

**65-O-18**

**AN ORDINANCE**

**Amending Portions of Title 11, Chapter 1 of the Evanston City Code for the Expungement of Juvenile Administrative Hearing Records**

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

**SECTION 1: Legislative Statement.** The Illinois General Assembly enacted Public Act 100-0285, which created numerous amendments to the Juvenile Court Act of 1987 ("Act"). The amendments to the Act provide that all juvenile records which have not been expunged are sealed and may never be disclosed to the general public or otherwise made widely available. The amendments to the Act provide that the Act's confidentiality provisions apply to law enforcement and municipal ordinance violations, willful violation of the confidentiality provisions of the Act is a Class C misdemeanor, and each violation is subject to a fine of \$1,000.00. The amendments to the Act also provide for various circumstances when juvenile records shall be expunged automatically without a petition brought by the individual seeking expungement.

This Ordinance is intended to complement Public Act 100-0285 by providing a statutory mechanism allowing for the clearing of juvenile administrative hearing records in order to protect juveniles against any potential damage stemming from their law enforcement, and municipal ordinance violation records, and the unauthorized use or disclosure of confidential records and any potential stigma that would result from their disclosure. The City Council finds that the disclosure of such juvenile records from administrative hearings can also be a hindrance to an individual's

present and future ability to obtain employment, education, housing and credit. The City Council determines that it is in the best interest of the City of Evanston to amend the Evanston City Code to create an Ordinance that complements the amendments found in Public Act 100-0285 providing for the confidentiality and clearing of juvenile administrative hearing records.

Article VII, Section (6)a of the Illinois Constitution of 1970, states that the “powers and functions of home rule units shall be construed liberally,” and was written “with the intention that home rule units be given the broadest powers possible.” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992). Pursuant to 65 ILCS 5/1-2-1, the City may make all rules and regulations to carry into effect the powers granted to the City, such is the broad and general grant of authority complementing the City’s home rule powers. At meetings held in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*), the City Council considered this Ordinance, heard public comment, and made findings. It is well-settled law in Illinois that the legislative judgment of the City Council must be considered presumptively valid and is not subject to courtroom fact-finding. See *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747 (2d Dist. 1991); *National Paint & Coating Ass’n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995).

**SECTION 2:** Title 11, Chapter 1, Section 20 of the Evanston City Code of 2012, as amended, is hereby amended in its entirety and shall read as follows:

**11-1-20. – EXPUNGEMENT OF JUVENILE ADMINISTRATIVE HEARING RECORDS.**

- (A) Definitions. Unless otherwise expressly stated, whenever used in this Section the following words shall have the meanings given to them by this Section:

<i>ADMINISTRATIVE HEARING RECORD.</i>	Includes but is not limited to all documents, transcripts, records, reports, or evidence prepared
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	or maintained by the City, in any format, pertaining to an alleged violation or a violation of the City Code adjudicated by the Administrative Hearing Division.
<i>CLOSED CASE.</i>	A case is considered "closed" from the date on which an Administrative Hearing Officer dismisses the case; finds the person not liable; or, upon a finding of liability, the date upon which all orders issued by the Administrative Hearing Officer are successfully completed. In all cases, all fines must be paid, if any.
<i>EXPUNGE.</i>	To destroy the administrative hearing records and to obliterate a person's name from any official index, public record, or electronic database maintained by the City.

- (B)** Expungements. The Administrative Hearing Division, the Law Department, and all other City Departments shall automatically expunge, on or before January 1 of each year, a person's administrative hearing records relating to an incident occurring before their 18th birthday, whenever:
- (1) one year has elapsed from the date on which the administrative hearing case relating to that incident was closed.
  - (2) a case was not closed and five years has elapsed since the case was adjudicated.
- (C)** Whenever a person's administrative hearing case has been closed for an incident occurring before their 18th birthday and one year has elapsed from the date on which the case was closed, the person may petition the City at any time for expungement of the administrative hearing record relating to the incident, and the City shall order the expungement of all records in its possession relating to said incident.
- (D)** Whenever a person's administrative hearing case has not been closed for an incident occurring before their 18th birthday and one year has elapsed from the date on which the case was adjudicated, the person may petition the City at any time for expungement of the administrative hearing record relating to the incident, and the City may order the expungement of all records in its possession relating to said incident.
- (E)** Nothing in Sections (C) or (D) shall impact the operation of Section (B).
- (F)** During an Administrative Hearing for an incident occurring before a person's 18th birthday, the person shall be advised orally and in writing of the automatic expungement process relating to their administrative hearing record in accordance with Section (B) and the right to petition for expungement of their administrative hearing record in accordance with Sections (C) or (D).

**SECTION 3:** Title 11, Chapter 1 of the Evanston City Code of 2012, as amended, is hereby further amended by the addition of Section 11-1-21, "Severability," which is to read as follows:

**11-1-21. – SEVERABILITY.**

The provisions of this Chapter will be interpreted so as not to be in conflict with the laws of the State or any other limitations imposed by law. In the event, however, that any Section, provision, sentence, or clause of this Chapter is declared unconstitutional by a court of competent jurisdiction, that determination will not affect the other remaining provisions of this Chapter.

**SECTION 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 5:** This ordinance must be in full force and effect after its passage, approval, and publication in a manner provided by law.

**SECTION 6:** If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must 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.

Introduced: May 14, 2018

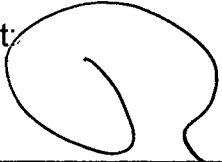
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Adopted: May 14, 2018

June 1, 2018

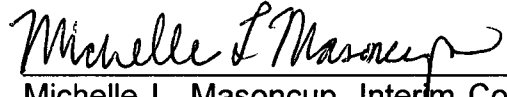
  
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Stephen H. Hagerty, Mayor

Attest:



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Devon Reid, City Clerk

Approved as to form:



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Michelle L. Masoncup, Interim Corporation  
Counsel