shall not apply to dogs leading blind persons.

C. The owner of any dog that does any of the acts prohibited in this section shall be subject to a fine of not less than fifty dollars ($50.00) nor more than seven hundred fifty dollars ($750.00). ~~fined in the following amounts:~~

~~1. First offense $50.00~~

~~2. Second offense $100.00~~

~~3. Third offense $250.00~~

~~4. Fourth offense $500.00~~

~~5. Each subsequent offense $750.00~~

D. [Repealed.]~~Violations of this section either may be prosecuted as in the case of other ordinance violations, or may be processed administratively in the manner provided in subsection E of this section.~~

E. [Repealed.]~~Any Village Animal Warden or police officer having reasonable grounds to believe that a violation of this section has occurred may upon ascertaining ownership of the dog in question to his or her reasonable satisfaction, prepare a notice of violation addressed to the owner and serve the same by leaving a copy with the owner personally or at the owner's residence with some member of the owner's household of the age of ten (10) years or more, or by regular United States mail. The notice shall state the date, the approximate time and approximate location of the violation, and shall specify the violation charged and the fine applicable to the violation. Within thirty (30) days of such service or mailing (as determined by postmark), the owner may pay the applicable fine at the office of the Village Collector or Village Finance Director. Payment of the fine upon such notice shall be an admission of the violation charged and shall preclude further prosecution. In the event the fine is not paid within the time provided, prosecution may be commenced.~~

F. [Repealed.]~~The Animal Warden or police officer who has initiated administrative processing under subsection E of this section shall have authority, with the approval of the Chief of Police, or in his or her absence the Village Manager, to withdraw the notice of violation issued by him or her.~~

~~(Prior code § 13.06)~~

SECTION 13: Subsection A of Section 8.08.110, "Fireworks," of Chapter 8.08, "Fire Safety Code," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

A. Possession and Sale Prohibited. No person shall possess, sell, offer for sale, loan or give away, to any retail dealer, consumer or user in the Village, any article or substance of an explosive nature designed or intended to be used as fireworks, including but not limited to any toy pistol, toy gun, toy cannon, blank cartridge, firecracker, sparkler, rocket, torpedo, squib~~,~~ or colored fire, ~~or any article or substance of an explosive nature designed or intended to be used as fireworks,~~ except in accordance with a permit for a supervised public display issued by the Village Manager pursuant to rules and regulations adopted by the Council.

SECTION 14: Section 8.08.110, "Fireworks," of Chapter 8.08, "Fire Safety Code," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended by adding a new subsection C, which shall as follows:

C. Violation and penalties. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 15: Section 8.16.090, "Open burning," of Chapter 8.16, "Garbage and Refuse," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

Section 8.16.090 Open burning.

A. Open burning is prohibited anywhere in the Village, whether on public or private property, unless such burning is in connection with outdoor grills, barbecues, small recreational fires or fireplaces and such burning is not otherwise prohibited by law; provided, however, that no garbage (other than logs or untreated wood products) shall be burned in such cases.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 16: Section 8.16.120, "Disposal of yard waste," of Chapter 8.16, "Garbage and Refuse," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

Section 8.16.120 Disposal of yard waste.

A. No person shall deposit any yard waste in or on any land or property in the Village unless the yard waste was collected from that land or property. No person shall deposit any yard waste in or on any street, alley or parkway in the Village unless the street, alley or parkway adjoins the property from which the yard waste was collected, and unless the yard waste has been placed in or on such street, alley or parkway for collection by the Village as part of a scheduled yard waste collection program.

B. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 17: Section 9.04.010, "Disorderly conduct," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection L, which shall provide as follows:

Section 9.04.010 Disorderly conduct.

Any person who shall knowingly do or make any act, utterance, gesture or display, which, under the circumstances, creates a clear and present danger of a breach of peace or an imminent threat of violence shall be guilty of the offense of disorderly conduct, which is prohibited. Without limitation, any of the following acts may constitute disorderly conduct:

A. Assaulting, striking or deliberately injuring another person;

B. Engaging in or aiding or abetting any fight, quarrel or other disturbance;

C. Disturbing any religious service, funeral, public or private meeting, place of amusement or assembly of persons;

D. Being intoxicated in public places, or in any place to the annoyance and disturbance of other persons;

E. Resisting or obstructing the performance of one known to be a police officer or any authorized act within the police officer's official capacity, or impersonating a police officer;

F. Assisting any person in custody of police to escape or furnishing any weapon, drugs, liquor to any such person;

G. Engaging in any fraudulent scheme, device or trick to obtain money or other valuable thing;

H. Giving any false alarm of fire, danger or disturbance to any person, or false information to any police officer or firefighter or any Village officer;

I. Making a telephone call with intent to annoy another, whether or not conversation ensues;

J. Throwing stones or missiles in public places or at any person or property, or using, brandishing or threatening to use any missile, or dangerous weapon or object;

K. Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings, monuments or vehicles, or engaging in any acts of vandalism.

L. Theft of any property valued at less than three hundred dollars ($300.00).

SECTION 18: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.015, which shall be titled "Penalties for disorderly conduct violations," and shall provide as follows:

Section 9.04.015 Penalties for disorderly conduct violations.

A. Except as provided in subsection B, any person who violates commits the offense of disorderly conduct, as defined in section 9.04.010 of this code, shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

B. Any person who commits the offense of disorderly conduct, as defined in section 9.04.010(A) or section 9.04.010(B) of this code, shall be subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 19: Section 9.04.020, "Disorderly houses," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.04.020 Disorderly houses.

A. It is unlawful to keep or maintain a place for the practice of prostitution or lewdness, or keep a place for the encouragement of gambling, intoxication or fornication. It is also unlawful for any person to patronize or be an inmate of any such place, or to own, rent or allow any premises to be used for any such purposes.

B. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

(Prior code § 45.10)

SECTION 20: Section 9.04.040, "Gambling – Raffles," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection D, which shall provide as follows:

D. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

(Prior code § 45.11)

SECTION 21: Section 9.04.050, "Tobacco and smoking instruments--Sale to minors," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.04.050 Tobacco and smoking instruments--Sale to minors.

A. It is unlawful to sell or in any manner distribute to a minor any tobacco or any manufactured article consisting in whole or in part of tobacco or designed or marketed for use in the consumption of tobacco. Any person who violates this subsection shall be subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00).

B. It is unlawful for any minor to possess tobacco products, including cigarettes, or to possess any products designed or marketed for use in the consumption of tobacco.

C. ~~A~~ For purposes of this section, a minor is any person who has not yet reached eighteen (18) years of age. Any minor who violates this subsection shall be subject to a fine of seventy-five dollars ($75.00).

SECTION 22: Section 9.04.060, "Possession of cannabis, including marijuana," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.04.060 Possession of cannabis, including marijuana.

A. Prohibited.

1. It is unlawful for any person within the corporate limits of the Village to possess cannabis, including marijuana.

2. It is unlawful for any person within the corporate limits of the Village to possess instruments or paraphernalia for the preparation, manufacture or use of cannabis, including marijuana.

B. Definition. As used in this section and Section 9.04.070, "cannabis" means marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds of such plant, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including naturally occurring or by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative mixture, or preparation of such mature stalks (except the resin extracted from such mature stalks), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

C. Penalties or Disposition. ~~Every~~ Any person who violates this section with respect to not more than ten (10) grams of any substance containing cannabis shall be subject to a fine of not less than two hundred fifty dollars ($250.00) ~~($50.00)~~ nor more than ~~five~~ seven hundred fifty dollars ($750.00)~~($500.00)~~.

SECTION 23: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.080, which shall be titled "Prohibited purchase, delivery and possession of alcoholic beverages; responsibility of parents, guardians and property owners," and shall provide as follows:

Section 9.04.080 Purchase or delivery of alcoholic beverages for minors; responsibility of parents, guardians and property owners.

A. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to a person under the age of twenty-one (21) years except in the performance of a religious ceremony or service.

B. It is unlawful for any parent or guardian of a child under the age of twenty-one (21) to permit such minor child to violate any provision of this section.

C. It is unlawful for any owner or occupant of any premises located within the Village who knows, or in the exercise of reasonable care should know, that a person under the age of twenty-one (21) years possesses or is consuming alcoholic liquor while on the premises to allow such minor to remain on such premises. After notice by any police officer of any violation of this subsection G, such owner or occupant shall immediately terminate any continuing violations. Failure to do so shall constitute a further violation of this section.

D. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.260]

SECTION 24: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9, of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.090, which shall be titled "Purchase or acceptance of alcoholic liquor by underage persons; identification cards," and shall provide as follows:

Section 9.04.090 Purchase or acceptance of alcoholic liquor by underage persons; identification cards.

A. No person under the age of twenty-one (21) years shall purchase, accept as a gift or possess alcoholic liquor. No person under the age of twenty-one (21) years shall consume alcohol except in the performance of a religious ceremony or service.

B. It is unlawful for any person to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold.

C. No person shall purchase, accept delivery of or have possession of alcoholic liquor in violation of this section.

D. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.270]

SECTION 25: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9, of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.100, which shall be titled "Use or possession of fraudulent identification," and shall provide as follows:

Section 9.04.100 Use or possession of fraudulent identification.

A. No person shall transfer, alter or deface any identification card, use the identification card of another, carry or use a false or forged identification card, or obtain an identification card by means of false information.

B. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.270]

SECTION 26: Section 9.08.030, "Trespass," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.08.030 Trespass.

A. It is unlawful for any person to enter upon any property of another in the Village or any part of such property after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or to remain upon the property of another after receiving notice from the owner or occupant to depart.

B. A person shall be deemed to have received notice from the owner or occupant within the meaning of this section if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted at the main entrance to such property or the forbidden part of such property.

C. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 27: Section 9.08.040, "Trespassing by solicitors and peddlers," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection D, which shall provide as follows:

D. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 28: Section 9.08.050, "Handbills," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection C, which shall provide as follows:

C. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 29: Paragraph 1 of subsection C, "Penalties," of Section 9.08.070, "Damage or trespass to property," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

1. Every person found guilty of any offense declared to be unlawful by this section shall be subject to ~~either or both of the following penalties: a fine or a period of conditional discharge not to exceed one year.~~ a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00). ~~The conditions of conditional discharge shall include that the guilty person not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and report to and appear in person before such person or agency as directed by the court. The conditions of conditional discharge may, in addition, require that the guilty person work or pursue a course of study or vocational training; undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism; make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss; and, if a minor, reside with his or her parent or in a foster home, attend school, attend a nonresidential program for youth, and contribute to his or her own support at home or in a foster home.~~

SECTION 30: Section 9.12.050, "Penalties," of Chapter 9.12, "Weapons," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.12.050 Penalties.

A. Any person found in violation of section 9.12.010 of this chapter shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than one thousand dollars ($1,000.00).

B. Any person found in violation of section 9.12.025 or section 9.12.040 of this chapter shall be ~~fined~~ subject to a fine of not less than $500.00 nor more than $1,000.00 ~~for each offense~~.

SECTION 31: Section 9.16.020, "Public Nuisances," of Chapter 9.16, "Nuisances," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection E, which shall provide as follows:

E. Penalties. Any person found in violation of section 9.16.020 of this chapter shall be subject to a fine of not less than one hundred dollars ($100.00).

SECTION 32: Subsection B of Section 10.04.010, "State traffic laws adopted" of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

B. Any person who violates any provision of the Illinois Vehicle Code within the Village shall be subject to ~~the penalty provided for violation of this code.~~ a fine of not

less than one hundred dollars ($100.00); provided that, if the maximum fine set by the Illinois Vehicle Code is less than one hundred dollars ($100.00), then the amount of the fine shall equal said statutory maximum. The maximum fine for any violation of any provision of the Illinois Vehicle Code within the Village shall be subject to The maximum fine for any the Illinois Vehicle Code shall be seven hundred fifty dollars ($750.00); provided that, if the maximum fine set by the Illinois Vehicle Code is more than seven hundred fifty dollars ($750.00), then the maximum fine shall equal said statutory maximum.

SECTION 33: Section 10.08.080, "Penalties," of Chapter 10.08, "Administration and Enforcement," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

Section 10.08.080 Penalties.

A. ~~Every~~Any person ~~convicted of a~~ found in violation of any ~~of the~~ provision~~s~~ of this chapter ~~for which no maximum penalty is specifically provided~~ shall be ~~punished by~~ subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00). Notwithstanding the foregoing, if the violation of this chapter is also a violation of the Illinois Vehicle Code, then the fine for such violation shall be subject to the limitations of section 10.04.010(B) of this code. ~~for each offense; provided, however, that the penalties for violation of the Illinois Size and Weight Law shall be those set forth in such law.~~

SECTION 34: Subsection C of Section 10.24.110 of Chapter 10.24, "Parking," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

Section 10.24.110 Parking violations--Owner's responsibility--Definitions--Penalties--Pre-court payment--Final notice.

A. The registered owner of any vehicle parked in violation of the parking regulations of Sections 10.24.010 through 10.24.100 of this chapter shall be prima facie responsible for such violation and shall be subject to the penalties applicable to such violation, in accordance with the schedule of fines set forth in subsection C of this section.

B. Definitions. For purposes of this section, "parking violation" means a violation of the parking regulations of Sections 10.24.010 through 10.24.100 of this chapter, including violations of overtime parking provisions, permit zone parking provisions and illegal parking provisions.

C. Schedule of Fines for Parking Violations. Fines for parking violations shall be assessed as follows:

1. If paid within ten (10) days or less after the date of the citation alleging the violation, the fine shall be:

a. ~~Twenty-five~~ Thirty-five dollars ($35.00) ~~($25.00)~~ for each of the first, second and third violation within any twelve (12) month period;

b. Fifty dollars ($50.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. One hundred dollars ($100.00) for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. One hundred fifty dollars ($150.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

2. If paid more than ten (10) days after the date of the citation alleging the violation~~, but~~ and prior to court hearing, the fine shall be:

a. ~~Thirty-five~~ Forty-five dollars ($45.00) ~~($35.00)~~ for each of the first, second and third violation within any twelve (12) month period;

b. Sixty dollars ($60.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. One hundred ten dollars ($110.00) for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. One hundred sixty ($160.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

3. If not paid prior to court hearing, then upon a finding of guilty the fine shall be:

a. A minimum of thirty-five dollars ($35.00) and a maximum of one hundred fifty dollars ($150.00) for each of the first, second and third violation within any twelve (12) month period;

b. A minimum of sixty dollars ($60.00) and a maximum of one hundred fifty dollars ($150.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. A minimum of one hundred ten dollars ($110.00) and a maximum of one hundred sixty dollars for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. A minimum of one hundred sixty dollars ($160.00) and a maximum of one hundred seventy-five ($175.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

D. [Repealed.]~~Pre-Court Payment.~~

~~1. Pre-Court Payment Permitted. Any person charged with a parking violation may pay directly to the Village the amount of the fine applicable to the offense charged, as established in subsection C of this section; provided, such payment is made no later than five days before the date of a court hearing set for such violation at the request of the person who received the citation alleging the violation.~~

~~2. Manner of Making Pre-Court Payments. All pre-court payments may be made at the Village Hall. A receipt shall be issued for any pre-court payment so received. No pre-court payment shall be accepted less than five days before the date of a court hearing set for the parking violation at the request of the person who received the citation alleging the violation. All such payments shall be promptly delivered to the Village Collector and credited to the proper account of the Village.~~

~~3. Effect of Pre-Court Payment. The Police Department shall not prosecute any parking violation for which a pre-court payment is made.~~

E. [Repealed.]~~Final Notice. If the fine for the parking violation is not paid within ten (10) days after the date of the citation alleging the violation, the Police Department shall issue a final notice of the parking violation to the registered owner of the vehicle to which the citation refers. The final notice shall be sent by first class United States mail to the address of the owner of the vehicle as shown on the vehicle registration. If the registered owner does not either pay the applicable fine or request a court hearing on the alleged violation within fifteen (15) days after the date the final notice is mailed, the registered owner shall be subject to all such fines and penalties for the alleged parking violation and the failure to pay the fine as may be authorized under Illinois statutes and this Village code.~~

(Ord. MC-187-97 § 1, 1997; Ord. MC-182-97 §§ 1, 2, 1997; prior code § 41.27)

SECTION 35: Subsection F of Section 10.28.080, "Skateboards, rollerblades, roller skates, coasters and similar devices," of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby to provide as follows:

F. Fines. ~~Penalties; Impounding.~~ Any person who commits a violation of this section shall be subject to a fine of twenty-five dollars ($25.00). ~~if paid within ten (10) days after the date of the Police Department citation alleging such violation, and to a fine of fifty dollars ($50.00) if paid after ten (10) days from such date. In addition to or in lieu of a fine, any person who commits a violation of this chapter may be penalized by the impounding of the wheeled device or devices used in committing any such violation for a period not exceeding thirty (30) days. Such impoundment shall be at the discretion of the Chief of Police.~~

SECTION 36: Section 10.28.080, "Skateboards, rollerblades, roller skates, coasters and similar devices," of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended by adding a new subsection G, which shall provide as follows:

G. Impounding. The Chief of Police, in the exercise of his discretion, may impound a wheeled device used in the commission of any violation of this chapter, provided the Chief of Police determines that such impoundment is necessary to protect the public

safety and prevent further violations. The impoundment shall be for a period of not more than thirty (30) days.

SECTION 37: Section 10.28.110, "Use of mobile telephones" of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended by adding a new subsection C, which shall provide as follows:

C. Any person found guilty of violating the provisions of this section shall be subject to a fine of seventy-five dollars ($75.00).

SECTION 38: Section 10.32.050, of Chapter 10.32, "Bicycles," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

Section 10.32.050 Penalties; ~~–~~Impounding.

A. Fines. Any person ~~thirteen (13) years of age or older~~ who commits a violation of this chapter shall be subject to a fine of twenty-five dollars ($25.00)~~ if paid within ten (10) days after the date of the Police Department citation alleging such violation, and to a fine of fifty dollars ($50.00) if paid after ten (10) days from such date~~.

B. Impounding of Bicycle. The Chief of Police, in the exercise of his discretion, may impound a bicycle used in the commission of any violation of this chapter, provided the Chief of Police determines that such impoundment is necessary to protect the public safety and prevent further violations. ~~In addition to or in lieu of a fine, any person who commits a violation of this chapter may be penalized by the impounding of the bicycle used in committing any such violation~~ The impoundment shall be for a period of not ~~exceeding~~ more than thirty (30) days.~~ Such impounding shall be at the discretion of the Chief of Police.~~

SECTION 39: Section 12.04.070 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.070 Private business on streets.

A. Except as provided in Section 5.20.010 of the Winnetka Village Code, it is unlawful for any person to use any public street or sidewalk as a place of business from or on which to make sales, display goods or merchandise, or conduct a business without specific prior approval of the Council.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 40: Section 12.04.080 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.080 Deposits of harmful material.

A. It is unlawful for any person to deposit on any street, alley or public place any material which may be harmful to the pavement or sidewalk, or any waste material, or anything which might in any way cause injury to any person or vehicle.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 41: Section 12.04.090 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.090 Depositing snow on street.

A. It is unlawful to plow or otherwise remove accumulated snow from a private parking lot, a private driveway, or any other private property, and deposit same on a Village street in a manner that decreases the street's drivable width.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 42: Subsection E of Section 15.32.140, "Construction Hours," of Chapter 15.32, "Construction Permits," of Title 15 of the Winnetka Village Code, "Building and Construction," is hereby amended to provide as follows:

E. Penalties. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00). In addition to such fine, and any other penalties provided in this code, a violation of this section shall constitute a sufficient basis for the revocation of any permit issued under the provisions of this code.

SECTION 43: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 44: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this ___ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2014.

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____, 2014.

Introduced:
Passed and Approved:

ATTACHMENT 1

Administrative Adjudication

Matrix of Offenses and Fines

Administrative Adjudication

Matrix of Offenses and Fines

Ordinance Section	Code Section	Offense	Proposed Fine
6	1.08.010	General Fine Provision (Circuit Court Action)	$25 - $750
7, 9	5.09.260(A)	Sale/delivery of liquor by a liquor license holder to persons under 21 or intoxicated persons	$250
8	5.09.270(B)	Liquor license holder fails to demand ID when required	$250
9	5.09.300	General violations of liquor license requirements	$150
10	5.48.020	Peddling or Soliciting without a permit or in violation	$100
11	5.68.020	Operating a taxicab without a Village license	$150
11	5.68.030-180	Miscellaneous taxicab violations	$100
12	6.08.020	Dogs, responsibility of owners, off leash, at large etc.	$50
13, 14	8.08.110	Possession or sale of fireworks	$100
15	8.16.090	Open burning	$100
16	8.16.120	Unlawful disposal of yard waste	$150
17, 18	9.04.010(A)	Assaulting, striking deliberately injuring another	$250
17, 18	9.04.010(B)	Engaging in any fight, quarrel or disturbance	$250
17, 18	9.04.010(C-K)	Any other act creating a breach of the peace	$150
17, 18	9.04.010(L)	Petty Theft of property valued less than $300 ***(new section mirrors 720 ILCS 5-16-1)***	$150
19	9.04.020	Disorderly houses	$150
20	9.04.040(A)	Gambling prohibitions	$150
21	9.04.050(A)	Sale of tobacco products to minor under age 18	$250
21	9.04.050(B)	Possessing of tobacco products by minor under age 18 (***new section mirrors (720 ILCS 675/1)***	$75
22	9.04.060(A)	Possession cannabis or cannabis paraphernalia ***(new portion, paraphernalia, mirrors 720 ILCS 600/2 d)***	$250
23	9.04.080(A-C)	Sale/delivery of liquor by any person to persons under 21	$150
24	9.04.090(A&C)	Minor under 21 in purchase, possess, consume alcohol ***(new section consumption mirrors 235 ILCS 5/6-20 e)***	$150
24	9.04.090(B)	Misrepresenting age to purchase liquor	$150
25	9.04.100	Use or possession of fraudulent ID card	$150

Ordinance Section	Code Section	Offense	Proposed Fine
26	9.08.030	Trespass to property	$100
27	9.08.040 (B)	Peddling upon premises in violation of posted sign	$100
28	9.08.050	Distributing handbills in public place or on autos	$100
29	9.08.070(A)	Damage to property	$150
30	9.12.010	Firearms & weapons violations	$150
31	9.16.020 (A-D20)	Public nuisance violations	$100
32, 33	10.08.080	Non-Moving Traffic and Vehicle offenses	$100
33		Seat belt & Hand Held Cell Phone Violation	$75
34	10.24.110 (C)	Parking Fines – 10.24.010 – 10.24.100 Includes escalating fines for repeat violations	$35 (w/in 10) $45 (after 10)
35, 36	10.28.080	Skateboarding & Rollerblading where prohibited	$25
37	10.28.110	Use of handheld mobile phone while driving	$75
38	10.32.030	Bicycles, prohibited operations	$25
39	12.04.070	Conducted business on public way without approval	$100
40	12.04.080	Littering	$100
41	12.04.090	Depositing snow on street	$100
42	15.32.140	Construction activity outside hours or on prohibited days	$100

ATTACHMENT 2

Administrative Adjudication Cost Analysis

VILLAGE OF WINNETKA
INTEROFFICE MEMORANDUM

TO: Village Council

CC: Rob Bahan, Village Manager

FROM: Patrick Kreis, Chief of Police

RE: Administrative Adjudication, Cost Analysis

DATE: January 27, 2014

Implementing an Administrative Adjudication system will involve one-time startup costs as well as annual operating expenses. One-time implementation costs for the proposed system are estimated between $5,000 and $8,000. The majority of this involves contracting with the Village's parking ticket administration vendor, Duncan Solutions. The scope of Duncan's work involves designing, programming and implementing modifications to current software enabling the processing of new Municipal citations and managing Hearing dockets and dispositions. Other likely expenses involve printing costs and possibly Hearing training expenses. The 2014 budget includes $8,000 for such expenses.

Annual operating expenses are projected at approximately $12,000 for the cost of paying a Hearing Officer and Prosecutor. These expenses will be offset by Net New Fines and Fees, made up of ticket fines and hearing fees. Net ticket fines are the sum difference between existing fines returned to the Village from the Circuit Court for the same level of enforcement for those offenses applicable to Municipal citations. Hearing fees involve a $40 cost charged to any person cited who is assigned a hearing unless they are found not responsible at the hearing.

An accurate projection of Net New Fines and Fees is hard to estimate. The difficulty lies in several unknown interrelated factors. These include variances of enforcement activity over time, hearing attendance rates, the percentage of persons found responsible (guilty) at a hearing and fine collection rates. With that caveat, staff conducted an analysis using a range of estimates and reviewed same with Ed McKee. This analysis assumes the recommended fines are adopted and estimates Net New Fines and Fees, based on the average of three prior year's enforcement data. Making necessary assumptions, using the best estimates of likely enforcement levels and number of hearings, the Village can expect Net New Fines and Fees to exceed annual operating expenses by an amount between $8,000 and $12,000. It is possible the actual results may fall outside the estimated range; however it is unlikely operating expenses would exceed Net New Fines and Fees in any scenario.

ATTACHMENT 3

Administrative Adjudication Agenda Packet

January 7, 2014 Council Meeting

AGENDA REPORT

SUBJECT: **Ordinance MC-5-2013 – Amending the Winnetka Village Code to Establish a System of Administrative Adjudication**

PREPARED BY: Katherine S. Janega, Village Attorney
Patrick Kreis, Chief of Police

REFERENCE:

January 19, 2010	Council Meeting, Agenda pp. 80 – 94
May 11, 2010	Study Session, Agenda pp. 42 – 62
October 9, 2012	Study Session, Agenda pp. 2 – 24
April 16, 2013	Council Meeting, Agenda pp. 70 – 88
September 17, 2013	Council Meeting, Agenda pp. 93 – 124

DATE: January 2, 2014

I. Introduction

On September 17, 2013, the Council introduced Ordinance MC-5-2013, which amends various provisions of the Village Code to establish an administrative adjudication system and to set fixed fines for Code violations that would be heard by the hearing officer.

The Ordinance would add two new chapters to the Village Code:

- Section 2 of MC-5-2013 adds Chapter 2.72, which would establish the Administrative Adjudication System, defines the substantive scope of the system, defines the scope of the hearing officer's jurisdiction and authority, establishes a records unit, and establishes procedures for the full range of the process from the issuance of citations through the enforcement of judgments. Chapter 2.72 also incorporates all of the provisions required by the State enabling statute that authorizes home rule municipalities to establish administrative adjudication systems, subject to certain limitations. (65 ILCS 5/1-2.1-1, et seq.)
- Section 3 of MC-5-2013 adds Chapter 2.34, which would create the office of Administrative Hearing Officer, provides for the appointment and compensation of the hearing officer, incorporates the qualifications required by the State enabling statute, and briefly defines the hearing officer's duties.

At the conclusion of the Council's discussion on September 17th, it was determined that staff would return with an updated draft so that the Council could see a more comprehensive picture of the final structure of the administrative hearing process and how it would work. An essential part of that final package is the structure of the Village Code's fine provisions, because the hearing officer can only be authorized to imposed a fixed fine amount, while the Village Code must also provide for violations to go to the Circuit Court, where judges have broad discretion when it comes to assessing fines and penalties.

To that end, the Police Department has surveyed fines and penalties in other communities in the area and has proposed fine levels for violations that would be heard in the administrative hearing system. Those proposed fines are explained in a memorandum from Police Chief Kreis (Attachment 1) and are reflected in the amended draft of MC-5-2013.

An updated draft of Ordinance MC-5-2013 follows this Agenda Report. In addition to fixing fines, MC-5-2013 contains several other new amendments. It restructures the Liquor Ordinance by moving violations by persons other than licensees to the Code's disorderly conduct and nuisance chapters, so the Liquor Ordinance applies only to businesses. It also more clearly addresses offenses related to tobacco use and possession by minors, drug paraphernalia, fireworks and petty theft.

Part II of this Agenda Report explains the scope of the administrative hearing process, while Part III provides the details of the other proposed amendments.

II. Scope of the Administrative Hearing System

Under MC-5-2013, the new hearing process is limited to violations of Code provisions that are enforced by the Police Department. The Village Code provisions that correspond to that enforcement jurisdiction are listed in the Scope of Jurisdiction statement in Section 2.72.020(B) of the new Chapter 2.72. (See pp. 2-3 of MC-5-2013.)

With the sole exception of Section 15.32.140, the scope of jurisdiction does not include any provisions from either Title 15 of the Village Code (which contains all of the building and construction regulations) or Title 17 (which contains the Zoning Ordinance). Section 15.32.140 pertains to limitations on construction hours. Because the Police Department has officers on duty around the clock, the Police Department has issued citations for construction hour violations since the provision was added to the Village Code.

Thus, except for construction hour violations, all citations for building, construction and zoning violations would continue to go to court, and those matters could not be heard in the administrative hearing system unless the Village Council amended the scope of Chapter 2.72.

III. Summary of Amendments

Following is a summary of the provisions of Ordinance MC-5-2013, as amended. All page references are to pages of the Ordinance.

Section 2. As noted above, Section 2 adds Chapter 2.72 to the Village Code, and the text of the proposed Chapter 2.72 has been amended, as follows:

- 2.72.020(B) – As noted in Part II of this Agenda Report, the scope of jurisdiction has been modified so that it enumerates all parts of the Village Code subject to the administrative procedures. (See pp. 2-3)
- 2.72.070 – This section has been amended to provide a clearer definition of those who are authorized to issue citations and notices of violation for administrative adjudication. (See p. 6).

- 2.72.090 – The late fee provision in subsection B has been modified to clarify that the fee will be lifted if a hearing is requested. To avoid a gap in the process if a person fails to respond to an initial notice of violation by either pre-paying or requesting a hearing, a new subsection D has been inserted, to provide for a second notice to be issued. (See p. 8)
- 2.72.100 – A new subsection E has been inserted, to provide for proof by a preponderance of the evidence, and to provide that the certification of facts in the notice of violation is prima facie correct. These changes clarify the burden of proof and allow for the certified notice of violation to become part of the evidentiary record. (See p. 8)
- 2.72.170 and 2.72.180 – The substance of section 2.72.180 has been added to 2.72.170, allowing 2.72.180 to be eliminated. Section 2.72.170 also now includes a reference to late fees and clearly states that fines are set by Village Code, while fees and charges will be set by resolution. (See p. 14) There is a corresponding reference to late fees in the statement of the administrative hearing officer's authority. (See p. 4)

Section 3. Section 3 adds Chapter 2.34 to the Village Code, to create the office of Administrative Hearing Officer. (See p. 15) It has not been amended since introduction.

Sections 4 and 5. These two sections amend general Village Code provisions in Chapter 1.04 to reflect the addition of the administrative hearing process by allowing for the recovery of administrative costs, and to allow for service of citations as provided in the new chapter 2.72. (See pp. 15 – 16)

Section 6. This section amends the penalties provision in Chapter 1.08 to specifically address penalties imposed by the administrative hearing officer. The amendment accomplishes two things. First, it provides the basis for the fixed fines that are a necessary component of the administrative hearing process. Second, it distinguishes between judicial and administrative proceedings, and thus preserves the full array of sanctions that are available in a judicial proceeding. (See p. 16)

The section also increases the base fine from $5.00 to $25.00. The $5.00 amount had been in place to allow for a token fine to be imposed for bicycle violations by those under the age of 13. That token fine has been addressed in a corresponding amendment to Chapter 10.32 in Section 32 of the Ordinance. (See pp. 28-29)

Sections 7, 8, 20, 21 and 22. These two sections amend Section 5.09.260 and 5.09.270 of the Liquor Ordinance, by moving the individual responsibility provisions to Chapter 9.04 of the Code. Section 5.09.260, which prohibits sale of liquor to minors and intoxicated persons, now applies exclusively to liquor licensees. (See pp. 17-18) Section 5.09.270 now clearly requires the licensee and licensee's employees to require proof of age, and updates the description of acceptable identification. (See p. 18)

The provisions prohibiting individuals from purchasing liquor for minors, prohibiting parents and guardians from allowing minors to purchase liquor, and prohibiting individuals from misrepresenting their age in order to purchase liquor have been added as new Section 9.04.080,

9.04.090 and 9.04.100, in the chapter on Offenses Against Public Peace and Decency in Chapter 9.04. Section 22 adds a new provision pertaining to the use or possession of fraudulent identification cards. (See pp. 23 – 25)

Section 9. This section amends the penalties for violations of the Liquor Ordinance by licensees and their employees, increasing the minimum fines from $50.00 to $150.000 for the first offense and to $250.00 for the second offense. (See p. 19)

Sections 10 and 11. These sections set a minimum fine of $100.00 for violations of peddling, soliciting and taxicab licensing provisions. (See p. 20)

Sections 12 and 13. These two sections add the possession of fireworks to the fireworks violations and set the minimum fine at $100.00. (See p. 20)

Section 14. This section sets a minimum fine of $100.00 for open burning violations. (See p. 21)

Section 15. This section sets a minimum fine of $150.00 for the improper deposit of yard waste. (See p. 21)

Sections 16 and 17. Section 16 adds petty theft (theft valued at less than $300), to the disorderly conduct provisions, while Section 17 adds a new provision that sets a minimum fine of $250.00 for assaulting or fighting and a minimum fine of $150.00 for all other disorderly conduct violations. (See p. 22)

Section 18. This section expands the tobacco prohibitions to include possession by minors and sets minimum penalties at $75 for violations by minors and $250.00 for all others. (See pp. 22-23)

Section 19. This section adds possession of cannabis paraphernalia as a violation and sets a minimum fine of $250 for all cannabis violations.

Section 20, 21 and 22. (Discussed with Sections 7 and 8, above.)

Sections 23, 24 and 25. These sections set a minimum fine of $100.00 for general trespass violations and for trespass and handbill violations by peddlers and solicitors. (See pp. 25-26)

Sections 26 and 27. These sections set the minimum fine for property damage and for weapons violations at $250.00. (See p. 26)

Sections 28. Section 28 sets fines for Illinois Vehicle Code (IVC) violations that are incorporated into the Village Code by reference. It sets a minimum fine of $100.00 and a maximum fine of $750.00, but also includes language that caps the minimum fine at less than $100.00 if the IVC fine is lower (e.g., for seat belt and mobile phone violations), and raises the maximum if the IVC maximum is higher, as is the case with Weights and Measures violations. The corresponding amendment in Section 29 allows the reference to weights and measures to be stricken. (See p. 27)

Section 29. This section sets the basic fine for all vehicle compliance violations at $100.00. The fines are subject to the limitations set by the amendments in Section 28, which also allows the reference to weights and measures fines to be deleted. (See p.29)

Section 30. This section increases the base fine for parking violations to $35, as recommend by Chief Kreis, and maintains the $10.00 add-on for failure to pay within 10 days. (See pp. 30-31)

Section 31. This section amends the bicycle penalties provision, allowing a $5.00 fine for violators under the age of 13. It also modifies the impoundment provisions to provide standards for the Police Chiefs exercise of discretion in making that decision. (See p. 28)

Section 32. This section sets the fine for mobile telephone violations at the statutory maximum of $75.00. (See p. 29)

Section 33, 34 and 35. These sections set a minimum fine of $100.00 for violations pertaining to the improper use of public street and sidewalks.

Section 36. This section sets a $100.00 fine for violation of construction hour limitations.

IV. Conclusion

Staff recommends that the Council consider amending Ordinance MC-5-2013, to reflect the changes shown in the attached updated draft, and then proceed to adopt the Ordinance, as amended.

Staff continues to recommend that Duncan Solutions Professional Account Management, LLC, which already administers the Village's parking ticket system, be engaged to handle all of the administrative processing, as it would be easily implemented and therefore appears to be preferable to handling the records management in-house. Therefore, once the Ordinance is adopted, Staff will begin the implementation process by firming up administrative details and expanding the scope of Duncan's services to include the processing and management of records, as well as the collection of fines and fees for the administrative adjudication system.

ATTACHMENTS:

MC-5-2013	An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process
Attachment 1	Memorandum from Police Chief Kreis to Village Manager Bahan

RECOMMENDATION:

1. Consider amending of Ordinance MC-5-2013, titled "An Ordinance Amending the Winnetka Village Code to Establish an Administrative Adjudication Process," as presented in the agenda materials.
2. Consider adopting Ordinance MC-5-2013, as amended.

ORDINANCE MC-5-2013

AN ORDINANCE
AMENDING THE WINNETKA VILLAGE CODE
TO ESTABLISH A SYSTEM OF ADMINISTRATIVE ADJUDICATION

WHEREAS, the Village of Winnetka ("Village") is a home rule municipality in accordance with Article VII, Section 6 of the Constitution of the State of Illinois of 1970, pursuant to which it has the authority, except as limited by said Section 6 of Article VII, to exercise any power and perform any function pertaining to the government and affairs of the Village; and

WHEREAS, Article 1, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1, *et seq.*, authorizes home rule units to provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution of 1970; and

WHEREAS, pursuant to said Article 1, Division 2.1, and pursuant to Section 5/11-208.3 of the Illinois Vehicle Code, 625 ILCS 5/11-208.3, the Village is authorized to establish a system of administrative adjudication for the adjudication of any violation of the Winnetka Village Code, except for (i) moving vehicle offenses under the Illinois Vehicle Code or similar traffic regulations, (ii) offenses reportable under Section 6-204 of the Illinois Vehicle Code, and (iii) any other proceedings not within the Village's statutory or home rule authority; and

WHEREAS, the Village Council finds and determines that instituting a system of administrative adjudication to adjudicate contested matters with respect to violations of Village vehicular regulations, such as parking, standing, equipment and vehicle sticker regulations, and with respect to such other Village regulations as are permitted by the Illinois Constitution of 1970 and Illinois statutes, will facilitate the prompt and just resolution of disputes; and

WHEREAS, this Ordinance has been placed on the Village Council's agenda and made available for public inspection at Village Hall and on the Village's web site, in accordance with Sections 2.04.040 and 2.16.040 of the Winnetka Village Code and applicable law.

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Winnetka as follows:

SECTION 1: The foregoing recitals are hereby incorporated as the findings of the Council of the Village of Winnetka, as if fully set forth herein.

SECTION 2: Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended by adding a new Chapter 2.72, which shall be titled "Administrative Adjudication" and shall provide as follows:

Chapter 2.72
Administrative Adjudication

Section:

2.72.010 Purpose
2.72.020 Administrative Adjudication System
2.72.030 Hearing Procedures Not Exclusive
2.72.040 Organization of Administrative Hearing System
2.72.050 Administrative Hearing Officer
2.72.060 Administrative Hearing Records Unit
2.72.070 Notice of Violation
2.72.080 Service of Notice
2.72.090 Pre-Hearing Procedures
2.72.100 Hearing Procedures
2.72.110 Liability for Failure to Appear at Hearing
2.72.120 Contesting Violations by Written Statement
2.72.130 Certified Report and Contesting Certified Report
2.72.140 Judicial Review
2.72.150 Debt to Village
2.72.160 Enforcement of Judgments
2.72.170 Fines, Penalties, Fees and Costs ~~Schedule of Fines and Penalties~~
~~2.72.180 Administrative Costs and Interest Charges~~

Section 2.72.010 Purpose.
The purpose of this Chapter is to provide for the fair and efficient enforcement of the Village ordinances delineated in this Chapter through an administrative adjudication process and by establishing a schedule of fines and penalties.

Section 2.72.020 Administrative Adjudication System.

A. Administrative Adjudication System Established. There is hereby established and created within the Village a system of administrative adjudication, which shall be responsible for the adjudication of certain violations of this Code, as provided in this Chapter, and shall be administered by the Administrative Hearing Officer and Administrative Hearing Records Unit established in Sections 2.72.050 and 2.72.060 of this Chapter.

B. Scope of Jurisdiction. To the extent permitted by the Illinois Constitution of 1970 and applicable Illinois statutes, the following provisions of this Code, as they may be amended from time to time, shall be subject to enforcement and adjudication in the Administrative Adjudication System established by this Section:

1. Chapter 5.09, Alcoholic Beverages.
2. Chapter 5.48, Peddlers and Solicitors.
3. Chapter 5.68, Taxicabs.

4. Title 6, Animals, including all chapters within Title 6.

5. Chapter 8.08, Fire Safety Code.

6. Chapter 8.16, Garbage and Refuse.

7. Title 9, Public Peace, Morals and Welfare, including all chapters within Title 9.

8. ~~6.~~ Title 10, Vehicles and Traffic, including all chapters within Title 10, excluding moving violations.

9. Chapter 12.04, Streets and Sidewalks Generally.

10. Section 15.32.140, Construction Hours.

11. ~~7.~~ Such other Village ordinances and Code provisions as the Village Council may designate from time to time.

Section 2.72.030 Hearing Procedures Not Exclusive.
The provisions of this Chapter shall not preclude the Village from using other methods or proceedings to enforce and adjudicate the Code or other ordinances of the Village, including, without limitation, the institution of an action in the Circuit Court of Cook County, the United States District Court, or any administrative proceeding.

Section 2.72.040 Organization of Administrative Adjudication System.
The Administrative Adjudication System shall consist of one or more Administrative Hearing Officers, as further described in Section 2.72.050 of this Chapter, an Administrative Hearing Records Unit, as further described in Section 2.72.060 of this Chapter, and hearing room personnel assigned by the Chief of Police as provided in Section 2.72.090(I) of this Code.

Section 2.72.050 Administrative Hearing Officer.

A. Appointment. The Administrative Hearing Office shall be appointed by the Village Manager, as provided in Section 2.34.010 of this Code.

B. Qualifications. To qualify as an Administrative Hearing Officer, an individual must:

1. Be an attorney licensed to practice law in the State of Illinois for at least three years;

2. Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission; and

3. Complete a formal training program conducted by the Village Manager and the Village Attorney consisting of:

a. Instruction on the rules of procedure for administrative hearings;

b. Orientation to each subject area of the Code that will be adjudicated;

c. Observation of hearings conducted by Illinois municipalities that have adopted the administrative hearing system; and

d. Participation in hypothetical hearings, including ruling on evidence and issuance of final orders.

C. Authority and Jurisdiction. The Administrative Hearing Officer shall have the duty and authority to:

1. Hear testimony and accept evidence that is relevant to the allegation of a violation.

2. Issue subpoenas, upon the request of the parties or their representatives, directing witnesses to appear and give relevant testimony at hearings, as provided in Section 2.72.090.

3. Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing.

4. Issue a written determination, based on the evidence presented at the hearing, on whether a violation occurred or exists. The written determination shall include a written finding of fact, decision and order, including any corrective measures, fines, penalties, and interest charges, or other actions, with which the defendant must comply.

5. Impose penalties consistent with applicable provisions of this Code, order the defendant to obtain a compliance bond, and require the defendant to take corrective measures to cure the violation upon finding a defendant liable for the charged violation, except as expressly provided in this Chapter.

6. Impose administrative costs in an amount not less than the minimum amount set by the Village Council in a resolution adopted pursuant to Section 2.72.170 of this Chapter, upon finding a defendant liable for the charged violation. The Administrative Hearing Officer does not have authority to waive, or to impose an amount less than, the minimum amount set by the Village Council.

7. Impose late fees and interest charges not less than the minimum amount set by the Village Council in a resolution adopted pursuant to Section 2.72.170 of this Chapter, if a defendant fails to pay the penalty, fine, or administrative costs set by the Administrative Hearing Officer on the day of the hearing; provided, however, that the Administrative Hearing Officer shall have no authority to waive, or to impose interest charges in an amount less than, the minimum interest charges set by the Village Council.

8. Postpone or continue a defendant's Hearing to a later Hearing date.

9. Impose, when applicable, Enforcement Expenses pursuant to Section 2.72.150(D) of this Chapter.

10. Ask questions of parties and witnesses.

11. Order the defendant to perform a term of community service, regardless of fines imposed or costs assessed.

Section 2.72.060 Administrative Hearing Records Unit.

A. Establishment. There is hereby established an Administrative Hearing Records Unit within the Administrative Adjudication System.

B. Appointment by Village Manager. The Village Manager will assign one or more employees of the Village to perform the functions set forth in this section and shall have the discretion to designate an employee of the Village to manage the operations of the Administrative Records Unit under the direction and control of the Village Manager. The Village Manager shall have the discretion to retain an independent contractor in addition to or in place of Village employees to perform any or all of the functions of the Administrative Records Unit.

C. Powers and Duties. The Administrative Hearing Records Unit shall have the duty and authority to:

1. Establish procedures reasonably required to manage the scheduling, operations and recordkeeping of the Administrative Adjudication System.

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

3. Collect payments made as a result of fines and/or penalties assessed and transmit such payments to the Director of Finance.

4. Certify reports to the Illinois Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5).

5. Refer ~~to the Director of Finance the collection of~~ unpaid fines and penalties to the Director of Finance for collection, which may be pursued through private collection agencies that the Village may retain or by filing complaints in the Circuit Court of Cook County.

6. Certify copies of findings, decisions, and orders adjudicated pursuant to this Chapter, and any factual reports verifying the findings, decisions, and orders that are issued in accordance with this Chapter or the laws of the State of Illinois.

7. Oversee the operation and maintenance of the computer programs for the Administrative Adjudication System, including, without limitation:

a. Inputting information for the Notice of Violation provided for in Section 2.72.070 of this Chapter;

b. Establishing hearing dates and notice dates;

c. Recording the assessment of fines and penalties;

d. Recording payments and issuing payment receipts;

e. Issuing notices of hearing dates, notices of default, final notices and such other notices as may be necessary to implement the Administrative Adjudication System; and

f. Keeping accurate records of appearances and non-appearances at hearings, pleas entered, fines, and other penalties assessed and paid.

8. Postpone or continue a defendant's hearing to a later hearing date, if such request is made prior to the first scheduled hearing date.

Section 2.72.070 Notice of Violation.

A. Issuance of Notice of Violation. A notice of any violation ("Notice of Violation") will be issued by the persons authorized under this Chapter. The Notice of Violation shall contain information as to the nature of the violation, shall be certified, and will constitute prima facie evidence of the violation cited.

B. Authority to Issue Notices. Any sworn law enforcement officer and any Community Service Officer ~~assigned to the Winnetka Police Department~~ who detects a violation of a provision of this Code that is subject to adjudication in the Administrative Adjudication System is authorized to issue a Notice of Violation and thereafter to serve the Notice of Violation in the manner set forth in this Section. As used in this chapter, "Community Service Officer" shall mean and include code enforcement officers as defined in this code, and non-police personnel who are employed by the Winnetka Police Department or New Trier High School and are duly authorized by the Winnetka Police Department to issue citations for parking and non-moving compliance offenses under Title 10 of this code.

C. Form and Content of Notice of Violation. A Notice of Violation shall be issued in writing on a Village form, which may include pre-printed tickets or citations. The Notice of Violation shall contain at least the following information:

1. The date, time, and location of the alleged violation;

2. The name and address of the defendant, if known;

3. The type and nature of the alleged violation, including a citation of the provision of this Code alleged to have been violated, and whether the violation is one that requires the person receiving the notice to appear before the Administrative Hearing Officer;

4. The signature of the person issuing the Notice of Violation;

5. The process for responding to the violation, including pre-payment and requesting a hearing date, including the time frame within which to take such actions;

6. The legal authority and jurisdiction under which the hearing is to be held; and

7. The penalties for failure to respond to the Notice of Violation, including, where applicable, the failure to appear before the Administrative Hearing Officer.

D. For violations of the parking regulations in Chapter 10.24 of this Code, and for any violation of any Chapter of this Code that has a penalty provision that permits the pre-payment of fines, an initial ticket shall be issued in compliance with the most current policies and procedures of the ticket issuer's Village Department (the "Initial Ticket"). In lieu of paying the fine provided in the Initial Ticket, the defendant may request a hearing. If the defendant requests the hearing, then the Administrative Hearing Records Unit shall issue a Notice of Violation to the defendant in accordance with Section 2.72.080 of this Chapter, containing the information required by subsection C of this section.

Section 2.72.080 Service of Notice.

A. Service of a Notice of Violation shall be made in one or more of the following ways:

1. By handing the notice to the person responsible for the violation or handing it to his or her employee or agent;

2. By leaving the notice with any person thirteen years of age or older at the residence of the responsible person, and informing that person of the contents of the summons, provided the person making service shall also send a copy of the Notice of Hearing in a sealed envelope with postage fully prepaid, addressed to the defendant at his or her usual place of abode;

3. By mailing the Notice of Hearing by certified mail, return receipt requested, to the last known address of record of the individual/entity or his or her/its registered agent;

4. For vehicle violations, by posting the Notice of Violation on the vehicle that is the subject of the violation, or by other means authorized by the Illinois Vehicle Code;

5. By posting the notice upon the property where the violation is found when the person alleged to have committed the violation is the owner, manager, or tenant of the property, and serving the owner/manager or agent therefor; or

6. In the case of a violation by a corporation or partnership, by serving the corporation or partnership in accordance with the Illinois Code of Civil Procedure (735 ILCS 5/2-201 *et seq.*).

B. Certification of Facts in Notice.

1. Except as provided in paragraph 2 of this subsection, the person issuing a Notice of Violation shall certify the correctness of the facts stated therein by signing his or her name to the notice at the time of issuance. Such certification shall

2. For electronically produced Notices of Violation, such as parking citations, the person that controls and operates the device that generates the notice shall certify the correctness of the facts stated therein by signing a single certificate attesting to the correctness of all notices produced by the device while under his or her control. The certificate shall be maintained by the Administrative Hearing Records Unit.

C. Record of Notice. The Administrative Hearing Records Unit will retain the original or a facsimile of the Notice of Violation and keep it as a record in the ordinary course of business.

D. Admissibility of Notice. The Notice of Violation or a copy thereof is admissible in any subsequent administrative or judicial proceeding to the extent permitted by law.

Section 2.72.090 Pre-Hearing Procedures

A. Minimum Notice Requirements.

1. The Notice of Violation shall specify whether the person receiving the notice must appear before the Administrative Hearing Officer, or if the fine or penalty for the violation can be pre-paid, in which case the amount of the fine or penalty shall be stated in the Notice of Violation.

2. The date, time, and place of the hearing will be set forth in the Notice of Violation, if appearance is mandatory, and in such additional notices as are issued in

accordance with this Chapter, subject to the minimum time periods set forth in subsection D.

B. Pre-payment. Unless the Notice of Violation requires the recipient to appear before the Administrative Hearing Officer, the person receiving a Notice of Violation may pre-pay the fine or penalty specified on the notice. If the pre-payment is not made within 10 days after the Notice of Violation is issued, a late fee shall be assessed. The late fee shall be subject to waiver if the request for hearing is made as provided in the following subsection C.

C. Request for Hearing. The recipient of a Notice of Violation may request a hearing on the violation. The request for hearing may be made by phone or in person, in the manner specified in the Notice of Violation. The request for hearing shall be made within 21 days after the date the Notice of Violation is issued.

D. Failure to pre-pay or request a hearing. A second notice of violation shall be issued to any person who does not pre-pay a fine or penalty or request a hearing as provided in subsection B and C of this section. The second notice shall be in the same form and content as prescribed in section 2.72.070 and shall require that the person named in the notice appear for a hearing on the date specified in the notice.

E. ~~D.~~ Period of Notice or Preparation. For hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant will have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection, "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, health, or welfare. If service is provided by mail, the 15-day period begins to run on the date that the notice is deposited in the mail.

Section 2.72.100 Hearing Procedures

All hearings conducted under the Administrative Adjudication System will be conducted by a Hearing Officer in accordance with the following rules and procedures:

A. Audio Recording. A digital or taped audio recording shall be made of every hearing.

B. Representation of Parties. The parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.

C. Subpoenas. Parties may request the Administrative Hearing Officer to issue, and the Administrative Hearing Officer has the authority to issue, subpoenas to direct the attendance and testimony of relevant witnesses and produce relevant documents.

D. Rules of Evidence Not Applicable. The formal and technical rules of evidence will not apply. Evidence, including hearsay, may be admitted, but only if it is of a type commonly relied upon by reasonable, prudent persons in the conduct of their affairs.

E. Burden of Proof. No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a citation of notice of violation notice, or a copy thereof, issued in accordance with this chapter shall be prima facie evidence of the correctness of the facts specified therein.

F. ~~E.~~ Written Determination. At the end of each hearing, the Administrative Hearing Officer shall issue a written determination of liability or non-liability, or a determination of liability based upon the failure of the defendant to appear at the scheduled hearing, as the case may be. Upon issuance, the written determination of liability must either be personally delivered to the defendant at the time of hearing, or shall be mailed to the defendant via first class mail, postage prepaid, addressed to the defendant's last known residence or place of business**.**

G. ~~F.~~ Assessment of Fines, Penalties and Costs.

1. Fines and Penalties. Pursuant to, and subject to the limitations set forth in, subsection paragraphs 5 and 7 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer, upon a determination of liability, shall have the discretion to assess fines and penalties in accordance with this Code, assess interest charges for late payments, and order the defendant to undertake corrective actions to remedy the violation.

2. Penalty Limitations. In no event shall the Administrative Hearing Officer have authority to: impose a penalty of incarceration for or a fine that exceeds the amounts set by the Village Council as provided in Section 2.72.170 of this Chapter.

3. Administrative Costs. In addition, pursuant to, and subject to the limitations set forth in paragraph 6 of Section 2.72.050(C) of this Chapter, the Administrative Hearing Officer will assess administrative costs upon finding a defendant liable for the charged violation.

H. ~~G.~~ Fines Exclusive of Costs. The maximum monetary fine imposed pursuant to the procedures in this Chapter shall be exclusive of administrative costs, the costs of enforcement, interest charges for late payments, and costs incurred by the Village to secure compliance with the Village's Code and ordinances, all of which costs shall be in addition to any fines imposed pursuant to this Chapter. The maximum monetary fine also shall not apply to cases to enforce the collection of any tax imposed and collected by the Village.

I. ~~H.~~ Hearing Room Personnel. Hearing room personnel shall be designated and appointed by the Village's Chief of Police and are authorized and directed to:

1. Maintain hearing room decorum;

2. Execute such authority as is granted to courtroom deputies of the Circuit Court of Cook County; and

3. Perform such other duties or acts as may reasonably be required and as directed by the Administrative Hearing Officer.

Section 2.72.110 Liability for Failure to Appear At Hearing.

A. Default. If at the time set for hearing, the defendant, or the defendant's attorney or agent of record, fails to appear, and the hearing was neither postponed by the Administrative Hearing Records Unit as provided in paragraph 8 of Section 2.72.060(B) of this Chapter, nor continued by the Administrative Hearing Officer as provided in paragraph 8 of Section 2.72.050(C) of this Code, the Administrative Hearing Officer may enter a finding of default in the findings, decision and order, and may impose liability

against the defendant including the assessment of fines and administrative costs. A copy of the finding of default, which is a final determination, will be promptly served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the defendant's last known residence or place of business, to notify the defendant of the procedure for setting aside the finding of default and of the opportunity to appeal the finding of default to the Circuit Court of Cook County as provided in Section 2.72.140 of this Chapter.

B. Petition to Set Aside Default. A written petition to set aside a finding of default may be filed by a person owing an unpaid fine or penalty assessed for a violation, and will be considered, in accordance with the following procedures:

1. The petition must be filed with the Administrative Hearing Officer not later than 21 days from the date on which the finding of default was served; however, a defendant may file a petition to set aside the finding of default at any time, if such defendant establishes that the Village did not provide proper service of process.

2. Upon receiving a timely filed set-aside petition, the Administrative Hearing Officer shall consider the grounds raised in the petition and enter an order granting or denying the petition.

3. The grounds for setting aside a finding of default are limited to the following circumstances:

a. If, on the date the Notice of Violation was issued, the person against whom the finding of default is made is not the owner or lessee of the cited vehicle, or is not the owner, tenant, or manager of the cited property;

b. If the person against whom the finding of default is made had paid the fine or penalty prior to the finding of default for the violation in question;

c. If the defendant establishes an excusable failure to appear at the hearing or to request a new date for any hearing; or

d. If the defendant establishes that the Village did not provide proper service of process.

C. Findings and Order on Petition to Set Aside Default. In the event the finding of default is set aside, the Administrative Hearing Officer will notify the defendant by first class mail, postage prepaid, to the address set forth in the petition, and service thereof shall be complete on the date the notice is deposited in the United States mail. The notice of findings on the petition shall contain all of the following:

1. A statement that the finding of default, as well as any related administrative costs, has been set aside.

2. Notice of the new date, time, and place for the hearing on the merits of the violation for which the finding of default has been set aside.

3. An order extinguishing any lien that may have been recorded for any debt that became due and owing the Village as a result of the vacated default.

Section 2.72.120 Contesting Violations by Written Statement.

A. Right to Contest Violation in Writing. Any person who has been served with a Notice of Violation for which a personal appearance is not mandatory may contest the alleged violation on its merits without personally appearing at a hearing pursuant to the following procedures:

1. Requesting and completing, in full, the "Request for Hearing - Appearance Waiver Form;"

2. Acknowledging in the space specified in said form that the person is waiving the right to appear in person and is submitting to an adjudication based upon the notarized statement filed by him or her and the facts contained in the Notice of Violation;

3. Filing the required form with the Administrative Hearing Records Unit within 21 days after the date of the Notice of Violation, with the filing to be done in the manner described on the Notice of Violation; and

4. Filing with the Administrative Hearing Records Unit, at the same time as the Appearance Waiver Form, a notarized statement of facts specifying the grounds for challenging the Notice of Violation.

B. Facts Considered by Hearing Officer. The Hearing Officer will make a decision based upon the facts as contained in the defendant's notarized written statement of facts and in the Notice of Violation.

C. Notice of Hearing Officer's Determination. Notice of the determination of the Administrative Hearing Officer will be served upon the defendant by first-class mail, postage prepaid, addressed to the defendant at the address set forth in the statement of facts submitted. Service of the notice of such determination will be complete on the date the notice is deposited in the United States mail.

Section 2.72.130 Certified Report and Contesting Certified Report.

A. Notice of Possible Suspension of Driver's License.

1. A notice of impending suspension of a person's driver's license will be sent to any person determined to be liable for the payment of any fine or penalty that remains due and owing on ten or more vehicular standing, parking, or compliance violations under Section 6-306.5 of the Motor Vehicle Code (625 ILCS 5/6-306.5). The notice shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State. The notice shall state the following:

a. That the failure to pay the fine or penalty owing within 45 days of the date of the notice will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings; and

b. That the person to whom the notice is directed may obtain a photo-copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the Village along with a request for the photo-copy.

B. Certified Report to the Secretary of State. Upon a failure of a person to pay fines or penalties deemed due and owing to the Village pursuant to Chapter 10.24 of this Code, and after exhaustion of the procedures set forth herein, the Administrative Hearing

Records Unit shall make a certified report to the Secretary of State, pursuant to 625 ILCS 5/6-306.5(c), stating that the owner or lessee of a registered vehicle has failed to pay the fine or penalty due or owing the Village as a result of ten or more such violations of Chapter 10.24 of this Code, and thereby initiate the suspension of that person's driver's license.

C. Further Action by Village. The Administrative Hearing Records Unit will take no further action thereafter unless and until (i) the fines and penalties due and owing the Village are paid, or (ii) upon making a determination pursuant to subsection D and E of this section that the inclusion of the person's name on the certified report was in error. In either event, the Code Enforcement Administrator shall submit to the Secretary of State a notification to halt the driver's license suspension proceeding pursuant to 625 ILCS 5/6-306.5(d). The person named therein will receive a certified copy of such notification upon request and at no charge.

D. Within 21 days of the date of the Secretary of State's notice under 625 ILCS 5/6-306.5(b), a person may challenge the accuracy of the certified report by completing and filing a form provided by the Administrative Hearing Records Unit specifying the grounds on which such challenge is based. Grounds for challenge are limited to the following:

1. The person was neither the owner nor the lessee of the vehicle receiving the ten or more applicable Notices of Violations on the date or dates such notices were issued; or

2. The person has paid the fine and penalty for the ten or more violations indicated on the certified report.

E. The Code Enforcement Administrator shall make a determination within 14 days of receipt of the form challenging the accuracy of the certified report, and will notify the person filing the challenge of the determination, and, if applicable, will notify the Secretary of State.

Section 2.72.140 Judicial Review.

Any final decision by a Hearing Officer that a violation does or does not exist constitutes a final determination for purposes of judicial review and will be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

Section 2.72.150 Debt to the Village.

Any fine, penalty, or part of any fine or penalty assessed in accordance with the provisions of this Chapter and remaining unpaid after the exhaustion of, or the failure to exhaust, administrative procedures under this Chapter and the conclusion of any judicial review procedures, will be a debt due and owing the Village, and, as such, may be collected in accordance with applicable law and as provided in section 2.72.160 of this Chapter.

Section 2.72.160 Enforcement of Judgments.

A. Enforcement of Fines. All fines and other moneys to be paid to the Village in accordance with this Chapter shall be remitted to the Village and deposited in the appropriate Village account as designated by the Village Manager.

B. Compliance Bond.

1. In order to ensure that violations are remedied in a timely manner, the Administrative Hearing Officer, upon issuing a determination of liability that includes an order of compliance, will have the authority to order the defendant in the case to obtain a bond ("Compliance Bond") to ensure defendant's timely compliance in correcting the violation. Any Compliance Bond ordered pursuant to this subsection B shall name the Village as a beneficiary and shall be in the amount specified by the Administrative Hearing Officer, provided that the amount of the Compliance Bond is to be reasonably related to the cost of compliance. If the defendant fails to remedy in a timely manner the violation for which a Compliance Bond has been ordered and issued, and the Village thereafter undertakes remediation or otherwise expends funds related to the violation for which a Compliance Bond has been ordered and issued, the Administrative Hearing Officer, after giving the parties notice and an opportunity to be heard, as provided in subsection F of this section, may issue an order permitting the Village to draw against the Compliance Bond in an appropriate amount, not to exceed the remediation costs incurred by the Village. Upon proof of compliance, the Administrative Hearing Officer will order the Compliance Bond amount, less the reasonable costs incurred by the Village, returned to the defendant.

2. In the event a defendant ordered to secure a Compliance Bond as provided by this subsection B, seeks judicial review of the portion of the Administrative Hearing Officer's order requiring a Compliance Bond and prevails on that issue, the Village, within 30 days after receiving a copy of the reviewing court's mandate, shall release the Compliance Bond and shall refund to the defendant the total amount the Village drew against the Compliance Bond.

C. Expiration of Judicial Review Period. After expiration of the period that judicial review under the Illinois Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the Administrative Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

D. Liability for Village Enforcement Expenses. If the defendant fails to comply with a judgment that orders the defendant to correct a violation or that imposes any fine or other sanction, any expenses incurred by the Village to enforce the judgment entered against that defendant, including without limitation, administrative costs, attorney's fees, court costs, and costs related to property demolition or foreclosure (collectively "Enforcement Expenses"), after they are fixed by a court of competent jurisdiction, or by an Administrative Hearing Officer in accordance with subsection F of this section, shall be a debt due and owing the Village and may be collected in accordance with applicable law, including without limitation, drawing against any Compliance Bond.

E. Lien on Property. In addition to all other enforcement actions set forth in this Chapter, the Administrative Hearing Officer, after providing the notice and opportunity

to be heard as provided in subsection F of this section, shall have the authority to impose a lien on the real estate or personal estate, or both, of the defendant, in the amount of any debt due and owing the Village for any violation under this Chapter, including any and all Enforcement Expenses.

F. Final Notice and Hearing. Prior either to imposing Enforcement Expenses pursuant to subsection D of this section, or to imposing a lien pursuant to subsection E of this section, the Administrative Hearing Officer will conduct a hearing pursuant to notice sent to defendant by first-class mail, postage prepaid, not less than seven days prior to the date of the hearing. The defendant's failure to appear at such hearing will not preclude the Administrative Hearing Officer from imposing Enforcement Expenses or a lien.

Section 2.72.170 Fines, Penalties, Fees and Costs.

A. Amount Set by Village Council. Fines and penalties for any violation of any Village ordinance subject to administrative adjudication under this chapter shall be as established by this code. ~~from time to time by the Village Council.~~ The Village Council may by resolution set penalties and interest charges for late payment, as well as administrative fees in an amount sufficient to recover the costs of administering the Administrative Adjudication System.

B. Maximum Fine. No fines or penalties set by the Village Council shall exceed $50,000 or the statutory maximum, whichever is less.

C. Schedule of Fines and Penalties. The Administrative Hearing Records Unit shall publish a consolidated schedule of fines and penalties, which shall be posted on the Village's web site and at the Winnetka Police Department and shall be updated by the Administrative Hearing Records Unit as necessary to reflect amendments made by the Village Council.

~~**Section 2.72.180 Administrative Costs and Interest Charges.**~~
~~Administrative costs and interest charges assessed pursuant to this Chapter will be in the amounts established from time to time by the Village Council pursuant to an Administrative Hearings Costs and Interest Charges Schedule Resolution or similar enactment.~~

SECTION 3: Title 2 of the Winnetka Village Code, "Administration and Personnel," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Chapter 2.34
ADMINISTRATIVE HEARING OFFICER

Sections:

2.34.010 Creation of Office; Appointment.
2.34.020 Compensation.
2.34.030 Qualifications.
2.34.040 Duties.

Section 2.34.010 Creation of Office; Appointment.
There is created the office of Administrative Hearing Officer, an administrative office of the Village. The Administrative Hearing Officer shall be appointed by the Village Manager.

Section 2.34.020 Compensation.
The compensation of the Administrative Hearing Officer shall be fixed by the Village Manager with the approval of the Council.

Section 2.34.030 Qualifications.
The qualifications of the Administrative Hearing Officer shall be as provided in Section 2.72.050 of this Code.

Section 2.34.040 Duties.
The Administrative Hearing Officer shall be responsible for conducting hearings and adjudicating matters in the Village's Administrative Hearing System, as provided in Chapter 2.72 of this Code. If so directed by the Village Manager, the Administrative Hearing Officer shall conduct liquor license hearings as provided in Chapter 5.09 of this Code, and vehicle impoundment or removal hearings, pursuant to the procedures established in Section 10.08.090 of this Code.

SECTION 4: Section 1.04.070 of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended to provide as follows:

Section 1.04.070 Recovery of Village costs and expenses.

A. Attorneys' Fees and Costs. If the judgment or decision of any tribunal is in favor of the Village in any legal proceeding commenced by or on behalf of the Village pursuant to this code, the Village's costs, including reasonable attorneys' fees and, where applicable, administrative hearing costs, late fees and interest charges pursuant to section 2.72.170 of this code, shall be allowed in favor of the Village and against the defending party.

B. Administrative Charge. An administrative charge shall be added to all fines and fees not paid when due. The administrative charge shall be an amount sufficient to recover the Village's administrative and collection costs, as determined by the Village Manager.

SECTION 5: Section 1.04.100 of Chapter 1.04, "General Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Section 1.04.100 Service by certified mail.

In all actions for violation of any Village ordinance where the fine would not be in excess of seven hundred fifty dollars ($750.00) and no jail term could be imposed, service of summons may be by certified mail, return receipt requested, whether service is to be within or without the state. Notwithstanding the foregoing, all notices relating to any violation subject to the administrative hearing process under chapter 2.72 of this code shall be issued in accordance with the procedures established in said chapter 2.72.

SECTION 6: Section 1.08.010 of Chapter 1.08, "General Enforcement and Penalty Provisions," of Title 1 of the Winnetka Village Code, "General Provisions," is hereby amended by adding a new Chapter 2.34, which shall be titled "Administrative Hearing Officer" and shall provide as follows:

Section 1.08.010 Penalties.

A. General Penalty.

1. Unless another penalty is specifically provided by this code for violation of any particular provision, section or chapter, any person found guilty in a judicial proceeding of violating any provision of this code, or any rule or regulation adopted or issued in pursuance of this code, or any provision of any code adopted in this code by reference, shall ~~upon conviction~~ be subject to a fine of not less than twenty-five dollars ($25.00), ~~($5.00),~~ nor more than seven hundred fifty dollars ($750.00), and the costs of prosecution. The Village Attorney, or, when directed by the Village Manager, the Village Prosecutor may file a civil action to recover any penalty or fine against any such person; provided, however, that the filing of such civil action shall preclude incarceration or imprisonment.

2. Unless another penalty is specifically provided by this code for violation of any particular provision, section or chapter, any person who, in an administrative proceeding in the Administration Adjudication System established by chapter 2.72 of this code, is found liable for violating any provision of this code, or any rule or regulation adopted or issued in pursuance of this code, or any provision of any code adopted by reference by this code, shall be subject to a fine of $ 25.00, plus the applicable administrative hearing costs established pursuant to section 2.72.180 of this code. Notwithstanding the foregoing, in the event this code does not set a fixed fine or penalty, but sets the fine or penalty by setting a minimum amount or by establishing a range for such fine or penalty, then the fine or penalty imposed by the administrative hearing office shall be equal to the minimum fine or penalty so provided. The Village Attorney, or, when directed by the Village Manager, the Village Prosecutor may file a civil action to

recover any penalty or fine against any such person; provided, however, that the filing of such civil action shall preclude incarceration or imprisonment.

B. Revocation of License. When a person is ~~convicted of~~ found guilty of or liable for a violation of any section of this code, any license or permit previously issued to that person by the Village may be revoked by the court or by the Village Council.

C. Each Day of Violation. Each act of violation and each day upon which a violation occurs constitutes a separate offense.

D. Applicability. The penalty provided by this section applies to the amendment of any section of this code or ~~a~~ any code adopted in this code by reference whether or not such penalty is reenacted in the amendatory ordinance.

E. Reference to Section. Reference to a section of this code shall be understood also to refer and include the penalty section relating to such section, unless otherwise expressly provided.

F. Failure of Officers to Perform Duties. The failure of an officer or employee of the Village to perform an official duty imposed by this code shall not subject such officer or employee to the penalty imposed for violation of this code unless a penalty is specifically provided in the section creating a duty.

G. Election of Remedies. Unless otherwise provided, in all cases where the same offense is made punishable, or is created by, different chapters or sections of this code, the Village Prosecutor may elect under which provision to proceed; provided, that not more than one recovery shall be had against the same person for the same offense. The revocation of a license or permit shall not be considered a recovery or penalty so as to bar any penalty being enforced.

SECTION 7: Section 5.09.260 of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.260 Sales to minors and intoxicated persons~~— Responsibility of parents and owners or occupants of premises.~~

A. No licensee nor any officer, associate, member, representative, agent or employee of any licensee shall sell, give or deliver any alcoholic liquor to any of the following:

1. Any person under the age of twenty-one (21) years;
2. Any intoxicated person.

B. [Transferred to Chapter 9.04.]~~No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to any of the following:~~

~~1. A person under the age of twenty-one (21) years except in the performance of a religious ceremony or service;~~

~~2. Any intoxicated person.~~

C. [Transferred to Chapter 9.04.] It is unlawful for any person to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold.

D. Repealed.

E. In addition to all other fines and penalties, the Local Liquor Control Commissioner may revoke any license issued under this chapter for any violation of this section.

F. [Transferred to Chapter 9.04.] It is unlawful for any parent or guardian to permit any child under the age of twenty-one (21) of which he or she is parent or guardian, to violate any provision of this section.

G. The failure of any licensee, or of any officer, associate, member, representative, agent or employee of any licensee, to immediately cease serving alcoholic liquor to, and to immediately remove such alcoholic liquor from, any person under the age of twenty-one (21) years after being directed to do so by any law enforcement officer It is unlawful for any owner or occupant of any premises located within the Village who knows, or in the exercise of reasonably care should know, that a person under the age of twenty-one (21) years possesses or is consuming alcoholic liquor while on the premises to allow such minor to remain on such premises. After notice by any police officer of any violation of this Section 5.09.260, such owner or occupant shall immediately terminate any continuing violations. Failure to do so shall constitute a further violation of this section.

SECTION 8: Section 5.09.270 of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.270 Purchase or acceptance of gifts of liquor by underage persons Requiring proof of age; Identification cards.

A. [Transferred to Chapter 9.04] No person under the age of twenty-one (21) years shall purchase or accept a gift of alcoholic liquor or have alcoholic liquor in his or her possession.

B. If a liquor licensee, his or her agents or employees, believes or has reason to believe that a sale or delivery of alcoholic liquor is prohibited because the prospective recipient may be less than twenty-one (21) years of age, he or she shall, before making such sale or delivery, demand proof of the person's age through the presentation of some form of current, positive government-issued identification, containing that includes the person's name, photograph and date of birth, such as a driver's license or passport.proof of age, issued by a public officer in the performance of his or her official duties.

C. [Transferred to Chapter 9.04] No person shall transfer, alter or deface such an identification card, use the identification card of another, carry or use a false or forged identification card or obtain an identification card by means of false information.

D. [Transferred to Chapter 9.04] No person shall purchase, accept delivery or have possession of alcoholic liquor in violation of this section.

SECTION 9: Section 5.09.300, "Violations and Penalties," of Chapter 5.09, "Liquor Control Regulations," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended to provide as follows:

Section 5.09.300 Violations and penalties.

A. Except as provided in subsection B, ~~Any~~ any person who sells alcoholic liquor at any place within the Village without having a current valid license to do so issued under the provisions of this chapter, or who shall make any false statement or otherwise violate any of the provisions of this chapter in obtaining any license under this chapter, or who shall violate any other provisions of this chapter, or who, having obtained a license under this chapter, shall violate any of the provisions of this chapter or of the restrictions of such license with respect to the possession or sale of alcoholic liquor or to the maintenance of the licensed premises, shall for a first offense be fined not less than one hundred fifty dollars ($150.00) ~~($50.00)~~ nor more than seven hundred fifty dollars ($750.00), and for a second or subsequent offense shall be fined not less than ~~one~~ two hundred fifty dollars ($250.00) ~~($100.00)~~ nor more than seven hundred fifty dollars ($750.00). Any fine imposed pursuant to this section may be in addition to or in lieu of the revocation or suspension of any license issued under the provisions of this chapter.

B. Any person who violates section 5.09.260 or 5.09.270 of this chapter shall be subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00). Any fine imposed pursuant to this section may be in addition to or in lieu of the revocation or suspension of any license issued under the provisions of this chapter.~~Each day on or during which any person violates any of the provisions of this chapter shall constitute a separate offense.~~

C.[Transferred to Chapter 9.04]~~Any person under the age of twenty-one (21) years who, for the purpose of buying or accepting or receiving alcoholic liquor from a licensee, represents that he or she is twenty-one (21) years of age or over, or who accepts or receives alcoholic liquor from a person other than a licensee, shall for a first offense be fined not less than twenty-five dollars ($25.00) nor more than seven hundred fifty dollars ($750.00), and for a second or subsequent offense shall be fined not less than fifty dollars ($50.00) nor more than seven hundred fifty dollars ($750.00).~~

D. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this chapter, by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and such employer or licensee shall be ~~punishable in the same manner~~ subject to fines and penalties as if such act or omission had been done by him or her personally.

E. Each day on or during which any person violates any of the provisions of this chapter shall constitute a separate offense.

SECTION 10: Chapter 5.48, "Peddlers and Solicitors," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended by adding a new Section 5.48.020, which shall be titled "Violations and penalties," and shall provide as follows:

Section 5.48.020 Violations and penalties.

Any person who engages in peddling in a location that violates subsection B of section 5.48.010 of this chapter, or who engages in a practice or conduct that is prohibited by subsection N of section 5.48.010 of this chapter, shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 11: Section 5.68.190, "Penalties and violations; revocation and suspension," of Chapter 5.68, "Taxicabs," of Title 5 of the Winnetka Village Code, "Business Licenses and Regulations," is hereby amended by adding new subsections E and F, which shall provide as follows:

E. Fines. Except as provided in subsection F of this section, any person who is found guilty or liable for a violation of this chapter shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

F. Operating without a license. Any person who conducts or engages in the taxicab business in the Village in violation of section 5.68.020 of this chapter shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 12: Subsection A of Section 8.08.110, "Fireworks," of Chapter 8.08, "Fire Safety Code," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

A. Possession and Sale Prohibited. No person shall possess, sell, offer for sale, loan or give away, to any retail dealer, consumer or user in the Village, any toy pistol, toy gun, toy cannon, blank cartridge, firecracker, sparkler, rocket, torpedo, squib, colored fire or any article or substance of an explosive nature designed or intended to be used as fireworks, except in accordance with a permit for a supervised public display issued by the Village Manager pursuant to rules and regulations adopted by the Council.

SECTION 13: Section 8.08.110, "Fireworks," of Chapter 8.08, "Fire Safety Code," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended by adding a new subsection C, which shall as follows:

C. Violation and penalties. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 14: Section 8.16.090, "Open burning," of Chapter 8.16, "Garbage and Refuse," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

Section 8.16.090 Open burning.

A. Open burning is prohibited anywhere in the Village, whether on public or private property, unless such burning is in connection with outdoor grills, barbecues, small recreational fires or fireplaces and such burning is not otherwise prohibited by law; provided, however, that no garbage (other than logs or untreated wood products) shall be burned in such cases.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 15: Section 8.16.120, "Disposal of yard waste," of Chapter 8.16, "Garbage and Refuse," of Title 8 of the Winnetka Village Code, "Health and Safety," is hereby amended to provide as follows:

Section 8.16.120 Disposal of yard waste.

A. No person shall deposit any yard waste in or on any land or property in the Village unless the yard waste was collected from that land or property. No person shall deposit any yard waste in or on any street, alley or parkway in the Village unless the street, alley or parkway adjoins the property from which the yard waste was collected, and unless the yard waste has been placed in or on such street, alley or parkway for collection by the Village as part of a scheduled yard waste collection program.

B. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 16: Section 9.04.010, "Disorderly conduct," of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection L, which shall provide as follows:

Section 9.04.010 Disorderly conduct.

Any person who shall knowingly do or make any act, utterance, gesture or display, which, under the circumstances, creates a clear and present danger of a breach of peace or an imminent threat of violence shall be guilty of the offense of disorderly conduct, which is prohibited. Without limitation, any of the following acts may constitute disorderly conduct:

A. Assaulting, striking or deliberately injuring another person;

B. Engaging in or aiding or abetting any fight, quarrel or other disturbance;

C. Disturbing any religious service, funeral, public or private meeting, place of amusement or assembly of persons;

D. Being intoxicated in public places, or in any place to the annoyance and disturbance of other persons;

E. Resisting or obstructing the performance of one known to be a police officer or any authorized act within the police officer's official capacity, or impersonating a police officer;

F. Assisting any person in custody of police to escape or furnishing any weapon, drugs, liquor to any such person;

G. Engaging in any fraudulent scheme, device or trick to obtain money or other valuable thing;

H. Giving any false alarm of fire, danger or disturbance to any person, or false information to any police officer or firefighter or any Village officer;

I. Making a telephone call with intent to annoy another, whether or not conversation ensues;

J. Throwing stones or missiles in public places or at any person or property, or using, brandishing or threatening to use any missile, or dangerous weapon or object;

K. Damaging or defacing trees, bushes, gardens, fences, windows, signs, buildings, monuments or vehicles, or engaging in any acts of vandalism.

L. Theft of any property valued at less than three hundred dollars ($300.00).

SECTION 17: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.015, which shall be titled "Penalties for disorderly conduct violations," and shall provide as follows:

Section 9.04.015 Penalties for disorderly conduct violations.

A. Except as provided in subsection B, any person who violates commits the offense of disorderly conduct, as defined in section 9.04.010 of this code, shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

B. Any person who commits the offense of disorderly conduct, as defined in section 9.04.010(A) or section 9.04.010(B) of this code, shall be subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 18: Section 9.04.050 of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.04.050 Tobacco and smoking instruments--Sale to minors.

A. It is unlawful to sell or in any manner distribute to a minor any tobacco or any manufactured article consisting in whole or in part of tobacco or designed or marketed for use in the consumption of tobacco. Any person who violates this subsection shall be

subject to a fine of not less than two hundred fifty dollars ($250.00) nor more than seven hundred fifty dollars ($750.00).

B. It is unlawful for any minor to possess tobacco products, including cigarettes, or to possess any products designed or marketed for use in the consumption of tobacco.

C. ~~A~~ For purposes of this section, a minor is any person who has not yet reached eighteen (18) years of age. Any minor who violates this subsection shall be subject to a fine of seventy-five dollars ($75.00).

SECTION 19: Section 9.04.060 of Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.04.060 Possession of cannabis, including marijuana.

A. Prohibited.

1. It is unlawful for any person within the corporate limits of the Village to possess cannabis, including marijuana.

2. It is unlawful for any person within the corporate limits of the Village to possess instruments or paraphernalia for the preparation, manufacture or use of cannabis, including marijuana.

B. Definition. As used in this section and Section 9.04.070, "cannabis" means marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds of such plant, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including naturally occurring or by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative mixture, or preparation of such mature stalks (except the resin extracted from such mature stalks), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

C. Penalties or Disposition. ~~Every~~ Any person who violates this section with respect to not more than ten (10) grams of any substance containing cannabis shall be subject to a fine of not less than two hundred fifty dollars ($250.00) ~~($50.00)~~ nor more than ~~five~~ seven hundred fifty dollars ($750.00)~~($500.00)~~.

SECTION 20: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.080, which shall be titled "Prohibited purchase, delivery and possession of alcoholic beverages; responsibility of parents, guardians and property owners," and shall provide as follows:

Section 9.04.080 Purchase or delivery of alcoholic beverages for minors; responsibility of parents, guardians and property owners.

A. No person, after purchasing or otherwise obtaining alcoholic liquor, shall sell, give or deliver such alcoholic liquor to a person under the age of twenty-one (21) years except in the performance of a religious ceremony or service.

B. It is unlawful for any parent or guardian of a child under the age of twenty-one (21) to permit such minor child to violate any provision of this section.

C. It is unlawful for any owner or occupant of any premises located within the Village who knows, or in the exercise of reasonable care should know, that a person under the age of twenty-one (21) years possesses or is consuming alcoholic liquor while on the premises to allow such minor to remain on such premises. After notice by any police officer of any violation of this subsection G, such owner or occupant shall immediately terminate any continuing violations. Failure to do so shall constitute a further violation of this section.

D. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.260]

SECTION 21: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9, of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.090, which shall be titled "Purchase or acceptance of alcoholic liquor by underage persons; identification cards," and shall provide as follows:

Section 9.04.090 Purchase or acceptance of alcoholic liquor by underage persons; identification cards.

A. No person under the age of twenty-one (21) years shall purchase, accept as a gift or possess alcoholic liquor. No person under the age of twenty-one (21) years shall consume alcohol except in the performance of a religious ceremony or service.

B. It is unlawful for any person to misrepresent his or her age for the purpose of purchasing or obtaining alcoholic liquor in any place in the Village where alcoholic liquor is sold.

C. No person shall purchase, accept delivery of or have possession of alcoholic liquor in violation of this section.

D. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.270]

SECTION 22: Chapter 9.04, "Offenses Against Public Peace and Decency," of Title 9, of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new Section 9.04.100, which shall be titled "Petty Theft," and shall provide as follows:

Section 9.04.100 Use or possess of fraudulent identification card.

A. No person shall transfer, alter or deface any identification card, use the identification card of another, carry or use a false or forged identification card, or obtain an identification card by means of false information.

B. Penalties for Violation. Any person who violates this section shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00).

[Moved from Section 5.09.270]

SECTION 23: Section 9.08.030, "Trespass," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.08.030 Trespass.

A. It is unlawful for any person to enter upon any property of another in the Village or any part of such property after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or to remain upon the property of another after receiving notice from the owner or occupant to depart.

B. A person shall be deemed to have received notice from the owner or occupant within the meaning of this section if he or she has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted at the main entrance to such property or the forbidden part of such property.

C. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 24: Section 9.08.040, "Trespassing by solicitors and peddlers," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection D, which shall provide as follows:

D. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 25: Section 9.08.050, "Handbills," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended by adding a new subsection C, which shall provide as follows:

C. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00).

SECTION 26: Paragraph 1 of subsection C, "Penalties," of Section 9.08.070, "Damage or trespass to property," of Chapter 9.08, "Property Offenses," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

1. Every person found guilty of any offense declared to be unlawful by this section shall be subject to ~~either or both of the following penalties: a fine or a period of conditional discharge not to exceed one year.~~ a fine of not less than one hundred fifty dollars ($150.00) nor more than seven hundred fifty dollars ($750.00). ~~The conditions of conditional discharge shall include that the guilty person not violate any criminal statute or quasi-criminal ordinance of any jurisdiction and report to and appear in person before such person or agency as directed by the court. The conditions of conditional discharge may, in addition, require that the guilty person work or pursue a course of study or vocational training; undergo medical or psychiatric treatment, or treatment for drug addiction or alcoholism; make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss; and, if a minor, reside with his or her parent or in a foster home, attend school, attend a nonresidential program for youth, and contribute to his or her own support at home or in a foster home.~~

SECTION 27: Section 9.12.050, "Penalties," of Chapter 9.12, "Weapons," of Title 9 of the Winnetka Village Code, "Public Peace, Morals and Decency," is hereby amended to provide as follows:

Section 9.12.050 Penalties.

A. Any person found in violation of section 9.12.010 of this chapter shall be subject to a fine of not less than one hundred fifty dollars ($150.00) nor more than one thousand dollars ($1,000.00).

B. Any person found in violation of section 9.12.025 or section 9.12.040 of this chapter shall be ~~fined~~ subject to a fine of not less than $500.00 nor more than $1,000.00 ~~for each offense~~.

SECTION 28: Subsection B of Section 10.04.010, "State traffic laws adopted" of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

B. Any person who violates any provision of the Illinois Vehicle Code within the Village shall be subject to ~~the penalty provided for violation of this code.~~ a fine of not less than one hundred dollars ($100.00); provided that, if the maximum fine set by the Illinois Vehicle Code is less than one hundred dollars ($100.00), then the amount of the fine shall equal said statutory maximum. The maximum fine for any violation of any provision of the Illinois Vehicle Code within the Village shall be subject to The

maximum fine for any the Illinois Vehicle Code shall be seven hundred fifty dollars ($750.00); provided that, if the maximum fine set by the Illinois Vehicle Code is more than seven hundred fifty dollars ($750.00), then the maximum fine shall equal said statutory maximum.

SECTION 29: Section 10.08.080, "Penalties," of Chapter 10.08, "Administration and Enforcement," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

Section 10.08.080 Penalties.

A. ~~Every~~Any person ~~convicted of a~~ found in violation of any ~~of the~~ provision~~s~~ of this chapter ~~for which no maximum penalty is specifically provided~~ shall be ~~punished by~~ subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00). Notwithstanding the foregoing, if the violation of this chapter is also a violation of the Illinois Vehicle Code, then the fine for such violation shall be subject to the limitations of section 10.04.010(B) of this code. ~~for each offense; provided, however, that the penalties for violation of the Illinois Size and Weight Law shall be those set forth in such law.~~

SECTION 30: Subsection C of Section 10.24.110 of Chapter 10.24, "Parking," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

C. Schedule of Fines for Parking Violations. Fines for parking violations shall be assessed as follows:

1. If paid within ten (10) days or less after the date of the citation alleging the violation, the fine shall be:

a. ~~Twenty-five~~ Thirty-five dollars ($35.00) ~~($25.00)~~ for each of the first, second and third violation within any twelve (12) month period;

b. Fifty dollars ($50.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. One hundred dollars ($100.00) for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. One hundred fifty dollars ($150.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

2. If paid more than ten (10) days after the date of the citation alleging the violation, but prior to court hearing, the fine shall be:

a. ~~Thirty-five~~ Forty-five dollars ($45.00) ~~($35.00)~~ for each of the first, second and third violation within any twelve (12) month period;

b. Sixty dollars ($60.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. One hundred ten dollars ($110.00) for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. One hundred sixty ($160.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

3. If not paid prior to court hearing, then upon a finding of guilty the fine shall be:

a. A minimum of thirty-five dollars ($35.00) and a maximum of one hundred fifty dollars ($150.00) for each of the first, second and third violation within any twelve (12) month period;

b. A minimum of sixty dollars ($60.00) and a maximum of one hundred fifty dollars ($150.00) for each of the fourth, fifth and sixth violation within any twelve (12) month period;

c. A minimum of one hundred ten dollars ($110.00) and a maximum of one hundred sixty dollars for each of the seventh, eighth and ninth violation within any twelve (12) month period; and

d. A minimum of one hundred sixty dollars ($160.00) and a maximum of one hundred seventy-five ($175.00) for the tenth violation within any twelve (12) month period, and for each violation thereafter within any twelve (12) month period.

SECTION 31: Section 10.28.110, "Use of mobile telephones" of Chapter 10.28, "Miscellaneous Vehicle and Traffic Regulations," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended by adding a new subsection C, which shall provide as follows:

C. Any person found guilty of violating the provisions of this section shall be subject to a fine of seventy-five dollars ($75.00).

SECTION 32: Section 10.32.050, of Chapter 10.32, "Bicycles," of Title 10 of the Winnetka Village Code, "Vehicles and Traffic," is hereby amended to provide as follows:

Section 10.32.050 Penalties; ~~–~~Impounding.

A. Fines. Any person ~~thirteen (13) years of age or older~~ who commits a violation of this chapter shall be subject to a fine of twenty-five dollars ($25.00) if paid within ten (10) days after the date of the Police Department citation alleging such violation, and to a fine of fifty dollars ($50.00) if paid after ten (10) days from such date. Notwithstanding the foregoing, any person under the age of thirteen (13) years who commits a violation of this chapter shall be subject to a fine of no more than five dollars ($5.00).

B. Impounding of Bicycle. The Chief of Police, in the exercise of his discretion, may impound a bicycle used in the commission of any violation of this chapter, provided the Chief of Police determines that such impoundment is necessary to protect the public safety and prevent further violations. ~~In addition to or in lieu of a fine, any person who commits a violation of this chapter may be penalized by the impounding of the bicycle used in committing any such violation~~ The impoundment shall be for a period for a period not ~~exceeding~~ more than thirty (30) days. ~~Such impounding shall be at the discretion of the Chief of Police.~~

SECTION 33: Section 12.04.070 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.070 Private business on streets.

A. Except as provided in Section 5.20.010 of the Winnetka Village Code, it is unlawful for any person to use any public street or sidewalk as a place of business from or on which to make sales, display goods or merchandise, or conduct a business without specific prior approval of the Council.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00) for each offense.

SECTION 34: Section 12.04.080 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.080 Deposits of harmful material.

A. It is unlawful for any person to deposit on any street, alley or public place any material which may be harmful to the pavement or sidewalk, or any waste material, or anything which might in any way cause injury to any person or vehicle.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00) for each offense.

SECTION 35: Section 12.04.090 of Chapter 12.04, "Streets and Sidewalks Generally," of Title 12 of the Winnetka Village Code, "Streets, Sidewalks and Public Places," is hereby amended to provide as follows:

Section 12.04.090 Depositing snow on street.

A. It is unlawful to plow or otherwise remove accumulated snow from a private parking lot, a private driveway, or any other private property, and deposit same on a Village street in a manner that decreases the street's drivable width.

B. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00) for each offense.

SECTION 36: Subsection E of Section 15.32.140, "Construction Hours," of Chapter 15.32, "Construction Permits," of Title 15 of the Winnetka Village Code, "Building and Construction," is hereby amended to provide as follows:

E. Penalties. Any person who violates this section shall be subject to a fine of not less than one hundred dollars ($100.00) nor more than seven hundred fifty dollars ($750.00) for each offense. In addition to such fine, and any other penalties provided in this code, a violation of this section shall constitute a sufficient basis for the revocation of any permit issued under the provisions of this code.

SECTION 37: This Ordinance is passed by the Council of the Village of Winnetka in the exercise of its home rule powers pursuant to Section 6 of Article VII of the Illinois Constitution of 1970.

SECTION 38: This Ordinance shall take effect immediately upon its passage, approval and publication as provided by law.

PASSED this ___ day of _____, 2014, pursuant to the following roll call vote:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED this ___ day of _____, 2014.

Signed:

_____
Village President

Countersigned:

_____
Village Clerk

Published by authority of the President and Board of Trustees of the Village of Winnetka, Illinois, this ____ day of _____, 2014.

Introduced:
Passed and Approved:

VILLAGE OF WINNETKA
INTEROFFICE MEMORANDUM

TO: Rob Bahan, Village Manager

CC: Katherine Janega, Village Attorney

FROM: Patrick Kreis, Chief of Police

RE: Administrative Adjudication Fine Structure Recommendation

DATE: January 3, 2014

The proposed Administrative Adjudication process necessitates establishing fixed minimum fines for applicable violations. Fines need to be specified for each offense as persons cited may pre-pay the citation without appearing at a hearing, with some exception. Fines have been proposed for all ordinance violations subject to police enforcement. These fines have been incorporated into the suggested set of code amendments necessary to implement an Administrative Adjudication system.

In making fine recommendations, police staff balanced the goal of such sanctions with the perils of setting fines too high or low for a given offense. The Winnetka Police Department seeks to gain the public's compliance with state and local laws. Enforcement is a necessary *part* of gaining compliance. With that said, setting fines too low risks some offenses being disregarded as having meaningless consequence. Additionally, if fines are too low, the costs of running an Administrative Adjudication system are likely to exceed the fines and fees collected. Alternatively, excessive fines are rejected as unfair revenue grabs and often become the focus of the public, rather than the conduct leading to the citation. Enforcement personnel, supervisors and administrators become the recipient of excessive criticism. Other jurisdictions have discovered excessive fines often lead to less frequent or alternative enforcement measures as police officers, prosecutors and judges all exercise certain discretion in their duties.

In preparing the recommendations, staff has surveyed area communities whose Administrative Adjudication systems include ordinance violations enforced by police. A table is attached below and includes a survey of parking fines and village sticker violations from an even larger selection of area towns.

Parking Fines:

The average parking fine of eighteen communities is $36. Most Winnetka parking fines are presently $25, plus a $10 increase if not paid within 10 days. The data supports a recommended increase for the basic parking violation fine from $25 to $35, with the $10 increase after 10 days to remain. No change is recommended to the fine for failing to purchase or display a village vehicle sticker, which is currently $50 and compares closely to the fourteen community average of $57.

Ordinance Offense Fine Comparisons:

Beyond the parking and vehicle sticker offenses, the survey information becomes less useful. The table below includes ten violations typical of those enforced via an Administrative Adjudication system. The data demonstrates a wide range of fines different communities have established for the various offenses. With dozens of ordinances subject to enforcement via Administrative Adjudication, a more detailed survey would be cumbersome.

A more useful comparison can be made to the status quo of court imposed fines and fees associated with violations of these offenses. Such comparison has been discussed in previous agenda reports and public meetings. Most ordinance violations, other than animal and parking violations, do not currently allow for prepayment and require a court appearance. Whether an appearance is required or elected by the violator, the process presently results in $194 mandatory fees and costs on top of any fine assessed. Such costs and fees are only avoided where a person is found not guilty.

Violation	***Winnetka Fine***	***Minimum***	***Maximum***	***Average***	***# Returns***
Parking Violations	25	20	59	36	18
No Village Sticker	50	20	100	57	14
Non-moving Traffic	NA	20	50	31	8
Seatbelt Violations	NA	20	50	38	8
Vehicle Equipment Violations	NA	20	50	39	8
Dog at Large Dog violations	50	20	150	45	7
Bicycle violations	25	50	75	63	2
Disorderly Conduct	NA	25	250	133	6
Possession of Alcohol by a Minor	NA	25	250	137	6
Possession of Cannabis	NA	25	250	129	5
Soliciting Violations	NA	25	250	117	7
Trespassing Violations	NA	25	250	111	7

Non-moving Traffic Violations:

Most traffic tickets written to motorists presently have an associated minimum fine and fee of $147 if prepaid before a court date. These include non-moving traffic offenses. In the proposed fine structure, non-moving traffic violations would impose a $100 fine with the exception of a $75 fine for seat belt and wireless phone violations. The lower fine amount for those offenses mirrors what is set by statute for a state violation.

Other Offenses:
Several other ordinances require the establishment of a fixed minimum fine in order to enable police enforcement under the Administrative Adjudication process. Staff has recommended fines ranging between $25 and $250 depending on the violation.

Fixed Fines Necessary:
Parking violations presently result in escalating fines for multiple offenses. Current technology in use by the department enables escalating fines for such offenses. However such technology is not readily available to support the efficient enforcement of other offenses through an Administrative Adjudication process. As a result, fixed fines are recommended for all offenses other than parking violations. Village code will continue to allow for enforcement of all offenses with a circuit court citation. Should a repeat offender be identified, or should aggravating circumstances warrant, a police officer may issue a citation directing the matter to court where a judge has greater discretion to fine or impose other remedies as warranted. Technology improvements enabling the efficient enforcement of escalating fines for other offense are expected to be available in the next couple of years. As those systems become available, the Village may wish to reconsider additional escalating fines.