

AN ORDINANCE ESTABLISHING AN ADMINISTRATIVE ADJUDICATION SYSTEM FOR THE ADMINISTRATIVE ADJUDICATION OF VIOLATIONS OF THE VILLAGE CODE AND VILLAGE ORDINANCES

WHEREAS, the Village of Barrington Hills (hereinafter the "Village") is a duly organized and existing Illinois home rule municipality; and

WHEREAS, currently, the Village prosecutes all violations of the Village Code and Village Ordinances in the applicable Illinois Circuit Court, which presents significant cost, expense and travel inconvenience to the Village, its Officers and employees, and its residents; and

WHEREAS, the Village is authorized under Illinois law and the Village's home rule authority to prosecute violations of the Village Code and Village Ordinances, except for moving violations involving vehicles, through a system of administrative adjudication, which may be administered at the principal Office of the Village or other conveniently located location; and

WHEREAS, under Illinois Law, upon the establishment of any such administrative adjudication system, the Village would be authorized, but not required to, utilize such system for the prosecution of violations of the Village Code and Village Ordinances; and

WHEREAS, the Village Board of the Village believes it is necessary, proper and in the best interests of the citizens of the Village to establish an administrative adjudication system, as authorized by the Illinois law and the Village's home rule authority, to provide a fair and efficient method of enforcing regulations set forth in the Village Code and Village Ordinances.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington Hills, a home rule community located in Cook, Lake, Kane and McHenry Counties, Illinois, duly assembled at a regular meeting, as follows:

SECTION ONE: That the forgoing recitals are hereby incorporated by reference as if fully set forth herein.

SECTION TWO: That the Village Code shall be amended to add a Chapter 10 to Title 1 of the Village Code as follows:

Chapter 10
ADMINISTRATIVE ADJUDICATION SYSTEM

1-10-1: ESTABLISHMENT AND SCOPE:

A. There is hereby established an administrative adjudication system so as to provide a fair and efficient method of enforcing the regulations set forth in the Village Code and Village Ordinances through administrative adjudication to the extent permitted by the Illinois Constitution.

B. An "administrative adjudication system" means the adjudication of any violation of the Village Code of Ordinances or other Village Ordinances, except for proceedings not within the home rule authority of the Village or as otherwise provided herein.

1-10-2: DEFINITIONS:

As used in this Chapter, unless the context requires otherwise, the following definitions shall have the meanings ascribed:

"Village" means the Village of Barrington Hills, Illinois.

"Code" or "Village Code" means the Barrington Hills Municipal Code, as amended from time to time.

"Ordinance" or "Village Ordinance" means any regulation approved and adopted by the Village Board of Trustees that is in effect but that has not been codified in the Village Code.

"Hearing Officer" means a qualified individual, whose duty it is to:

A. Preside at an administrative hearing called to determine whether or not a Code or Ordinance violation exists; and

B. Hear testimony and accept evidence from all interested parties relevant to the existence of a Code or Ordinance violation; and

C. Preserve the record of the hearing and all exhibits and evidence introduced at the hearing; and

D. Issue and sign a written determination stating whether a Code or Ordinance violation exists.

1-10-3: JURISDICTION:

Those matters subject to administrative adjudication are charges for violation of any regulation of the Village Code and Ordinances except for traffic regulations governing the movement of vehicles under the Illinois Vehicle Code; liquor control regulations; and except as otherwise prohibited by law.

1-10-4: QUALIFICATIONS OF HEARING OFFICERS:

Prior to conducting proceedings under this Chapter, a Hearing Officer shall successfully complete a formal training program that includes the following:

- A. Instruction on the rules of procedure of the hearing that they will conduct;
- B. Orientation to each subject area of the Code or Ordinance violations that they will administer;
- C. Observations of administrative hearings; and
- D. Participation in hypothetical cases, including rules on evidence and issuing final orders.

In addition, every Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least 3 years, and be in good standing with the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois. A Hearing Officer is not required to be a resident of the Village.

1-10-5: HEARING PROCEDURES NOT EXCLUSIVE:

The Village is not precluded from using other methods to enforce the provisions of the Village Code and Ordinances such as instituting an action in a court of law or using other administrative enforcement methods set forth in the Village Code. The existence of other administrative enforcement methods set forth in the Village Code shall not preclude the Village from using the administrative adjudication procedures provided in this Chapter, except for matters involving the Village's liquor control regulations.

1-10-6: INSTITUTING ADJUDICATION PROCEEDINGS:

When a Village police officer or other individual authorized to issue a Code or Ordinance violation finds a Code or Ordinance violation to exist, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the defendant, (ii) the type and nature of the violation, (iii) the date the violation was observed, (iv) and the penalties for failure to appear at the initial appearance and hearing date.

The violation notice shall include a docket number on all copies and an initial appearance and hearing date shall be indicated. The initial appearance and hearing date shall not be less than 20 days after the date of violation notice.

One copy of the violation notice shall be maintained in the files of the Village and shall be part of the record of hearing, one copy of the violation notice shall be returned to the individual representing the Village in the case so that he or she may prepare evidence of the Code or Ordinance violation for presentation at the hearing on the date indicated, and one copy of the violation notice shall be served to the defendant, along with a command that the defendant to appear at the hearing. Parties shall be served with the

violation notice in a manner reasonably calculated to give them actual notice, including, as appropriate, personal service of process upon a party or its employees or agents; service by mail at a party's last known address; or notice that is posted upon the property where the violation is found when the party is the owner or manager of the property.

In the case of violations involving vehicles, the violation notice shall additionally include:

- A. The name and address of the registered owner of the vehicle;
- B. The registration number of the motor vehicle involved in the violation;

Service of a violation notice involving vehicles may additionally be made by affixing the original or a facsimile of the notice to an unlawfully parked vehicle or by handing the notice to the operator of a vehicle if he or she is present and by sending such notice, by mail, to the address of the registered owner of the cited vehicle.

1-10-7: SUBPOENAS; DEFAULTS:

At any time prior to the hearing date, the Hearing Officer assigned to hear the case may, at the request of either party, direct witnesses to appear and give testimony at the hearing. If on the date set for hearing the defendant or his or her attorney fails to appear, the Hearing Officer may find the defendant in default and shall proceed with the hearing and accept evidence relevant to the existence of a Code or Ordinance violation.

The Hearing Officer may set aside any determination entered by default and set a re-hearing date, upon a petition filed within 21 days after the issuance of the determination of default, if the Hearing Officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the Village did not provide proper service of process. Such petition is a procedural prerequisite for judicial review. If any default determination is set aside, the Hearing Officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default determination.

1-10-8: CONTINUANCES; REPRESENTATION AT 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 defendant upon good cause shown. Lack of preparation shall not be grounds for a continuance. The case for the defendant may be presented by the defendant or his or her attorney. A business entity defendant shall only be represented by a licensed attorney.

1-10-9: HEARING; EVIDENCE:

At the hearing a Hearing Officer shall preside, shall hear testimony, and shall accept any evidence relevant only as to the existence or non-existence of a Code or Ordinance violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Chapter.

1-10-10: PRIMA FACIE EVIDENCE:

Concerning vehicles, a parking, standing or compliance violation notice issued, signed and served in accordance with this Chapter, a copy of the notice, or the computer generated record shall be *prima facie* correct and shall be *prima facie* evidence of the correctness of the facts shown on the notice. The notice, copy, or computer generated record shall be admissible in any subsequent administrative or legal proceedings.

1-10-11: DETERMINATION:

At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a Code or Ordinance violation exists. The determination shall be in writing. The final determination shall include: (i) a finding as to liability on the violation and if liability is determined; (ii) the issuance of an applicable fine and/or an order of compliance.

Any sanctions imposed under this Title shall be subject to the penalty provisions in the Village Code applicable to the specific violation. Otherwise, such sanctions shall be governed by the penalty provisions set forth in Title I, Chapter 4 of the Village Code as amended from time to time. A copy of the determination shall be served on the defendant within 5 days after it is issued. Service of determination may be made by personal service upon a party or its employees or agents, by mail to a party's address or by electronic mail to the party's electronic mail address. For the purpose of judicial review, the date of service shall constitute the date upon which the determination was personally served upon the Party or the date upon which the determination was deposited in the mail addressed to the Party.

1-10-12: REVIEW UNDER ADMINISTRATIVE REVIEW LAW:

The final determination of the Hearing Officer shall be subject to review in the Circuit Court of Cook County. The provisions of the Administrative Review Law (735 ILCS 5/3-101 *et seq.*), and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of a final determination of a Hearing Officer under this Article.

1-10-13: ENFORCEMENT OF FINAL DETERMINATION:

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 Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.

ORDINANCE 19 - 06

After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the Code or Ordinance violation, the Village may enforce final determinations pursuant to section 1-2.1-8 of the Illinois Municipal Code and pursuant to the provisions of the Illinois Vehicle Code. Such enforcement may include enforcement of unpaid monetary sanctions or compliance orders issued by the Hearing Officer.

SECTION THREE: That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

SECTION FOUR: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 25th day of February, 2019.

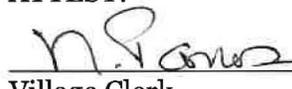
Ayes: 5 Nays: 0 Absent: 2

APPROVED:



Village President

ATTEST:



Village Clerk