



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Text

File #: 14-4621, **Version:** 1

PROPOSED ORDINANCE AMENDMENT

COB #310246

AMENDMENT TO THE ADMINISTRATIVE HEARINGS ORDINANCE

Submitting a Proposed Ordinance Amendment sponsored by Larry Suffredin, County Commissioner.

The following is a synopsis of the Proposed Ordinance Amendment:

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 2 Administration, Section 2-911 of the Cook County Code is hereby amended as follows:

Sec. 2-911. Administrative hearings.

- (a) Any administrative adjudication proceeding conducted by the department of administrative hearings shall afford the parties an opportunity for a hearing before an administrative law officer.
- (b) An attorney who appears on behalf of any person shall file with the administrative law officer a written appearance on a form provided by the department of administrative hearings for such purpose.
- (c) In no event shall the case for the County be presented by an employee of the department of administrative hearings; provided, however, that documentary evidence, including the notice of violation, which has been prepared by another department, agency, board or commission of the County, may be presented at the hearing by the administrative law officer.
 - (d) The administrative law officer may grant continuances only upon a finding of good cause.
 - (e) All testimony shall be given under oath or affirmation.
- (f) The administrative law officer may issue subpoenas to secure the attendance and testimony of relevant witnesses and the production of relevant documents. Issuance of subpoenas shall be subject to the restrictions contained in Section 2-913 (relating to subpoenas).
- (g) Subject to subsection (j) of this section, the administrative law officer may permit witnesses to submit their testimony by affidavit or by telephone.
- (h) The formal and technical rules of evidence shall not apply in the conduct of the hearing. 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.
- (i) No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a violation notice, or a copy thereof, issued and signed in accordance with Section 2-910 (relating to notice)

shall be prima facie evidence of the correctness of the facts specified therein.

(j) Upon the timely request of any party to the proceeding, any person, who the administrative law officer determines may reasonably be expected to provide testimony which is material and which does not constitute a needless presentation of cumulative evidence, shall be made available for cross-examination prior to a final determination of liability.

(k) The record of all hearings before an administrative law officer shall include: (i) a record of the testimony presented at the hearing, which may be made by tape recording or other appropriate means; (ii) all documents presented at the hearing; (iii) a copy of the notice of violation or notice of hearing; and (iv) a copy of the findings and decision of the administrative law officer.

(l) Upon conclusion of a hearing, the administrative law officer shall issue a final determination of liability, ~~or~~ no liability, or supervision. Upon issuing a final determination of liability the administrative law officer may: (i) impose penalties and/or fines that are consistent with applicable provisions of the County Code or a department's official fine schedule; (ii) issue orders that are consistent with applicable provisions of the County Code; and/or (iii) assess costs reasonably related to instituting the administrative adjudication proceeding; provided, however, that in no event shall the administrative law officer have the authority to impose a penalty of imprisonment or, except in cases to enforce the collection of any tax imposed and collected by the County, where this limitation shall not apply, impose a fine in excess of that authorized by the Code, exclusive of costs of enforcement.

(m) In the issuance of a final determination of liability, an administrative law officer shall inform the respondent of his or her right to seek judicial review of the final determination.

(n) Where the respondent stipulates to facts supporting the charge in the citation and agrees to pay the fines, penalties, and costs provided by law, the hearing officer may defer both (i) further proceedings and (ii) entry of a finding of liability, and enter an order for supervision of the respondent where the hearing officer, after considering the circumstances of the offense, and the history, character and condition of the offender, is of the opinion that:

(1) The offender is not likely to commit further ordinance violations,

(2) The defendant and the public would be best served if the defendant were not have a record of liability, and

(3) In the best interests of justice an order of supervision is more appropriate than a finding of liability, permitted under this Code.

(o) As a condition of supervision the hearing officer shall enter an order setting a period of time, not to exceed six months, for the respondent to pay the fines, penalties, and costs provided by law. Upon payment of the fines, penalties, and costs, the citation shall be dismissed with a finding of no liability. If the respondent fails to make the payment, within the period set out in the order, a finding of liability shall be entered against the respondent based on the respondent's stipulation. Upon the finding of liability, fines, penalties, and costs provided by law shall be assessed against the respondent.

Effective date: This Amended Ordinance shall be in effect immediately upon adoption.