

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 29 ("ADMINISTRATIVE ADJUDICATION"), ARTICLE 2 ("ADMINISTRATIVE ADJUDICATION OF PARKING VIOLATIONS") OF THE OAK PARK VILLAGE CODE TO ADD A NEW SECTION 29-2-17 ("INSTALLMENT PAYMENT PLANS") AND A NEW SECTION 29-2-18 ("EARLY PAYMENT INSTALLMENT PLANS")

WHEREAS, the Village of Oak Park ("Village") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit, the Village of Oak Park's powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992); and

WHEREAS, pursuant to the Village's home rule authority, the Village Board has determined to establishment an installment payment plan program for parking, standing or compliance violations as set forth herein.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as though fully set forth.

Section 2. Village Code Amended. Chapter 29 ("Administrative Adjudication"), Article 2 ("Administrative Adjudication of Parking Violations") of the Oak Park Village Code is amended to add a new Section 29-2-17 ("Installment Payment Plans") and a new Section 29-2-18 ("Early Payment Installment Plans") to read as follows:

29-2-17: INSTALLMENT PAYMENT PLANS:

A. A program is established pursuant to this section to allow the payment of parking, standing or compliance penalties, administrative fees, and related collection costs in installments.

B. Definitions: The following words and phrases as set forth in this section shall have the means, and are hereby defined, as follows:

ACTIVE MILITARY DUTY: The period beginning on the date of entering active military duty and ending one hundred eight (180) days after the date of discharge from active duty.

ADMINISTRATIVE FEE: The expenses and time incurred by the Village or its agents to administer or monitor a vehicle owner's installment plan, provided that "administrative fee" shall not include any collection cost as that term is defined herein.

COLLECTION COSTS: The expenses and time incurred by the Village or its agents to collect any debt due and owing for a parking, standing or compliance violation, including attorneys' fees.

DEBT DUE AND OWING: A specified sum of money owed to the Village for fines and penalties for a parking, standing or compliance violation after: (i) the period granted for payment has expired; or (ii) the exhaustion of, or the failure to exhaust, judicial review procedures.

DIRECTOR: The Director of the Office of Adjudication.

FINANCIAL CIRCUMSTANCES: Wages, savings, credit, monthly expenditures, likelihood to default, and any other factors that the Director finds relevant to a person's ability to pay parking, standing or compliance fines and penalties.

NOTICE OF FORECLOSURE: A notice of foreclosure shall be as defined in section 15-1211 of the Illinois Code of Civil Procedure, 735 Illinois Compiled Statutes 5/15-1211.

QUALIFYING HARDSHIP PARTICIPANT: A person who is: (1) a participant in one of the following programs: the Illinois Low-Income Home Energy Assistance Program (L.I.H.E.A.P.); the Housing Subsidy Program For Renters, administered by the United States Department of Housing and Urban Development under the Federal Housing Act of 1937, as amended (Section 8 Program); the Supplemental Security Income Program administered by the United States Social Security Administration (S.S.I.); the Medicaid Program administered by the Illinois Department of Public Aid; the Nutrition Assistance Program administered by the United States Department of Agriculture, Food and Nutrition Service (food stamps); the Temporary Assistance for Needy Families (TANF) program administered by the United States Department of Health and Human Services, the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); and any federal or state unemployment compensation system, including, but not limited to, the system of unemployment compensation established under the Illinois Unemployment Insurance Act, as amended; or (2) a high school, college, vocational school or trade school student with a valid school identification card; a person sixty-five (65) years of age or older; a person who has claimed the Earned Income Tax Credit on his state or federal individual income tax return for the most recent tax year; a person receiving workers' compensation income benefits; an active military duty service member, a

Reservist or a member of the National Guard while on active duty; a person whose liability for fines and penalties remains after obtaining a bankruptcy discharge; or a person who has received a notice of foreclosure, entered into a consent foreclosure, gave a deed in lieu of foreclosure, or had a judgment of foreclosure entered, on his primary residence within three (3) years prior to the date of the application for an installment plan pursuant to this section.

PRIMARY RESIDENCE: A residential dwelling unit which is owner-occupied.

STUDENT: A person who is (i) enrolled attendees of a high school, college, vocational school or trade school; or (ii) who has graduated from a high school, college, vocational school or trade school no more than one hundred eight (180) days prior to applying for an installment plan.

C. Except as provided in subsection (D) of this section, an installment plan may not have a scheduled duration of more than six (6) months, and shall require one payment due per month on a day specified in the executed plan.

D. Except as otherwise provided in subsections (E) and (F) of this section, the duration may exceed six (6) months but may not exceed twelve (12) months for installment plans negotiated and executed for: (i) vehicle owners whose maximum amount of combined liability for fines and penalties, administrative fees, and any related collection costs exceeds \$500.00; or (ii) vehicle owners who are qualifying hardship participants.

E. If the monthly installments during a twelve (12) month period would exceed \$100 per month and the Director or the Director's designee determines that the registered owner's financial circumstances warrant extending the plan, the Director may negotiate and execute plans up to twenty-four (24) months;

F. If the monthly installments during a twelve (12) month period would exceed \$200 per month and the Director or the Director's designee determines that the registered owner's financial circumstances warrant extending the plan, the Director may negotiate and execute plans up to thirty-six (36) months.

G. An administrative fee equal to the costs incurred by the Village to administer the installment plan shall be charged to the vehicle owner; provided that such administrative fee shall be waived if the vehicle owner: (i) is a qualifying hardship participant; or (ii) has been assessed collection costs.

H. The minimum initial payment under any installment plan for vehicle owners prior to: (i) the vehicle being immobilized or impounded; or (ii) the vehicle owner's driver's license being suspended pursuant to Sec. 5/6-306.5 of the Illinois Vehicle Code, 625 Illinois Compiled Statutes 5/6-306.5, shall be an

amount which the Director deems appropriate for the vehicle owner's combined liability for fines and penalties, plus accrued penalties and fees under and for immobilization, impoundment, towing and storage to date.

I. Required installment payments after the initial payment shall be substantially equal, unless the Director determines, based on a review of the vehicle owner's finances that installments in different amounts will be more effective in paying off the total indebtedness.

J. If the vehicle owner fails to make all required payments in a timely manner, the vehicle owner's motor vehicle shall be subject to immobilization or impoundment, the vehicle owner's driver's license shall be subject to suspension pursuant to Sec. 5/6-306.5 of the Illinois Vehicle Code, 625 Illinois Compiled Statutes 5/6-306.5, if applicable, and the vehicle owner shall be liable for the outstanding balance plus an additional penalty of \$100.00.

K. Every installment plan shall be in a form prescribed by the Village Attorney, and shall state the total indebtedness, the amount of the initial installment, the amount of each subsequent installment and the date each is due, the penalty for delinquency under the installment plan, and such other provisions as the Director may determine. The installment plan shall also require the vehicle owner to pay every parking, standing, or compliance fine that becomes final during the term of the installment plan. The initial installment shall be paid when the plan is executed. Upon execution of the agreement and payment of the initial installment, and as long as the vehicle owner is in compliance with the installment plan, the vehicle owner's vehicle shall not be subject to immobilization and impoundment for failure to pay the fines and penalties described in the agreement.

L. The following vehicle owners are not eligible for an installment plan under subsection (a) of this section:

1. An owner whose vehicle is impounded by the Village under any provision of this Code;

2. An owner whose driver's license has been suspended pursuant to Sec. 5/6-306.5 of the Illinois Vehicle Code, 625 Illinois Compiled Statutes 5/6-306.5 and this Code, or whose vehicle has been immobilized pursuant to this Code; or

3. An owner who has negotiated an installment plan and has not performed every act required by the owner under the plan.

M. Nothing in this section shall be construed as prohibiting a vehicle owner from voluntarily making an initial minimum payment or monthly installment payment in an amount greater than provided in this section.

N. Notwithstanding subsections (C) and (D) above, as part of an installment payment plan entered into under this section, for any vehicle owner who is a qualifying hardship participant, the Director is authorized to establish the installment plan's duration and the amount of any initial minimum payment which the Director deems appropriate for the payment of such owner's combined liability for parking, standing and compliance fines and penalties, plus accrued penalties and fees for immobilization, impoundment, towing and storage to date.

29-2-18: EARLY PAYMENT INSTALLMENT PLANS:

A. A program is established pursuant to this section for early payment installment plans for the payment of eligible violation fines by eligible participants.

B. Definitions: The following words and phrases as set forth in this section shall have the means, and are hereby defined, as follows:

DEFAULT: The non-payment or underpayment of a monthly amount due from an eligible participant under an early payment installment plan.

DIRECTOR: The Director of the Office of Adjudication.

ELIGIBLE PARTICIPANT: A person who was issued a notice under section 29-2-5 of this Code or a default notice for a parking, standing or compliance violation under section 29-2-8 of this Code, but has not been issued a notice of final determination for such violation pursuant to section 29-2-9.

ELIGIBLE VIOLATION: A parking, standing, or compliance violation.

C. The early payment installment plan shall include the following conditions:

1. The plan has a scheduled duration of 90 days or less;
2. The plan requires one payment per month on a day specified in the executed plan and the monthly payments are in equal amounts; and
3. The down payment is equal to the first monthly installment payment.

D. Upon defaulting on an early payment installment plan, the eligible participant shall not be eligible to enter into an early payment installment plan for any other eligible violation for a period of twelve (12) months after the default.

E. In the event an eligible participant defaults on an early payment installment plan, including any underpayment of the monthly amount due, the Director shall, no earlier than twenty-five (25) days after the default, issue a determination of liability or a notice of final determination, whichever is applicable, in accordance with this article.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

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Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law on April 16, 2018.

ADOPTED this 19th day of March, 2018, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Andrews				
Trustee Boutet				
Trustee Button				
Trustee Moroney				
Trustee Taglia				
Trustee Tucker				

APPROVED this 19th day of March, 2018.

Anan Abu-Taleb, Village President

ATTEST

Vicki Scaman, Village Clerk

Published in pamphlet form this 19th day of March, 2018.

Vicki Scaman, Village Clerk