

Efective Date: June 30, 2010

4/14/2010

4/5/2010

**24-O-10**

**AN ORDINANCE**

**Amending Title 11, "Administrative Adjudication"**

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

**SECTION 1:** That Title 11, "Administrative Adjudication," Chapter 1, "Administrative Adjudication System," Sections 5 and 7 of the Evanston City Code of 1979, as amended, are hereby further amended to read as follows:

**Title 11: ADMINISTRATIVE ADJUDICATION**

**11-1-1: CREATION:**

**(A)** Pursuant to authority of Section 5/1-2.1-1 *et seq.*, of the Illinois municipal code, which authorizes municipalities to implement a system of Administrative Adjudication, there is hereby created a system of Administrative Adjudication of charges of Code violations for the city of Evanston. The system is authorized to conduct adjudicatory hearings of cases instituted by City departments upon receipt of written notice from the head of a City department directed to the Manager of the Division of Administrative Hearings, provided, however, that the Manager of the Division of Administrative Hearings may decline jurisdiction over specific classes of cases whenever resources are not available to handle the additional caseload.

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**11-1-4: DIVISION OF ADMINISTRATIVE HEARINGS:**

There is hereby established a Division of Administrative Hearings, the function of which is to expedite the prosecution and/or correction of Code violations subject to the jurisdiction of the Administrative Adjudication system. The Division is authorized to conduct and manage Administrative Adjudication proceedings in the manner provided for in this Title. The Division will consist of a Division Manager and such other persons as the Division Manager appoints to assist with the Administrative Adjudication system provided for in this Title.

**11-1-5: DIVISION MANAGER; POWERS AND DUTIES:**

The Corporation Counsel shall appoint a Division Manager to administer the Division of Administrative Hearings. Under the supervision of the Corporation Counsel, the Division Manager's responsibilities shall include:

- (A) Operating and managing the Administration Adjudication system;
- (B) Promulgating rules and regulations for the conduct of Administrative Adjudication proceedings;
- (C) Monitoring the performance of Administrative Hearing Officers for adherence to applicable provisions of this Code;
- (D) Collecting monies paid as fines, penalties, and/or costs assessed by Administrative Hearing Officers;
- (E) Certifying copies of final determinations of Administrative Hearing Officers;
- (F) Keeping accurate records of the proceedings, including, but not limited to, appearances, nonappearances, pleas entered, and fines and penalties assessed and paid;
- (G) Performing the functions of the traffic compliance administrator as delegated by Chapter 2 of this Title;
- (H) Establishing any other necessary rules and regulations and performing any other duties and functions as may be required or appropriate to establish and administer the City's Administrative Adjudication system.

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**11-1-7: ADMINISTRATIVE HEARING OFFICER:**

Charges of violations of this Code are to be heard and adjudicated by a Hearing Officer(s) appointed by the City Manager.

**11-1-8: HEARING OFFICER QUALIFICATIONS:**

Any person appointed as Hearing Officer shall:

...

- (B) Prior to conducting any Administrative Adjudication hearing herein under, have successfully completed a formal training program approved by the Division Manager which includes the following:

...

**11-1-9: SCOPE OF AUTHORITY OF ADMINISTRATIVE HEARING OFFICERS:**

Administrative Hearing Officers shall preside over adjudicatory hearings. The authority of an Administrative Hearing Officer shall encompass all acts necessary for conducting fair and impartial adjudicatory hearings, including, but not limited to:

...

(J) Regulating the course of the hearing in accordance with this Chapter, the rules adopted by the Division Manager for the conduct of administrative hearings, and other applicable law.

...

**11-1-11: ADMINISTRATIVE HEARINGS:**

...

(G) The Division Manager shall determine the manner in which the record shall be preserved. Such preservation may be made by tape recording or other appropriate means. Recording by any means by any member of the public is prohibited unless expressly authorized by the Division Manager. The record of all hearings before an Administrative Hearing Officer shall include: 1) a record of the testimony presented at the hearing; 2) all documents, exhibits, and other physical evidence presented at the hearing and admitted into evidence; 3) a copy of the notice of violation and notice of hearing; and 4) a copy of the findings, decision, and order of the Administrative Hearing Officer's final determination. Any party may request that the proceedings be taken and transcribed by a certified court reporter. The cost of the reporter shall be borne by the party requesting the court reporter. If the City makes a tape recording of the proceedings, a defendant may obtain a transcript at defendant's cost.

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**11-1-12: PROCEDURE:**

All matters to be adjudicated by the Division of Administrative Hearings shall be commenced against the party alleged to have violated one or more Code provision(s) by issuing and serving upon that party a charging document and shall be conducted in accordance with the following procedures:

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(D) The original or a legible copy of the notice of violation, citation, or other charging document shall be filed with the Division of Administrative Hearings as soon as practicable at the place and in the manner as the Manager of Administrative Adjudication directs. Upon receiving the original or legible copy of charging document, the Division of Administrative Hearings shall select a hearing date and give respondent notice of the date, time, and place of the hearing in the manner set forth in Subsection (C)1 of this Section unless the charging document sets forth the date, time, and location of the hearing and was served personally on the respondent.

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**11-1-16: FINES; COMPLIANCE BOND:**

(A) All fines and other monies to be paid to the City in accordance with this Chapter shall be remitted to the City and deposited in the appropriate City account as designated by the City Manager.

(B) 1. In order to ensure that Code violations are remedied in a timely manner, an Administrative Hearing Officer, upon issuing a determination of liability that includes an order of compliance, may order the respondent in the case to obtain a bond to ensure respondent's timely compliance with the Code provision(s) found to have been violated. Any bond ordered pursuant to this subsection (B)1 shall name the City as beneficiary and shall be in the amount specified by the Administrative Hearing Officer, provided that the amount of the bond shall be reasonably related to the cost of compliance. Any bond issued as a result of an Administrative Hearing Officer's order is subject to review and modification by the City Manager or his/her designee as to form and amount. If the respondent fails to remedy in a timely manner the Code violation(s) for which a bond has been ordered and issued and the City undertakes remediation or otherwise expends funds related to the Code violation(s) for which a bond has been ordered and issued, the Administrative Hearing Officer, after giving the parties notice and opportunity to be heard, may issue an order permitting the City to draw against the bond in an appropriate amount. The Administrative Hearing Officer shall order the bond amount, less the reasonable costs incurred by the City, returned to the respondent upon proof of compliance with the Code provision(s) found to have been violated.

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**11-1-17: ENFORCEMENT OF ADMINISTRATIVE HEARING OFFICER'S ORDER:**

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(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 Manager of administrative hearings shall cause a notice of final determination of liability to be sent to the respondent.

...

(G) 1. When the Manager 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.

**SECTION 2:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 3:** That if any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

**SECTION 4:** That this Ordinance 24-O-10 shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Introduced: May 24, 2010

Approved:


Adopted: June 14, 2010

June 16, 2010




Elizabeth B. Tisdahl, Mayor

Attest:

  
Rodney Greene, City Clerk

Approved as to form:

  
W. Grant Farrar, City Attorney

