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COUNTY OF COOK
DEPARTMENT OF ADMINISTRATIVE
HEARINGS

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State of Illinois
County of Cook

COOK COUNTY ILLINOIS
DEPARTMENT OF ADMINISTRATIVE HEARINGS

GENERAL ORDER NO. 2009 - 1

It is hereby ordered that the following rules and regulations are adopted as official rules and regulations for the Cook County Department of Administrative Hearings.

Entered: June 16 2009
Jack John R. Weinrauch
Chief Administrative Law Judge



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Chapter 1. General Rules & Regulations

1.1 Issuing Body

These rules and regulations are issued by the Cook County Department of Administrative Hearings.

1.2 Power to Adopt Rules & Regulations.

These rules and regulations are promulgated pursuant to Article VII Section 6 (a) and (m) Powers of Home Rule Units of the Illinois Constitution, Chapter 2 Administration, Article IX Administrative Hearings, Section 2-901 through Section 2-929 of the Cook County Code, and other chapters, sections and/or subsections which provide that the Director of the Department of Administrative Hearings may promulgate rules and regulations for the conduct of administrative hearing proceedings and other matters related to the operation of Section 2-901. The Director may also promulgate or adopt additional rules and regulations for the conduct of administrative hearings before a particular division or section of a division of the Department of Administrative Hearings.

1.3 Scope of Rules & Regulations

These rules and regulations shall apply to the conduct of all cases before the Department of Administrative Hearings.

1.4 Subject to Amendment

These rules and regulations shall be subject to change or amendment by the Director of the Department of Administrative Hearings.

1.5 Prior County Department or Agency Rules & Regulations Regarding Administrative Hearing Proceedings

These rules and regulations shall supersede any and all rules and regulations, or portions thereof, for the conduct of administrative hearing proceedings promulgated by a county department or agency that was formerly vested with jurisdiction to conduct administrative hearings. The superseding authority of the rules and regulations of the Department of Administrative Hearings over the rules and regulations, or portions thereof, of other county departments or agencies is expressly narrowed and limited to the rules and regulations, or portions thereof that dealt with the conduct of administrative hearing proceedings.

1.6 Supremacy of Ordinances

The provisions of this article shall apply to administrative adjudication proceedings conducted by the Department of Administrative Hearings. Nothing in these rules and regulations shall act to override, restrict or relax the procedural requirements and/or provisions of the applicable

provisions of the Ordinances of Cook County. In the event of a conflict between provisions of these rules and regulations and provisions of the Ordinances of Cook County, the Ordinances of Cook County shall take precedence.

1.7 Construction with Other Laws

The controlling statutory authorities in these municipal administrative adjudicatory proceedings are Article VII Section 6 (a) and (m) Powers of Home Rule Units of the Illinois Constitution, § 55 ILCS 5/5-41010 and Chapter 2 Administration, Article IX Administrative Hearings, Section 2-901 through Section 2-929 of the Cook County Code.

Pursuant to Article IX Administrative Hearings, Section 2-911(h), the formal and technical rules of evidence shall not apply in the conduct of administrative hearings. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

The Illinois Administrative Practice Act, the Illinois Code of Criminal Procedure and the Illinois Code of Civil Procedure are inapplicable to these types of administrative adjudicatory proceedings.

1.8 Order and Other Pleading Forms

The Director of the Department of Administrative Hearings shall have the authority to create and/or require the format and/or use of order and related pleading forms in the hearing process.

1.9 Effective Date

These rules and regulations shall be in full force and effect upon the date of issuance by the Director of the Department of Administrative Hearings, June 15, 2009. Subsequent amendments shall be in full force and effect upon the date of issuance by the Director of the Department of Administrative Hearings.

1.10 Publication

A copy of these rules and regulations and subsequent amendments shall be published and kept on file in the office of the director where they shall be available to the public for inspection and copying during normal business hours.

1.11 Hearing procedure not exclusive

Consistent with, § 55 ILCS 5/5-41015, Cook County is not precluded from using other methods to enforce the provisions of its codes

Chapter 2. Operation of Central Hearing Facility.

2.1 Security

All persons entering the central hearing facility are subject to passing through security.

2.2 Contraband

The central hearing facility shall be a weapons and drug free facility. Weapons, including but not limited to, guns, knives, chemical spray and pepper spray, are strictly prohibited and subject to confiscation without return.

2.3 Other Prohibited Items

Food and/or beverages may not be brought into the central hearing facility.

2.4 Disruptive Behavior

Security personnel or an Administrative Law Judge may order the temporary removal of any individual who is causing or contributing to a disruption of the facility operations or the hearing proceedings.

Chapter 3. Instituting Proceedings.

3.1 Petitioner's Pleadings

Pursuant to Chapter 2 Administration, Article IX Administrative Hearings, Section 2-908 of the Cook County Code, Any authorized department, agency, board or commission of the County may institute an administrative adjudication proceeding with the Department of Administrative Hearings by forwarding a copy of a notice of violation or a notice of hearing, which has been properly served, to the Department of Administrative Hearings.

When a code enforcement officer alleges a code violation, the officer shall note or, in the case of an animal control violation, the code enforcement officer may respond to the filing of a formal complaint by noting the violation on a violation notice and report form, indicating the following: the name and address of the respondent, if known; the name, address, and state vehicle registration number of the waste hauler who deposited the waste, if applicable; the type and nature of the violation; the date and time the violation was observed; the names of witnesses to the violation; and the address of the location or property where the violation is observed.

The violation notice and report form shall contain a file number and a hearing date noted by the code enforcement officer in the blank spaces provided for that purpose on the form. The violation notice and report shall state that failure to appear at the hearing on the date indicated may result in a determination of liability for the cited violation and the imposition of fines and assessment of costs as provided by the applicable county ordinance. The violation notice and report shall also state that upon a determination of liability and the exhaustion of or failure to exhaust procedures for judicial review, any unpaid fines or costs imposed will constitute a debt due and owed to the county.

A copy of the violation notice and report form shall be served on the Respondent either personally or by first class mail, postage prepaid, sent to the address of the Respondent. If the name of the Respondent property owner cannot be ascertained or if service on the Respondent cannot be made by mail, service may be made on the Respondent property owner by posting, not less than 20 calendar days before the hearing is scheduled, a copy of the violation notice and report form in a prominent place on the property where the violation is found. If the violation notice and report form requires the respondent to answer within a certain amount of time, the county must reply to the answer within the same amount of time afforded to the respondent.

Chapter 4. Recording of Proceedings.

4.1 Official Recording

All proceedings, including telephonic, should be recorded by audio tape or by other approved means from start to finish. Respondents may, at their own cost, provide a certified or licensed court reporter to record the proceedings. Video or audio recording, by means other than the above, is prohibited.

4.2 Cameras and Other Non-authorized Audio/Visual Recording or Broadcasting Devices

The Department of Administrative Hearings hereby adopts and incorporates the order of the Illinois Supreme Court in *In re Photographing, Broadcasting, and Televising Proceedings in the Courts of Illinois* (MR No. 2634). Pursuant to said order, the photographing, broadcasting or televising of proceedings, other than those in the appellate and supreme courts, is prohibited. By adoption of said ruling, the photographing, broadcasting or televising of proceedings before the Department of Administrative Hearings is prohibited.

Chapter 5. Right to Representation.

5.1 Representation and Appearances

The case for the county may be presented by the code enforcement officer or by the State's Attorney. In no event, however, may the case for the county be presented by an employee of the Department of Administrative Hearings. Non corporate Respondents may represent themselves, or may be represented by an attorney at their own expense, or by an authorized representative. If the Respondent is a corporation, it may appear through any attorney, officer, director, manager, or supervisor of the corporation. Respondents representing themselves or any attorney or authorized representative appearing on behalf of a respondent in proceedings before the Department of Administrative Hearings must file a written and signed appearance with the Department of Administrative Hearings. In cases where the Respondent is represented by an attorney, the filing of an appearance shall constitute an affirmative representation, under penalty of law; by the person signing the appearance that he or she has been duly authorized by the respondent to act on the respondent's behalf in the proceedings. "Proceedings" as defined in this section includes any and all requests for a continuance, hearing or default set-aside.

5.2 Interpreters

Except in cases involving the hearing-impaired, the respondent is responsible for supplying his or her own interpreter to provide assistance during the hearing process. Interpreters shall be sworn-in and shall swear that he or she will provide an accurate translation of the proceedings.

Chapter 6. Pre-Hearing Matters.

6.1 Pre-Hearing Settlement

The party's may enter into a settlement and/or stipulation of the issues or case and present the same to the Administrative Law Judge when the matter is called. The Administrative Law Judge shall have the discretion to approve or reject a settlement proposal presented by the parties.

6.2 Pre-Hearing Motions to Amend

At any time prior to resting its case, the Petitioner may amend the allegations in the complaint. The Petitioner must notify the Respondent and the Department of Administrative Hearings, in writing, of the amended allegation unless the Petitioner is granted leave upon a finding of good cause, to orally amend the complaint. If the Petitioner amends an allegation the Respondent, upon a showing of good cause, shall be granted a continuance for a reasonable period of time. This continuance shall not be attributed to the Respondent.

6.3 Discovery

The Department of Administrative Hearings has no formal discovery procedure. Discovery shall not be used in proceedings before the Department of Administrative Hearings except by leave of an Administrative Law Judge.

6.4 Subpoenas of Witnesses and/or Documents

Pursuant to Chapter 2 Administration, Article IX Administrative Hearings, Section 2-911(f) of the Cook County Code a subpoena in proceedings before the Department of Administrative Hearings may only be issued by an Administrative Law Judge. An Administrative Law Judge may grant the issuance of a subpoena when he or she determines that said issuance is necessary. Within 3 business days of being served with a subpoena issued in accordance with this chapter, the recipient of the subpoena may appeal the order authorizing the issuance of the subpoena to an Administrative Law Judge, who shall not be the same Administrative Law Judge who ordered the issuance of the subpoena. The Administrative Law Judge may draw an adverse inference from a party's failure to comply with a subpoena.

6.5 Continuances

A continuance may be granted only upon a finding of good cause.

6.6 Pre-Hearing Motions in General

Any pre-hearing motion, other than motions to amend (6.2), shall be filed with the Department of Administrative Hearings and the opposing party at least 7 calendar days before the date set for the motion to be heard. This requirement may be waived upon a showing of good cause.

6.7 Prehearing Conference

On or before the date on which the matter is first scheduled to be heard, the Administrative Law Judge may require the parties to participate in a prehearing conference. Unless otherwise ordered by the Administrative Law Judge, the following shall be considered:

- 1) The nature, issues, and complexity of the case;
- 2) The simplification of the issues;
- 3) Amendments to the pleadings;
- 4) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
- 5) Production of documents prior to the date of the hearing; and
- 6) Production of witnesses on the date of the hearing

In cases where a Prehearing Conference is ordered each party shall at least 7 calendar days before the hearing, provide to the other party with: (a) documents which the party was ordered to provide to the opposing party, and (b) the documents the party intends to introduce into evidence and which have not been previously tendered to the opposing party.

Within 7 calendar days after the conclusion of the prehearing conference the parties shall submit to the Department of Administrative Hearings a prehearing memorandum which addresses the following issues:

A) Whether the parties agree to obviate the need for a hearing through a settlement agreement. If so, a copy of the signed agreement must be attached to the prehearing memorandum.

B) Where the parties have not entered into a settlement agreement the memorandum shall set out the following information:

- 1) A list of the persons each party intends to call as witnesses during the administrative hearing.
- 2) A description of documents which have not been tendered to the other party which each party intends to introduce into evidence
- 3) Any facts which the parties can agree upon as true.
- 4) A brief summary of intended motions
- 5) A description of documents which a party wishes the other party to produce prior to the hearing
- 6) Identification of opposing party's employees whom the party seeks to call as witnesses

If a party fails to disclose evidence or identification of a witness and then seeks to introduce the evidence or witness' testimony at the hearing, the Administrative Law Judge shall have the authority to rule on whether to admit or exclude the evidence or testimony.

Chapter 7. Management of the Case Call.

7.1 Introduction and Opening Remarks

An Administrative Law Judge should begin his or her call by introducing himself or herself to the litigants and other attendants. Opening remarks should briefly inform the litigants as to the nature and manner of the proceedings.

7.2 Order of the Call

Cases should be called in a manner to achieve a timely and efficient management of the call. Matters in which the respondent is represented by legal counsel may be called first to accommodate other tribunals which may require the presence of those officers of the court. Matters in which there are pre-tried dismissals or settlements may be called next. Contested matters may be called next. Motions to set-aside a prior default may be next, and if granted may proceed to a hearing on the underlying matter. Return for re-noticing, dismissals for want of prosecution, and defaults may be handled at the end of the call.

Chapter 8. Administrative Hearings.

8.1 Public

Unless otherwise provided by law, all administrative hearings shall be open to the public. In the event of overcrowding, however, an Administrative Law Judge may limit the number of persons allowed in a hearing room in the interest of safety and due process to the litigants. In the event of overcrowding, litigants shall be afforded priority to the hearing room over non-litigants. Members of the general public, while welcome to observe, may not testify in the actual hearing proceedings unless formally called as a witness by the Petitioner or Respondent.

8.2 Decorum

Individuals before the Department of Administrative Hearings shall conduct themselves at all times in a dignified, orderly and appropriate manner. During the hearing, all individuals shall address themselves to the Administrative Law Judge and avoid direct debate or argument amongst themselves. Individuals who fail to conduct themselves with the proper decorum may risk being removed from the proceedings.

8.3 Constitutional Challenges

The Department of Administrative Hearings and Administrative Law Judges do not have the authority to pass upon the constitutionality of a statute, ordinance, rule and regulation, or other legislative or administrative action. Parties may, however, make an objection to the constitutionality of a statute, ordinance, rule and regulation, or other legislative or administrative action for the record.

8.4 Witnesses, Documents and Exhibits

Parties are expected to have all of their witnesses, documents and exhibits available and with them at the hearing. An extra copy for the Administrative Law Judge of any document intended to be offered into evidence is desirable. Parties wishing to offer audio tape or video tape evidence must provide their own tape playing equipment.

8.5 Evidence

Pursuant to Chapter 2 Administration, Article IX Administrative Hearings, Section 2-911 (h) of the Cook County Code 2, the formal and technical rules of civil/criminal procedure and evidence shall not apply in the conduct of administrative hearings. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

8.6 Questions by the Administrative Law Officer

An Administrative Law Judge may ask questions of the parties and witnesses, if necessary, to ensure the clarity and completeness of the testimony and the record.

8.7 Standard of Proof

Pursuant to section Chapter 2 Administration, Article IX Administrative Hearings, Section 2-911 (i) of the Cook County Code, no violation may be established except upon proof by a preponderance of the evidence.

Chapter 9. The Administrative Hearing Process.

9.1 Calling the Case

The Administrative Law Judge shall call the case name and number, place the litigants and witnesses under oath, and dispose of any preliminary matters.

9.2 Presentation of the Petitioner's Case

The County bears the responsibility for presenting its case. It also bears the burden of proof in the matter and therefore must proceed first. In general, the case may be presented via a County representative, live sworn testimony and/or by sworn signed prima facie documentation. The County may seek leave to make technical amendments to its pleadings prior to resting its case. The Respondent may cross-examine any in-person testifying witness. Upon conclusion of the Petitioner's case, an Administrative Law Judge will determine whether the Petitioner has alleged sufficient evidence for the case to move forward.

9.3 Presentation of the Respondent's Case and Defenses

In the event that the case moves forward, the Respondent shall be afforded an opportunity to present a case, contest the allegations, and/or present defenses. The defenses available to the Respondent and the manner in which they may be presented are governed by the ordinance particular to the subject matter or violation in question. In general, evidence may be presented via sworn affidavit, live sworn testimony, admissible documents, admissible exhibits or other admissible evidence.

9.4 Closing Arguments

Each party may be afforded an opportunity to make a closing argument.

9.5 Ruling

At the conclusion of the hearing, the Administrative Law Judge shall make a determination on the basis of the admissible evidence, testimony and arguments presented and enter a written order in the matter.

9.7 Findings, Decision, and Order

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 a code violation exists. The determination shall be in writing and shall be designated as the hearing officer's findings, decision, and order. The findings, decision, and order shall include the hearing officer's findings of fact, a determination of whether a code violation exists based on the findings of fact, and an order imposing a fine or other penalty, directing the respondent to correct the violation, or dismissing the case if the violation is not proved. If the hearing officer determines that the respondent is

liable for the cited violation, the hearing officer shall enter an order imposing sanctions that are provided in the code for the violations proved, including the imposition of fines and the recovery of the costs of the proceedings. Costs may be recovered in the same manner as fines and penalties. A copy of the findings, decision, and order shall be served by personal service or by first class mail postage prepaid. The payment of any penalty or fine or costs of the proceedings and the disposition of that money shall be in the manner provided in this Code, unless the county board provides otherwise when establishing the code hearing unit.

9.7 Mail-in Adjudication

Pursuant to section Chapter 2 Administration, Article IX Administrative Hearings, Section 2-909 of the Cook County Code, the rules adopted by the director for the conduct of administrative adjudication proceedings may provide that a Respondent may elect to contest an alleged violation through an adjudication by mail rather than at an administrative hearing.

Chapter 10. Noticing and Default Matters.

10.1 Return for Re-Noticing

In matters where service was by means other than by personal service and a Respondent fails to appear for a scheduled hearing or fails to request a hearing, the Administrative Law Judge shall examine the file to determine if the Petitioner has filed proof of service. If proof of service has not been filed, the case may be continued on the call to afford the Petitioner an opportunity to re-notice.

10.2 Dismissal for Want of Prosecution

If at the continued date afforded under Rule 10.1 the Petitioner has not filed proof of service, the Administrative Law Judge may dismiss the matter for want of prosecution. Said first dismissal for want of prosecution shall be without prejudice.

10.3 Defaults

If a Respondent or his or her representative fails to appear for or request a hearing, and the Administrative Law Judge determines that notice was afforded, and that the Petitioner established a prima facie case, the Administrative Law Judge may find the Respondent in default and proceed with the hearing and render a decision and order in the Respondent's absence.

Chapter 11. Post-Hearing Matters.

11.1 Motion to Set-Aside a Default Order for good Cause where Proper Notice was Provided

Pursuant to section Chapter 2 Administration, Article IX Administrative Hearings, Section 2-922 (a) of the Cook County Code, a party may file a written motion to set-aside a default order. In general, the motion must 1) be filed within (21) calendar days after the mailing of the default order and 2) present a good cause reason for the movant's prior failure to appear for the hearing. The movant must also be prepared to proceed with an immediate hearing if the motion is granted. If the movant fails to appear on the date and time the motion is scheduled for a hearing, the motion will not be heard and will be stricken. Subsequent motions to set-aside for good cause will not be heard if they are outside the (21) calendar day time limitation. Issuance of the default order shall be the date that the default order was deposited in the United States mail.

11.2 Motion to Set-Aside a Default Order for Improper Notice

Pursuant to section Chapter 2 Administration, Article IX Administrative Hearings, Section 2-922 (a) of the Cook County Code, a party may file a motion to set aside a default order at any time if the Motion is based upon Improper Notice.

11.3 Appeals to the Circuit Court

The findings, decision, and order of the hearing officer shall be subject to review in the Circuit Court of Cook County. The Administrative Review Law [735 ILCS 5/3-101 et seq.] and the rules adopted pursuant thereto apply to and govern every action for the judicial review of the final findings, decision, and order of the Administrative Law Judge. The parties have (35) calendar days to file their appeal.

Chapter 12. Miscellaneous Matters.

12.1 Reviewing and/or Copying of Public Records

The public records and public case files maintained by the Department of Administrative Hearings may be viewed during normal business hours (Monday through Friday, 9:00 a.m. to 4:30 p.m.). No records or file items may be removed from the premises. The Department of Administrative Hearings reserves the right to require that requests be made in writing and that extensive or multiple requests be made by appointment.

Copies of public records and public files may be requested through the Freedom of Information Act. The Department of Administrative Hearings reserves the right to require that requests be made in writing. Fees for processing requests shall be as follows: each page is fifty cents (\$0.50) per page; one dollar (\$1.00) per certified order, and fifteen dollars (\$15.00) per audio tape. The Department of Administrative Hearings does not process requests for written transcripts of audio records.