

09/13/01, 10/16/01

101-O-01

AN ORDINANCE

**Amending Title 11, Chapter 1
Regarding Payment of Administrative Judgments
Prior to Issuance and Renewal of
Licenses and Permits**

WHEREAS the City Council of the City of Evanston is committed to the maximum utilization of its system of administrative adjudication, and

WHEREAS a final monetary judgment issued by an Administrative Hearing Officer of the Division of Administrative Hearings is a lawful debt owed to the City of Evanston, and

WHEREAS the City Council of the City of Evanston has determined that prompt collection of final monetary judgments is necessary and appropriate, and

WHEREAS financial responsibility through the payment of final monetary judgments is encouraged by conditioning the issuance and renewal of licenses and permits on such payment,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

SECTION 1: Chapter 1 of Title 11 of the Evanston City Code of 1979, as amended, is amended further by redesignating existing subsection 11-1-17(E) as Subsection 11-1-14(J), and adding five new provisions, subsections 11-1-17(E), 11-1-17(F), 11-1-17(G), 11-1-17(H), and 11-1-17(I), to read as follows:

- 11-1-17(E) If any fine, penalty, and/or cost is owing and unpaid after a determination of liability under this Chapter has become final and the respondent has exhausted or failed to exhaust judicial procedures for review, the Director of Administrative Hearings shall cause a notice of final determination of liability to be sent to the respondent.
- 11-1-17(F) If respondent fails to pay such fine or penalty within fourteen (14) days after the notice of final determination of liability, the City of Evanston may take the following actions in addition to any debt-collection authorized by law:
1. Decline to issue or renew any license, permit, zoning variance, or other permission required and applied for by respondent under Chapter 2 of Title 5 of the Evanston City Code or under any chapter of Titles 3, 4, 6, 7, 8, and 9 of the Evanston City Code until respondent pays such fine or penalty; or
 2. Decline to issue or renew residential parking permits, temporary residential parking permits, or any other permit required and applied for by respondent under any chapter of Title 10, until respondent pays such fine or penalty.
- 11-1-17(G) 1. When the Director of Administrative Hearings becomes aware that a respondent has failed to pay such fine or penalty within the prescribed fourteen (14) day period, he shall notify the departments responsible for

issuing the aforescribed licenses and permits that said respondent has a delinquent debt, and that no licenses or permits may be issued to the respondent until the debt has been fully satisfied.

2. At or prior to the time when a respondent applies for a license or permit, or for a renewal of such license or permit, the department that is responsible for issuing the license or permit shall notify the respondent that he or she is ineligible for such license or permit issuance or renewal due to the outstanding debt. The notice shall inform the respondent that he or she may request a description of the outstanding debt from the Collector's Office, and shall inform the respondent of his or her right to appeal the denial of the license or permit under this section. If notice is provided by mail, it shall be sufficient to mail the notice to the last address the respondent provided to the issuing department. The date of notice shall be the date the notice was deposited in the mail, if served by first class mail; the date of delivery, if served by personal service; or the date of service if served by any other manner.

3. Upon the respondent's request, the Collector's Office shall provide the respondent with a written description of his or her outstanding debt. A respondent shall have ten (10) business days from the date of notice to appeal the department's denial by requesting a hearing by the City Manager, or his designee.

4. Requests for hearing shall be made in writing to the City Manager's Office. A request for hearing shall include: the full name, address and

telephone number of the respondent; a written statement signed by the respondent setting forth facts, law or other information relevant to establishing a defense to the department's denial; a copy of the notice provided to the respondent by the license/permit issuing department under subsection; and, any documentary evidence that supports the respondent's appeal, including receipts for the payment of an alleged debt. Upon receipt of a timely and proper request for a hearing, the City Manager or his designee shall assign a hearing date no later than 15 business days after the date of request. The hearing shall not be continued without the consent of the respondent. The City Manager, or his designee, shall determine whether or not the respondent is ineligible for a license/permit pursuant to this section. The hearing shall comply with the following provisions:

(i) The City Manager, or his designee, shall abide by any prior determination that a debt exists and the scope of review shall be limited to whether the debt has been satisfied and whether the determination that a debt exists was issued against the respondent. The petitioner shall not be entitled to raise any defenses related to his or her liability for the underlying debt.

(ii) The formal and technical rules of evidence shall not apply in the conduct of the hearing. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(iii) At the conclusion of the hearing, the City Manager or his designee shall issue a final order that the respondent is either eligible or ineligible for issuance or renewal of the license/permit. If the respondent is found to be ineligible, the petitioner's license/permit may not be issued or renewed prior to the payment of the outstanding debt. The City Manager, or his designee, shall issue a final order no more than 15 business days after the conclusion of the hearing.

11-1-17(H) Notwithstanding the provisions of subsection (G) herein, the City may issue an initial or renewal license or permit to a respondent if the Director of the issuing department or other appropriate City department or agency determines that:

1. The respondent has entered into an agreement with a court of competent jurisdiction, the Department of Finance, or other appropriate City department or agency, for the payment of all debts owed and the respondent is in compliance with the agreement; or
2. The respondent is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
3. The respondent has filed a petition in bankruptcy and the debts owed are dischargeable in bankruptcy.

11-1-17(I) When the holder of a license or permit is notified in accordance with subsection (G)2 that such license or permit will not be renewed unless an

outstanding judgment is paid, the license or permit shall remain in effect during the pendency of the appeal process described in subsection (G). When a license or permit is found to be eligible for renewal through the appeal process, it shall remain in effect until the renewal is issued. When a license or permit is found to be ineligible for renewal through the appeal process, it shall expire at such time as the license or permit holder has exhausted or failed to exhaust the appeal procedures described in subsection (G).

SECTION 2: The existing Section 11-1-14 is redesignated as Section 11-1-14(A).

SECTION 3: That this ordinance shall be in full force and effect upon passage and approval.

Introduced: October 22, 2001

Adopted: November 12, 2001

Approved: November 15, 2001

Louanne H. Norton
Mayor

ATTEST:

Mary P. Morris
City Clerk

Approved as to form:

[Signature]
Corporation Counsel