

**Item #3:**  
**Ord. Amending Village Code Re: Administrative Adjudication**

VILLAGE OF LONG GROVE

ORDINANCE NO. 2015-O-\_\_\_

AN ORDINANCE AMENDING  
THE LONG GROVE VILLAGE CODE  
REGARDING ADMINISTRATIVE ADJUDICATION  
OF VILLAGE CODE VIOLATIONS

WHEREAS, the President and Board of Trustees desire to establish a system of administrative adjudication of violations of Title 4, Chapter 14 of the Long Grove Village Code ("Village Code"); and

WHEREAS, the President and Board of Trustees have determined that it is appropriate to amend Title 1 of the Village Code to establish an administrative adjudication system to authorize adjudication of violations of Title 4, Chapter 14 of the Village Code, in accordance with State law;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Long Grove, County of Lake, State of Illinois, as follows:

Section 1. Recitals. The foregoing recitals are incorporated into this Ordinance as the findings of the President and Board of Trustees.

Section 2. Amendment of Title 1. The Board of Trustees hereby amends Title 1, entitled "Administrative", to add a new Chapter 18, entitled "Administrative Hearing System," which will hereafter read as provided in **Exhibit A** attached to, and by this reference incorporated into, this Ordinance.

Section 3. Effective Date. This Ordinance will be in full force and effect from and after its passage, approval, and publication in pamphlet form in the manner provided by law.

PASSED this 23rd day of June, 2015.

AYES: ( )

NAYS: ( )

ABSENT: ( )

APPROVED this 23rd day of June, 2015.

\_\_\_\_\_  
Angela Underwood, Village President

ATTEST:

\_\_\_\_\_  
Heidi Locker-Scheer, Village Clerk

## EXHIBIT A

### **TITLE 1: ADMINISTRATIVE CHAPTER 18: ADMINISTRATIVE HEARING SYSTEM**

#### **1-18-1: PURPOSE:**

The purpose of this chapter is to provide for the fair and efficient enforcement of the Village building regulations delineated in this chapter through an administrative adjudication process as authorized by state law.

#### **1-18-2: ESTABLISHMENT OF ADMINISTRATIVE HEARING SYSTEM:**

- A. Adoption. The Village hereby adopts Division 31.1 of Article 11 of the Illinois Municipal Code, 65 ILCS 5/11-31.1-1 *et seq.*, pursuant to which authority the Village establishes an Administrative Hearing System, including a Code Hearing Department, to enforce and adjudicate violations of certain building regulations contained in this Code as set forth in Subsection B of this section.
- B. Authorization to Enforce and Adjudicate. The Code Hearing Department is authorized to enforce and adjudicate violations of the following titles and chapters of the Long Grove Village Code:
1. Title 4, Chapter 14: "Property Maintenance Code"; and
  2. Any other building codes or ordinances as the Board of Trustees may designate from time to time in accordance with applicable law.
- C. Intergovernmental Agreement. The Village may operate its Administrative Hearing System in conjunction with the administrative hearing system and code hearing department of another municipality or municipalities, including without limitation the joint use of building inspectors, hearing officers, code enforcement administrators, and other hearing and administrative staff, pursuant to the terms of an intergovernmental agreement approved and authorized by the Village President and Board of Trustees.

#### **1-18-3: DEFINITIONS:**

As used in this chapter, the following terms have the following meanings:

**BUILDING INSPECTOR:** Any full-time employee of the Village or, if the Village operates its administrative hearing system in conjunction another municipality, a full-time employee of that municipality, whose duties include the inspection or examination of structures or property in the Village to determine if code violations exist.

**CODE HEARING DEPARTMENT:** The department under the direction of the Village Manager that is designed to expedite the prosecution and correction of code and ordinance violations in the manner set out in this chapter.

**HEARING:** A hearing on an alleged violation conducted pursuant to Section 1-18-7 of this Code.

**HEARING OFFICER:** Each person having those responsibilities and qualifications set forth in Section 1-18-6 of this chapter.

**ILLINOIS ADMINISTRATIVE REVIEW LAW:** Section 3-101 *et seq.* of the Illinois Code of Civil Procedure, 735 ILCS 5/3-101 *et seq.*

**ILLINOIS MUNICIPAL CODE:** 65 ILCS 5/1-1-1.1 *et seq.*

**OWNER OR "PROPERTY OWNER":** the legal or beneficial owner of a property or structure.

**VIOLATION:** A violation of a provision of those codes or ordinances designated by the President and Board of Trustees and set forth in Section 1-18-2(B) of this chapter.

**1-18-4: HEARING PROCEDURES NON-EXCLUSIVE:**

The provisions of this chapter do not preclude the Village from using other methods or proceedings to enforce, and to adjudicate violations of the codes or ordinances described in Subsection 1-18-2(B) of this chapter or other codes or ordinances of the Village, including without limitation the institution of an action in the Circuit Court of Lake County, the United States District Court, or any administrative body or proceeding.

**1-18-5: COMPOSITION OF CODE HEARING DEPARTMENT:**

The code hearing department is comprised of one or more hearing officers, one or more code enforcement administrators, and security and other hearing room personnel, all with the power, authority, and limitations as set forth in this chapter.

**1-18-6: HEARING OFFICER:**

A. Appointment: The Village President, with the advice and consent of the Board of Trustees, may appoint one or more qualified hearing officers to perform the functions set forth in this chapter, provided that, where the Village operates its administrative hearing system in conjunction with the existing administrative hearing system of another municipality, the Village will not appoint a hearing officer and will use the hearing officers already designated by the municipality, unless otherwise agreed by the Village and the municipality.

B. Qualifications: To qualify as a hearing officer, an individual must:

1. Be an attorney licensed to practice law in the State of Illinois for at least three years;
2. Be in good standing with the Illinois Supreme Court Attorney Registration and Disciplinary Commission; and
3. Complete a formal training program consisting of:
  - (a) Instruction on the rules of procedure for administrative hearings;

- (b) Orientation to each subject area of the codes and ordinances that will be adjudicated;
  - (c) Observation of hearings conducted by Illinois municipalities that have adopted the Administrative Hearing System; and
  - (d) Participation in hypothetical cases, including ruling on evidence and issuance of final orders.
- C. Compensation: Authorization for compensation for a hearing officer is made by the President and Board of Trustees through the Village's annual budget process. Compensation is determined by the Village Manager within approved budget limitations.
- D. Authority and Jurisdiction: Hearing officers are hereby authorized and directed to:
1. Preside at administrative hearings called to determine whether or not code violations exist.
  2. Hear testimony and accept evidence that is relevant to the allegation of a violation.
  3. Issue subpoenas to direct the attendance and testimony of relevant witnesses and production of relevant documents, on the request of the parties or their representatives.
  4. Preserve and authenticate the record of the hearing, including all exhibits and evidence introduced at the hearing.
  5. Issue a written finding, decision, and order based on the evidence presented at the hearing, on whether a violation occurred or exists. The hearing officer's determination must be in writing and must include (a) written findings of fact, (b) decision, and (c) order, including any corrective measures, fine, penalty, and any other action with which the defendant must comply.
  6. Postpone or continue a defendant's hearing to a later hearing date only in cases where a continuance is absolutely necessary to protect the rights of the defendant, in which case continuance may not exceed 25 days.

**1-18-7: PROCEDURES FOR ADJUDICATING VIOLATIONS**

- A. Application. This Section 1-18-7 establishes procedures for the adjudication of violations of Title 4, Chapter 14 of the Village Code.
- B. Instituting code hearing proceedings.

1. When a building inspector finds a violation of Title 4, Chapter 14 of the Village Code while inspecting a property or structure, he or she shall note the violation on a multiple copy violation notice and report form, indicating the name and address of the owner, a citation to the specific code provision or provisions alleged to have been violated, a description of the circumstances present that constitute the alleged violation, the date and time the violation was observed, the names of witnesses to the violation, and the address of the property or structure where the violation is observed.
  2. The violation report form shall be forwarded by the building inspector to the code hearing department where a docket number shall be stamped on all copies of the report, and a hearing date noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the violation is reported by the building inspector.
  3. One copy of the violation report form shall be maintained in the files of the code hearing department and shall be part of the record of hearing, one copy of the report form shall be returned to the building inspector so that he or she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one (1) copy of the report form shall be served by first class mail on the property owner, along with a summons commanding the owner to appear at the hearing. If the name of the owner cannot be ascertained, or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation report form on the front door of the structure where the violation is found, not less than twenty (20) days before the hearing is scheduled.
- C. Subpoenas; defaults. At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of the building inspector or the attorney for the Village, or the owner or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing. If on the date set for hearing, the owner or his attorney fails to appear, the hearing officer may find the owner in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.
- D. Continuances—representation at code hearings. No continuances shall be authorized by the hearing officer in proceedings under this chapter except in cases where a continuance is absolutely necessary to protect the rights of the

owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this section shall not exceed 25 days. The case for the Village may be presented by the building inspector, by any other Village employee or by an attorney designated by the Village. However, in no event shall the case for the Village be presented by an employee of the Code Hearing Department. The case for the owner may be presented by the owner, his attorney, or any other agent or representative.

- E. Hearing; evidence. At the hearing, a hearing officer shall preside and shall hear testimony and accept any evidence relevant to the existence or nonexistence of a code violation in the property or structure indicated. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this chapter.
- F. Eviction; rights of the occupants. No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a code violation hearing.
- G. Defenses to violations of Title 15. It shall be a defense to a violation of Title 4, Chapter 14 charged under this Section 1-18-7 if the owner, his or her attorney, or any other agent or representative proves to the hearing officer's satisfaction that:
  - 1. The violation of Title 4, Chapter 14 alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;
  - 2. The violation of Title 4, Chapter 14 has been caused by the current property occupants and that, in spite of reasonable attempts by the owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations; or
  - 3. An occupant or resident of the dwelling has refused entry to the owner or his or her agent to all or a part of the dwelling for the purpose of correcting the code violation.
- H. Findings, decision, order. At the conclusion of the hearing the hearing officer shall make a determination on the basis of the evidence presented at the hearing whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision and order. The findings, decision and order shall include the hearing officer's findings of fact, a decision whether or not a code violation exists based upon the findings of fact, and shall order the owner to correct the violation or, if no violation is proved, shall order the dismissal of the

case. If a code violation is proved, the order may also impose the sanctions that are provided in the code for the violation proved. A copy of the findings, decision, and order shall be served on the owner within five days after they are issued; service shall be in the same manner as the report form and summons are served pursuant to subsection 1-18-7(B)(3) of this chapter. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Illinois Municipal Code.

I. Judgment on findings, decision, order.

1. Any fine, other sanction or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Illinois Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.
2. After expiration of the period within which judicial review under the administrative review law may be sought for a final determination of the code violation, the Village may commence a proceeding in the Circuit Court of Lake County for purposes of obtaining a judgment on the findings, decision and order. Nothing in this section shall prevent the Village from consolidating multiple findings, decisions and orders against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy of the findings, decision and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision and order was issued in accordance with 65 ILCS 5/11-31.1-1 et seq. of the Illinois Compiled Statutes and this section. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Illinois Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions and costs imposed by the findings, decision and order does not exceed \$2,500.00. If the court is satisfied that the findings, decision and order were entered in accordance with the requirements of the applicable laws and ordinances, and that the property owner had an opportunity for a hearing under this chapter and for judicial review as provided in this chapter: (1) the court shall render judgment in favor of the municipality and against the property owner for the amount indicated in the findings, decision and order, plus costs. Such judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money; and (2) the court may also issue

such other orders and injunctions as are requested by the Village to enforce the order of the hearing officer to correct a code violation.

J. Sanctions applicable to owner-property. The order to correct a code violation and the sanctions imposed by the Village as the result of a finding of a code violation under this chapter shall attach to the property as well as to the property owner, so that a finding of a code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision and order of a hearing officer under this chapter.

K. Sanctions; excessive rental units.

1. The owner of a building located in the Village who, directly or indirectly, has collected, or caused to be collected, rentals from an occupant of that building during a period in which the number of apartments or family units in that building exceeded the number permitted for that building by an ordinance of the Village, is liable to any such occupant in an amount equal to not more than three times the amount of any rentals paid by any such occupant, or in his behalf, after January 1, 1970, together with court costs and reasonable attorney's fees. If the occupant is a recipient of public aid under Article III, IV, or VI of "the Illinois Public Aid Code," 305 ILCS 5/1-1 et seq., as amended, in whose behalf vendor payment of the rental was made by the Illinois Department of Public Aid, the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act), or a local governmental unit, as the case may be, the liability as herein provided is to the Illinois Department of Public Aid, the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act, 20 ILCS 1305/1 et seq.), or the local governmental unit making the vendor payment of the rental.
2. For the purposes of this section, "family unit" means a room or group of rooms used or intended to be used as a housekeeping unit for living, sleeping, cooking and eating. The fact that any such family unit is used or intended to be used with cooking or eating accommodations in common with another family unit in any such building does not affect liability hereunder.
3. No liability accrues under this section until 30 days after the owner of record of a building has been notified in writing that such owner is in

violation of any such municipal ordinance. Such notice shall be personally served upon such owner of record or sent by registered mail to the last known address of such owner.

- L. A person who contracts with the federal government or any of its agencies, including without limitation the Department of Housing and Urban Development, to care for vacant residential real estate shall be responsible for maintaining the property to prevent and correct municipal health and safety code violations. A person who intentionally violates this section is guilty of a business offense and shall be fined not less than \$501.00 and not more than \$1,000.00.

**1-18-8 ADMINISTRATIVE REVIEW**

The findings, decision and order of the hearing officer pursuant to this chapter shall be subject to review in the Circuit Court of Lake County, and the provisions of the Illinois Administrative Review Law, and all amendments and modifications thereto, and the rules adopted pursuant thereto are adopted and shall apply to and govern every action for the judicial review of the final findings, decision and order of a hearing officer under this chapter.