

1 Chapter 3 - Administrative Adjudications

2 Sec. 3-100. - Adoption of System of Administrative Adjudication

3 Pursuant to the provisions of Division 2.1 of Article 1 of
4 the Illinois Municipal Code, the city hereby adopts a system of
5 administrative adjudication as set forth in this in this chapter
6 to expedite the compliance with and correction of violations of
7 the city code identified in this ordinance to the fullest extent
8 permitted by the Constitution and laws of the State of Illinois.
9 Except as provided in the code, the provisions of this chapter
10 shall supersede all other administrative hearing procedures
11 adopted or referenced elsewhere in city code.

12 Sec. 3-101. - Procedures Not Exclusive

13 The city's adoption of a system of administrative
14 adjudications does not preclude the corporation counsel from using
15 any other method authorized by law to enforce provisions of the
16 city code, including but not limited to, by complaint made in the
17 circuit courts of this state for declaratory, injunctive, quasi-
18 criminal, or other relief, or other enforcement mechanisms
19 authorized by law or this code.

20 Sec. 3-102. - Definitions

21 As used in this chapter, the following terms are defined as
22 follows:

1 (a) *Administrative hearing officer* means an attorney
2 retained by the city to conduct administrative hearings pursuant
3 to this chapter;

4 (b) *Code enforcement officer* means a peace officer or any
5 other employee of the city, a city contractor, or person acting on
6 behalf of the police department, who as part of his or her official
7 duties issues notices or citations for violations of any city
8 ordinance, or who is authorized by law, this code, or by court
9 order to conduct inspections of public or private real property to
10 determine whether violations of the city code exist;

11 (c) *Corporation counsel* means the corporation counsel of the
12 city and includes any assistant corporation counsel or attorney
13 appointed by the corporation counsel to act on his or her behalf,
14 but shall not include an administrative hearings officer;

15 (d) *Division* means the division of administrative hearings
16 within the law department of the city;

17 (e) *Hearing* means any and all proceedings instituted or
18 taking place before an administrative hearing officer, including
19 initial return dates, status calls, and contested hearings;

20 (f) *Permit, license, or registration* means privilege or
21 certification issued by city the possession of which the code
22 provides is a pre-condition for a person to engage in a specified
23 activity. As used in this chapter, a *permit, license, or*
24 *registration*, does not include any permit, license or certificate

1 required by the; International Building Code prepared by the
2 International Code Council, and the National Electrical Code
3 prepared by the National Fire Protection Association that the city
4 has adopted by reference and locally amended.

5 (g) *Respondent* means a person alleged to have violated any
6 provision of this code and against whom a complaint is pending.
7 "Respondent" also includes the holder of any permit, license, or
8 registration issued by the city subject to suspension or
9 revocation, except a permit or license issued under chapter 6 of
10 this code.

11 (h) *Violation Notice* means the charging instrument used to
12 initiate an administrative adjudication under this chapter.
13 Violation notices issues by a code enforcement officer shall be by
14 citation; violation notices issued by the corporation counsel
15 shall be by citation or complaint.

16 Sec. 3-103. - Division of Administrative Hearings

17 (a) For the purposes of Section 1.2.1-4 of the Illinois
18 Municipal Code, the division shall constitute the code hearing
19 unit of the city and shall oversee all hearings in which the use
20 of an administrative hearing officer is contemplated by city code,
21 other than those provided for in chapter 6.

22 (b) The division shall consist of one or more administrative
23 hearing officers, an attorney assigned by the corporation counsel
24 to oversee the division's operations, but who shall not appear

1 before the hearing officer on behalf of any party, and an
2 administrative assistant assigned to the law department.

3 (c) The jurisdiction of the division shall include:

4 (1) Any and all violations of the city code, other than
5 violations of which the law prohibits administrative
6 adjudication and violations of chapter 6 of this code.

7 (2) Any proceeding which requires the use of an
8 administrative hearing officer as set forth in this code,
9 other than those set forth in chapter 6 of this code.

10 (3) Proceedings to review the suspension or revocation of
11 a permit, license, or registration.

12 (d) The division may from time-to-time adopt rules,
13 procedures, and forms, to effectuate the purposes of this chapter
14 to the extent they are not inconsistent with its provisions.

15 Sec. 3-104. - Administrative Hearing Officers

16 (a) The corporation counsel shall from time-to-time retain
17 the professional services of attorneys to serve as the city's
18 administrative hearing officers in the same manner which the city
19 council may authorize department heads to retain professional
20 services. An administrative hearing officer does not stand in an
21 attorney-client relationship with the city.

22 (b) Any attorney retained as an administrative hearing
23 officer shall have been licensed to practice law in the State for

1 at least three (3) years and have successfully completed a formal
2 training program which included the following:

3 (1) instruction on the rules of procedure of the
4 administrative hearings which they will conduct;

5 (2) orientation to each subject area of the code violations
6 that they will adjudicate;

7 (3) observation of administrative hearings; and

8 (4) participation in hypothetical cases, including ruling
9 on evidence and issuing final orders.

10 (c) An administrative hearing officer shall have the
11 following powers and duties:

12 (1) hearing testimony and accepting evidence that is
13 relevant to the existence of the code violation;

14 (2) issuing subpoenas directing witnesses to appear and
15 give relevant testimony at the hearing, upon the request of
16 the parties or their representatives;

17 (3) preserving and authenticating the record of the hearing
18 and all exhibits and evidence introduced at the hearing;

19 (4) issuing a determination, based on the evidence
20 presented at the hearing, of whether a code violation exists.

21 The determination shall be in writing and shall include a
22 written finding of fact, decision, and order including the
23 fine, penalty, or action with which the defendant must comply;
24 and

(5) imposing penalties consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the city code shall not be applicable to cases to enforce the collection of any tax imposed and collected by the city; and

(6) vacating any penalties ordered pursuant to a default judgment determination when granting a motion to vacate a default judgment under this chapter.

Sec. 3-105. - Violation Notices

(a) An administrative complaint may be initiated by a violation notice issued by (1) a code enforcement officer or (2) by the corporation counsel. Violation notices shall contain the following information:

(1) The name; department; position; and identification number, if applicable, of the person issuing the violation notice;

(2) The name and address of the respondent;

(3) The name and address of the person to whom the violation notice is served upon, if not to the respondent;

1 (4) The section or sections of the city code alleged to be
2 violated;

3 (5) The date, time, and place of the commission of the
4 alleged violation or its discovery;

5 (6) A legally sufficient description of the conduct alleged
6 to constitute each a violation set forth in the notice or a
7 legally sufficient description of the facts giving rise to
8 the allegations set forth in the notice;

9 (7) If the officer issuing the notice does not have personal
10 knowledge of the violation, the name of the complaining
11 witness.

12 (b) All violation notices issued under this section shall be
13 supported by the personal knowledge of the person issuing the
14 violation notice as to the facts establishing a violation, or
15 accompanied by an affidavit of some other complaining witness
16 attesting to facts establishing the alleged violation, which shall
17 either be notarized or verified by certification as provided for
18 in Section 1-109 of the Illinois Code of Civil Procedure (735 ILCS
19 5/1-109).

20 (c) Violation notices that substantially comply with
21 paragraphs (a) and (b) of this section shall establish a *prima*
22 *facie* case for a determination of liability against the respondent.

23 (d) All violation notices shall identify the date and
24 location of the adjudicatory hearing, whether the hearing shall be

1 conducted in-person or through remote electronic means as provided
2 for in sec. 3-106, the legal authority and jurisdiction under which
3 the hearing is to be held, and the penalties for failure to appear
4 at the hearing, including the entry of a determination of liability
5 against the respondent, the imposition of fines and costs as
6 authorized by the code, and that, upon the exhaustion of or failure
7 to exercise judicial review, any unpaid fines or costs will
8 constitute a debt due and owed to the city.

9 (e) All violation notices issued for proceedings intended to
10 be conducted by remote electronic means shall include specific
11 instructions detailing how respondent may participate remotely,
12 including how to submit documents or other evidence, as well as
13 presenting and cross-examining witnesses, if any. Such notices
14 shall also include instructions for how the respondent may require
15 a hearing to be conducted in-person.

16 (f) Violation notices shall be filed with the division of
17 administrative hearings and served upon the respondent personally,
18 or by first class mail sent to the address of the respondent. If
19 the name of a respondent property owner cannot be ascertained or
20 if the service to the respondent cannot be made by mail, the city
21 may make service on the respondent property owner by posting, not
22 less than fifteen (15) calendar days prior to the scheduled
23 hearing, a copy of the violation notice in a prominent place on
24 the property where the violation is alleged to have occurred. In

1 addition to the methods of service set forth in this paragraph,
2 service of a violation notice of a specific provision of the code
3 may be made in any manner in which the law or this code authorizes
4 for such violation.

5 Sec. 3-106. - Administrative Hearings

6 (a) Administrative hearings may be held either in person, or
7 through remote electronic means by which all parties, witnesses,
8 attorneys, and hearing officers may participate remotely utilizing
9 the technology implemented by the city for doing so. The

10 (b) All hearings, however conducted, shall satisfy the
11 procedural requirements set forth in this chapter, and shall be
12 recorded by the hearing officer in order to preserve an appropriate
13 record of the proceedings.

14 (c) Parties shall be provided with an opportunity for a
15 hearing, during which they may be represented by counsel, present
16 witnesses, and cross-examine opposing witnesses. Parties may
17 request the hearing officer to issue subpoenas to direct the
18 attendance and testimony of relevant witnesses and the production
19 of relevant documents. Hearings shall be scheduled with reasonable
20 promptness, provided that for the hearings scheduled in all non-
21 emergency situations, if requested by the defendant, the defendant
22 shall have at least fifteen (15) calendar days after service of
23 process to prepare for a hearing. For purposes of this Section,
24 "non-emergency situation" means any situation that does not

1 reasonably constitute a threat to the public interest, safety, or
2 welfare. If service is provided by mail, the 15-day period shall
3 begin to run on the day that the notice is deposited in the mail.
4 The formal and technical rules of evidence do not apply in hearings
5 conducted under this chapter. Evidence, including hearsay, may be
6 admitted only if it is a type commonly relied upon by reasonably
7 prudent persons in the conduct of their affairs.

8 (d) The division, with proper notice to the respondent as
9 set forth herein, may elect to conduct any or all proceedings under
10 this chapter through remote electronic means. The corporation
11 counsel, or his or her designee, may take whatever action necessary
12 to implement the appropriate technology for remote hearings to be
13 conducted subject to the city's procurement and information
14 technology policies.

15 (e) Upon a timely request by either party to a matter or
16 upon his or her own motion, the administrative hearing officer may
17 order that any proceedings designated to be conducted by electronic
18 means shall be conducted in person when doing so is necessary or
19 efficient in protecting the rights of either party or facilitating
20 the resolution of the dispute, and can be accomplished without
21 compromising the safety of the proceedings and its participants.
22 Sec. 3-107. - Suspensions or Revocations of Permits, Licenses, or
23 Registrations.

1 (a) Whenever any provision of this code authorizes an
2 officer or employee of the city to suspend or revoke (collectively
3 hereinafter "sanction") any license, permit, or registration based
4 on the respondent's alleged violation of the code, the respondent
5 shall have the opportunity to contest the determination that the
6 violation or violations of the code underlying the suspension or
7 revocation occurred before an administrative hearings officer.

8 (b) Upon a determination that cause exists to suspend or
9 revoke a license, permit, or registration, the employee or officer
10 imposing such sanction shall promptly serve the respondent with a
11 written explanation of the determination. Service of the
12 determination may be made in any manner authorized by this chapter
13 as well as by electronic mail directed to the address of record
14 associated with the permit, license, or registration.

15 (c) The sanction set forth in the determination shall become
16 effective fourteen (14) calendar days after service upon the
17 respondent, except that the sanction shall become effective
18 immediately if the officer or employee imposing the sanction
19 affirms that the circumstances giving rise to the sanction pose
20 such an imminent threat to the health, welfare, or safety of the
21 community or any person so as to require its immediate imposition.

22 (d) If within fourteen (14) calendar days of service of the
23 determination the respondent requests a hearing to contest the
24 sanction or a stay of its imposition, the division shall promptly

1 schedule a hearing for such purpose. A respondent may direct such
2 a request to the officer or employee making the determination
3 though personal service of a written request or by electronic mail.

4 (e) At a hearing conducted for the purpose of reviewing a
5 determination of sanction, the hearing officer shall consider any
6 prior determinations of liability made against the respondent upon
7 which the determination is predicated as final and not subject to
8 collateral attack. As used in this paragraph, a "prior
9 determination of liability" includes any final judgement entered
10 by default or by administrative or judicial determination that the
11 respondent or the respondent's agents engaged in or permitted
12 conduct that is a lawful basis for the imposition of the proposed
13 sanction.

14 (f) Nothing in this chapter shall preclude any officer or
15 employee of the city from issuing "stop work" orders in the manner
16 authorized by law or this code.

17 (g) The provisions of this section do not apply to licenses
18 issued pursuant to chapter 6 of this code.

19 Sec. 3-108. - Appearances and Service of Notices

20 (a) All respondents, personally or through counsel, must
21 file an appearance with the hearing officer at the initial hearing
22 date that provides a mailing address, telephone number, and
23 electronic mail address for the purpose of providing notice to the

1 parties. A standard appearance form shall be provided by the
2 division, whether electronically or by paper copy.

3 (b) If proceeding *pro se*, a respondent may only represent
4 himself or herself. All corporations and other collective business
5 entities shall be represented by an attorney.

6 (c) Upon the filing of an appearance by a respondent, all
7 notices and orders required to be given by or to the parties shall
8 be given by electronic mail unless otherwise ordered by the
9 administrative hearing officer.

10 Sec. 3-109. - Default Judgments

11 (a) Whenever a respondent fails to appear at a hearing or,
12 in the case of a determination of a sanction against a license,
13 permit, or registration, the administrative hearing officer may
14 enter an order of default judgment against the respondent, which
15 shall operate as a final determination of liability for an alleged
16 violation of the code or a confirmation of the sanction against a
17 license, permit, or registration.

18 (b) Prior to the entry of a default judgment, the hearing
19 officer shall review and make a record of the manner in which the
20 respondent was notified of the violation or determination, the
21 nature and the sufficiency of the evidence against the respondent,
22 and the circumstances supporting the entry of default.

23 (c) Upon entry of a default judgment, the hearing officer
24 shall impose costs and a fine against the respondent consistent

1 with the provisions of this code, the relative seriousness of the
2 violation, and the respondent's prior history of violations,
3 including the absence of prior offenses.

4 (d) The hearing officer shall reduce the default judgment
5 and the costs and fine imposed (if any) to writing and shall direct
6 the division to promptly serve the order upon the respondent. The
7 written order shall apprise the respondent of the procedure for
8 setting aside the default judgment under paragraph (e) and shall
9 also apprise the respondent of the availability of judicial review
10 under the Illinois Administrative Review Law.

11 (e) A respondent against whom a default judgment has been
12 entered may file a motion with the hearing officer to set aside
13 the default judgment and request a new hearing. A motion to set
14 aside a default judgment may be filed at any time if the respondent
15 alleges lack of subject matter or personal jurisdiction; in all
16 other cases, the motion must be filed within twenty-one (21) days
17 of entry of the default judgment excepting Saturdays, Sundays and
18 holidays. A motion to set aside a default judgment shall set forth
19 the reason(s) the respondent failed to appear on the original
20 hearing date. An administrative hearing officer shall hear and
21 rule on the motion. If the administrative hearing officer grants
22 the motion, a hearing will be held immediately on the alleged Code
23 violation(s) set forth in notice of violation, citation, or other

1 charging document unless the respondent requests another hearing
2 date and presents good cause for continuing the hearing.

3 Sec. 3-110. - Judicial Review

4 Any final decision by a hearing officer that a code violation
5 does or does not exist shall constitute a final determination for
6 purposes of judicial review and shall be subject to review under
7 the Illinois Administrative Review Law (735 ILCS 5/3-101, et.
8 seq.).

9 Sec. 3-111. - Enforcement of Judgment

10 (a) Any fine, other sanction, or costs imposed, or part of
11 any fine, other sanction, or costs imposed, remaining unpaid after
12 the exhaustion of or the failure to exhaust judicial review
13 procedures under the Illinois Administrative Review Law are a debt
14 due and owing the city and may be collected in accordance with
15 applicable law.

16 (b) After expiration of the period in which judicial review
17 under the Illinois Administrative Review Law may be sought for a
18 final determination of a code violation, unless stayed by a court
19 of competent jurisdiction, the findings, decision, and order of
20 the hearing officer may be enforced in the same manner as a
21 judgment entered by a court of competent jurisdiction.

22 (c) In any case in which a defendant has failed to comply
23 with a judgment ordering a defendant to correct a code violation
24 or imposing any fine or other sanction as a result of a code

1 violation, any expenses incurred by the city to enforce the
2 judgment, including, but not limited to, attorney's fees, court
3 costs, and costs related to property demolition or foreclosure,
4 after they are fixed by a court of competent jurisdiction or a
5 hearing officer, shall be a debt due and owing the city and may be
6 collected in accordance with applicable law. Prior to any expenses
7 being fixed by a hearing officer pursuant to this subsection (c),
8 the city shall provide notice to the defendant that states that
9 the defendant shall appear at a hearing before the administrative
10 hearing officer to determine whether the defendant has failed to
11 comply with the judgment. The notice shall set the date for such
12 a hearing, which shall not be less than 7 calendar days from the
13 date that notice is served. If notice is served by mail, the 7-
14 day period shall begin to run on the date that the notice was
15 deposited in the mail.

16 (d) Upon being recorded in the manner required by Article
17 XII of the Code of Civil Procedure or by the Uniform Commercial
18 Code, a lien shall be imposed on the real estate or personal
19 estate, or both, of the defendant in the amount of any debt due
20 and owing the city under this Section. The lien may be enforced in
21 the same manner as a judgment lien pursuant to a judgment of a
22 court of competent jurisdiction.

23 (e) A hearing officer may set aside any judgment entered by
24 default and set a new hearing date, upon a petition filed within

1 21 calendar days after the issuance of the order of default, if
2 the hearing officer determines that the petitioner's failure to
3 appear at the hearing was for good cause or at any time if the
4 petitioner establishes that the city did not provide proper service
5 of process. If any judgment is set aside pursuant to this
6 subsection (e), the hearing officer shall have authority to enter
7 an order extinguishing any lien which has been recorded for any
8 debt due and owing the city as a result of the vacated default
9 judgment.