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Legislation Details (With Text)

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File created: 9/12/2016 **In control:** City Council
Final action: 9/14/2016
Title: City of Chicago Automated Enforcement Violation Review and Refund Ordinance of 2016
Sponsors: Dept./Agency
Indexes: Finance
Attachments: 1. O2016-6707.pdf, 2. O2016-6707 (V1).pdf

Date	Ver.	Action By	Action	Result
9/21/2016	1	City Council	Signed by Mayor	
9/14/2016		City Council	Passed	Pass
9/12/2016	1	Committee on Finance	Direct Introduction	
9/12/2016	1	Committee on Finance	Recommended to Pass	

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ORDINANCE

WHEREAS, Since 2003, Chapter 9-102 of the Municipal Code of Chicago has empowered the City to impose fines and late payment penalties for automated traffic law enforcement system violations; and

WHEREAS, Since 2012, Chapter 9-101 of the Municipal Code of Chicago has empowered the City to impose fines and late payment penalties for automated speed enforcement system violations; and

WHEREAS, The Municipal Code provided that an initial notice of violation would be sent to persons whose vehicles were detected committing an automated traffic law enforcement system violation or an automated speed enforcement system violation; and

WHEREAS, The initial notice of violation indicated that the recipient could request a hearing to contest the violation, that a failure to pay or contest the violation would result in a determination being entered against the recipient, that a failure to pay the fine in time would result in a late payment penalty being assessed in an amount up to the fine, and that any unpaid fine or penalty would constitute a debt due and owing to the City; and

WHEREAS, Prior to May 6, 2015, the Municipal Code of Chicago provided that a second notice of violation would be sent to the recipient if no response was made to first notice, although the Illinois Vehicle Code does not require the issuance of second notices in connection with these types of violations; and

WHEREAS, The Department did not issue second notices in connection with automated traffic law enforcement system violations or automated speed enforcement system violations; and

WHEREAS, Consistent with the Municipal Code of Chicago's earlier provision for a second notice of violation to be sent, the City should now send a review notice to persons who received but did not respond

to an initial notice of violation; and

WHEREAS, Such additional notice should reiterate the recipient's ability to contest liability for the violation by seeking review before an administrative law officer, while also allowing any fines or late payment penalties previously assessed against, or paid by, the recipient to be confirmed if the recipient chooses not to contest his or her liability, or does not prevail before an administrative hearing officer; and

WHEREAS, As of July 1, 2012, the Municipal Code of Chicago was amended to provide the recipient of a determination of liability for an automated traffic law enforcement system violation or an automated speed enforcement system violation twenty-five days to pay before a late payment penalty could be imposed; and.

WHEREAS, After July 1, 2012, the Department, in some cases, continued to impose a late payment penalty after 21 days, based on the prior Code; and

WHEREAS, Those persons against whom a late payment penalty was imposed after 21 days and who paid the penalty before the expiration of 25 days should be afforded the opportunity to seek a refund of that penalty; now, therefore,

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION I. Title and recitals. This ordinance shall be known and may be cited as the "City of Chicago Automated Enforcement Violation Review and Refund Ordinance of 2016."

The recitals to this Ordinance are incorporated herein.

SECTION II. Definitions. For purposes of this Ordinance, the following definitions shall apply:

"Administrative Law Officer" means an administrative law officer appointed by the City's Department of Administrative Hearings to conduct a hearing on an automated traffic law enforcement system or automated speed enforcement system violation pursuant to Chapters 2-14 and 9-100 of the Code.

"City" means the City of Chicago.

"Code" Means the Municipal Code of Chicago as amended from time to time.' "Comptroller" means the Comptroller of the City. "Department" means the Department of Finance of the City.

"Eligible Debtor" means any person who owes debt to the City as the result of a confirmation of liability order or notice issued by an Administrative Law Officer or the Department, respectively, in accordance with Section III of this Ordinance.

"Person" means any natural individual, firm, trust, partnership, association, joint venture, corporation or other legal entity/ in his or its own capacity or as administrator, conservator, guardian, executor, trustee, receiver or other representative appointed by the court.

"Recipient" means a recipient of a review notice issued pursuant to this Ordinance.

SECTION III.

(a) Review notice. The Department is hereby authorized to, and shall, issue a review notice to any person to whom a-determination of liability for a violation of section 9-101-020 of 9-102-020 ofthe Code was mailed between March 23; 2010 arid May 14, 2015, who did not: (i) request or receive a hearing on the violation; or (ii) pay the fine for the violation on or prior to the date the determination of liability was mailed; and as to whom liability for the violation has not been released, set aside, or extinguished. The review notice shall include:

- (1) the date and location ofthe violation;
- (2) the license plate number ofthe vehicle involved in the violation;
- 3) the Code provision violated;
- 4) the applicable fine;
- (5) a reference to the prior notice that was mailed to the Recipient;
- 6) the total amount of previously paid fine, penalty and collection fee for the violation, if any;
- 7) information about how to view photos and/or video ofthe violation online; and

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- (8) information about how to contest the underlying violation.

A review notice may include the above information for more than one determination of liability issued to the same person. The Department shall issue all review notices within 14 months of the effective date of this ordinance.

b) Method of delivery. The review notice shall be mailed to the person named in the determination of liability by first class mail, postage prepaid. The review notice shall be mailed to the address to which the determination of liability was issued or to the most current address of the person named in the determination of liability as determined by the Department.

c) Opportunity to contest. A Recipient may, within 30 days from the date on. which the" review notice is sent, request an administrative adjudication to contest the violation based on one or more of the applicable grounds specified in Section 9-100-060 of the Code by: (1) mailing the request; (2) delivering the request in-person; or (3) filing an electronic request. Requests shall be submitted in a form or forms prescribed by the, Department. A request shall be deemed timely if the request is filed or delivered, in the form and format prescribed in rules, to the address or electronic location, whichever is: applicable, indicated on the notice and:

- 1) if filed by mail, the request is postmarked within thirty days of the date on which the review notice is sent; or
- 2) if filed electronically or in-persqn, the request is electronically submitted or delivered in-person within thirty days of the date on which the review notice is sent.

d) Finding. Upon receiving a Recipient's timely request for an administrative adjudication under subsection (c), above, the Department shall refer the matter to an Administrative Law Officer for an administrative correspondence hearing conducted in accordance, with . Section 9-100-070 of the Code., or an administrative in-person hearing conducted in accordance with Section 9-100-080 of the Code, to review the specified violation, as requested by the Recipient.

1) If upon conclusion of the hearing, the Administrative Law Officer finds that the Recipient is not liable for the violation, the Administrative Law Officer shall issue a written order vacating the prior

determination of liability, and any subsequent final determination, as of the date of the hearing; and

i) if the Recipient has previously paid a fine, late payment penalty or collection fee for the violation, the Administrative Law Officer shall enter an order directing the Comptroller to refund to the Recipient the total amount paid to the City by the Recipient for such fine, late payment penalty or collection fees; or

ii) if the Recipient has not previously paid a fine, late payment penalty or collection fee for the violation, the Administrative Law Officer shall enter an order extinguishing any debt the Recipient owed to the City for an uncollected fine, late payment penalty or collection fee for the violation.

2) If upon conclusion of the hearing, the Administrative Law Officer finds that the Recipient is liable for the violation, the Administrative Law Officer shall enter an order confirming liability in the total amount of the earlier fine, late payment penalty and collection fee, whether such amount was paid or unpaid. The confirmation shall be a new and separate

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assessment of liability to which all previous payments made in connection with the violation shall be applied. Except as otherwise provided in SECTION IV of this Ordinance, any amount so assessed that was not previously paid shall constitute a debt due and owing the city, which may be enforced in the manner set forth in Section 2-14-103 of the Code.

e) Administrative review. An Administrative Law Officer's determination of whether or not liability for a violation exists pursuant to this Ordinance shall constitute a final determination for purposes of judicial review under the Illinois Administrative Review Law.

f) No response. If a Recipient fails to respond to the review notice, the Department shall mail a written notice to the Recipient confirming liability in the total amount of the earlier fine, late payment penalty and collection fee; whether such amount was paid or unpaid. The confirmation shall be a new and separate - assessment of liability to which all previous payments made in connection with the violation shall be applied. Except as otherwise provided in SECTION IV of this Ordinance, any amount so-assessed that was not previously-paid shall constitute a debt due and owing the city, which may be enforced in the manner set forth in Section 2-14-103 of the Code. The Department's confirmation notice issued pursuant to this subsection shall be considered to be a default order for purposes of a petition to set aside the confirmation. An Administrative Law Officer shall review a petition to set aside the Department's confirmation pursuant to Section 2-14-108 of the Code.

g) Refund-issuance. Upon receipt by the Department of an Administrative Law Officer's order issued pursuant to Subsection (d)(1)(i) of SECTION III of this Ordinance and a refund application completed by the Recipient, the Comptroller shall issue a refund in the appropriate amount to the Recipient within 90 days by mail to the address provided by the Recipient.

h) Other outstandings debt. Nothing provided in this Ordinance shall be construed to prohibit the Comptroller from applying the amount of any refund ordered pursuant to Subsection (d)(1)(i) of SECTION III of this Ordinance to any debt due and owing to the City due to a final determination of liability for a parking, standing, compliance, automated traffic law enforcement system-, or automated speed enforcement system Violation, and reduce the amount of the refund accordingly, prior to issuing a refund to the Recipient. If any refund is applied pursuant to this subsection, the Department shall notify the Recipient in writing.

(i) Other enforcement. The City shall not consider any final determination of liability issued with respect to a violation subject to the review notice procedure set forth in this Section

for purposes of determining whether a- vehicle is eligible for immobilization or impoundment under Section 9-100-120 of the Code, or driver's license suspension under Section 9-100-130 of the Code.

SECTION IV.

(a) The Department shall establish a debt relief program pursuant to this Ordinance. The debt relief program shall provide for relief as provided in this Ordinance only if an Eligible Debtor complies with the applicable requirements of the debt relief program during the time provided. The Department may promulgate such rules as are necessary to implement the provisions of SECTION IV of this Ordinance.

(b) If any Eligible Debtor pays the fine for a violation subject to administrative
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adjudication under this Ordinance and applies for a debt relief within 30 days of the issuance of a confirmation of liability on the violation, or within 30 days of the final order disposing of any timely-filed action seeking administrative or judicial review of that confirmation of liability: (1) the Department shall waive all previously-assessed late payment penalties, interest, collection fees, and collection costs for that violation; and (2) the City shall not seek civil or criminal prosecution against the Eligible Debtor for the failure to have paid fines, interest, fees, costs or penalties for that violation.

c) If the only debt owed by an Eligible Debtor as the result of the confirmation of liability is for late payment penalties or collection fees, the Department shall automatically waive such penalties or fees.

d) Relief shall be granted only if all of the applicable relief conditions set forth in this Ordinance and any rules promulgated thereunder are satisfied by the Eligible Debtor.

SECTION V.

a) For purposes of this SECTION V of this Ordinance, "Person Eligible for Refund of a Late Payment Penalty" means any person who on or after July 1, 2012 and until May 31, 2015: (i) paid a fine for violation of Section 9-101-020 or 9-102-020 of the Code within 25 days of the determination of liability for the violation; and (ii) was charged and paid a late payment penalty for the violation.

b) The Comptroller shall send a refund notice to a Person Eligible for Refund of a Late Payment Penalty. The notice shall specify: (i) the violation number; (ii) the violation date; (iii) the deadline for requesting a refund; and (iv) information about how to claim a refund.

c) If a Person Eligible for Refund of a Late Payment Penalty requests a refund within 60 days of the refund notice as provided in the refund notice, the Comptroller shall refund the late payment penalty paid for the violation specified in the refund notice to the Person Eligible for Refund of a Late Payment Penalty.

SECTION VI. If there is a conflict between this Ordinance and any provision of the Code, this Ordinance shall prevail.

SECTION VII. This Ordinance shall take effect upon passage and approval.

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DKVARTMV.NT OF LAW CITY OF
CHICAGO

September 9, 2016

TO THE HONORABLE, THE CHAIRMAN AND MEMBERS OF
THE CITY COUNCIL COMMITTEE ON FINANCE

Ladies and Gentlemen:

I transmit herewith an ordinance establishing a review and refund program for certain automated traffic law enforcement and speed enforcement system violations.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Stephen R. Patton Corporation
Counsel

121 NORTH LA SALLE STREET, SUITE 600, CHICAGO, ILLINOIS 60602

**CHICAGO September 14, 2016 To the
President and Members of the City Council: Your Committee on Finance having had under
consideration**

An ordinance authorizing the creation of the Chicago Automated Enforcement Violation Review and Refund Ordinance of 2016.

Direct Introduction

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith

**This recommendation was concurred in by
of members of the committee with**

Respectfully submitted

Chairman