

## ORDINANCE NO. 20-O-57

### *An Ordinance Amending Title 1, Chapter 7, Article L, Providing a System of Administrative Adjudication of the City Code of Woodstock, Illinois*

**WHEREAS**, the City of Woodstock, McHenry County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the City's home rule powers and functions as granted in the Constitution of the State of Illinois; and

**WHEREAS**, the City's enforcement of its codes and regulations is an important means of ensuring a safe environment for its residents; and

**WHEREAS**, the Illinois Municipal Code provides that any home rule municipality may provide by ordinance for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution. (65 ILCS 5/1-2.1-1 et seq.); and

**WHEREAS**, the City Council believes an amendment to the City's Code will lead to more effective enforcement in a manner that will improve the health, safety and welfare of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the CITY COUNCIL of the CITY OF WOODSTOCK, McHenry County, Illinois, as follows:

**SECTION 1:** Title 1, Chapter 7, Article L shall be renamed "Administrative Adjudication".

**SECTION 2:** Title 1, Chapter 7, Article L, Section 1 shall be deleted and replaced with the following text:

The following statutes, as from time to time amended, are adopted in their entirety and any person charged with the violation of a municipal ordinance may be prosecuted under and in accordance with the provisions herein: a) 65 Illinois Compiled Statutes 5/1-2.1-1 et seq., administrative adjudications; b) 65 Illinois Compiled Statutes 5/11-31.1-1 et seq., building code violations; c) 625 Illinois Compiled Statutes 5/11-208.3, administrative adjudication of violations of traffic regulations concerning the standing, parking or conditions of vehicles and automated traffic law violations; d) 625 Illinois Compiled Statutes 5/11-208.6, which authorizes the City to create and implement an automated traffic law enforcement system; and e) 625 Illinois Compiled Statutes 5/11-208.7, administrative fees and procedures for impounding vehicles for specified violations. The adoption of these statutes shall not preclude the City from using other methods to enforce City ordinances.

**SECTION 3:** Title 1, Chapter 7, Article L, Section 3(A) shall be deleted and replaced with the following text:

A. The powers and duties of the hearing officer include:

- (1) Hearing testimony and accepting evidence that is relevant to the existence of the code violation;
- (2) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
- (3) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;
- (4) Issuing a determination, based on the evidence presented at the hearing, of whether a code violation exists. The determination shall be in writing and shall include a written finding of fact, decision, and order including the fine, penalty, or action with which the defendant must comply; and
- (5) Imposing penalties consistent with applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000, or at the option of the City, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the 22<sup>nd</sup> Judicial Circuit, McHenry County. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the City's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City.

**SECTION 4:** Title 1, Chapter 7, Article L, Section 3(B) shall be deleted and replaced with the following text:

B. Every hearing officer shall be an attorney licensed to practice law in the State of Illinois for at least 3 years and have successfully completed a formal training program which includes the following:

- (1) Instruction on the rules of procedure of the administrative hearings which they will conduct;
- (2) Orientation to each subject area of the code violations that they will adjudicate;
- (3) Observation of administrative hearings; and
- (4) Participation in hypothetical cases, including ruling on evidence and issuing final orders.

**SECTION 5:** Title 1, Chapter 7, Article L, Section 5(C) shall be deleted and replaced with the following text:

C. The violation notice, report, and hearing notice shall be forwarded to the code hearing department and a docket number shall be assigned and stamped on all copies thereto and a hearing date shall be noted on the form. Hearings shall be scheduled

with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least 15 days after service of process to prepare for a hearing. For purposes of this subsection (C), "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by mail, the 15-day period shall begin to run on the day that the notice is deposited in the mail.

**SECTION 6:** Title 1, Chapter 7, Article L, Section 5(D) shall be deleted and replaced with the following text:

D. A copy of the violation notice, report, and hearing notice shall be (1) maintained in the files of the code hearing department and shall become part of the record of the hearing, (2) provided to the individual representing the City, and (3) served to the Defendant. The Defendant shall be served with process 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 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.

Service of a building code violation shall comply with 65 ILCS 5/11-31.1-4, as amended from time to time.

Service of a vehicular parking, standing, or compliance violation notice shall comply with 625 ILCS 5/11-208.3(b)(3) as amended from time to time.

**SECTION 7:** Title 1, Chapter 7, Article L, Section 7 shall be deleted and replaced with the following text:

Lack of preparation shall not be grounds for a continuance. The case for the City may be presented by an attorney designated by the City or by any other City employee, except that the case for the City shall not be presented by an employee of the code hearing department. The case for the defendant may be presented by the defendant or the defendant's attorney or any other agent or representative of the defendant.

**SECTION 8:** Title 1, Chapter 7, Article L, Section 8 shall be deleted and replaced with the following text:

At the hearing, the hearing officer shall preside, shall hear testimony and shall accept any evidence relevant to the existence or nonexistence of a code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this article. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent person in the conduct of their affairs. Parties may be represented by counsel, present witnesses, and cross-examine opposing witnesses.

**SECTION 9:** Title 1, Chapter 7, Article L, Section 13(B) shall be deleted and replaced with the following text:

B. After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a code violation, unless stayed by a court of competent jurisdiction, the findings, decision, and order of the hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction, including, but not limited to, judgments for the recovery of money, and any other orders and injunctions that are requested by the City to enforce the order of the hearing officer to correct a code violation.

**SECTION 10:** Title 1, Chapter 7, Article L, Section 13(C) shall be deleted and replaced with the following text:

C. In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by the City to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a hearing officer, shall be a debt due and owing the City and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant this section, the City shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date that the notice was deposited in the mail.

**SECTION 11:** Title 1, Chapter 7, Article L, Section 13 shall be amended to add subparagraph (D), as 7(L)(13)(D) as follows:

D. Upon being recorded in the manner required by article XII of the Illinois Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the City under this section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

**SECTION 12:** Title 1, Chapter 7, Article L, Section 13 shall be amended to add subparagraph E, as 7(L)(13)(E), as follows:

E. A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within twenty-one (21) days after the issuance of the order 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 City did not provide proper service of process. This section shall not be

construed to limit the hearing officer from setting aside any judgment when the petition is uncontested or by agreement of the parties. If any judgment is set aside pursuant to this subsection, the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the City as a result of the vacated default judgment.

**SECTION 13:** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 14:** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 15:** This Ordinance shall be known as Ordinance 20-O-57 and shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

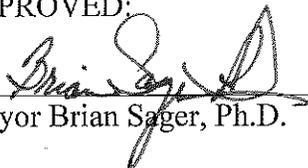
Ayes: Flynn, Lohmeyer, Piersall, Prindiville, Tebo, Turner, Mayor Sager

Nays: None

Abstentions: None

Absentees: None

APPROVED:

  
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Mayor Brian Sager, Ph.D.

(SEAL)

ATTEST: Cindy Smiley  
City Clerk Cindy Smiley

By Chief Deputy City Clerk Jane Howie

Passed: 8/4/20

Approved: 8/4/20

Published: 8/4/20

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**CERTIFICATION**

I, CINDY SMILEY, do hereby certify that I am the duly appointed, acting and qualified Clerk of the City of Woodstock, McHenry County, Illinois, and that as such Clerk, I am the keeper of the records and minutes and proceedings of the Mayor and Council members of said City.

I do hereby further certify that at a regular meeting of the Woodstock City Council, held on the 4<sup>th</sup> day of August, 2020, the foregoing Ordinance entitled *An Ordinance Amending Title 1, Chapter 7, Article L, Providing a System of Administrative Adjudication of the City Code of Woodstock, Illinois*, was duly passed by said City Council.

The pamphlet form of Ordinance No. 20-O-57, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the City Hall, commencing on the 11<sup>th</sup> day of August, 2020, and will continue for at least 10 days thereafter. Copies of such Ordinance are also available for public inspection upon request in the office of the City Clerk.

I do further certify that the original, of which the attached is a true and correct copy, is entrusted to me as the Clerk of said City for safekeeping, and that I am the lawful custodian and keeper of the same.

Given under my hand and corporate seal of the City of Woodstock 11<sup>th</sup> day of August, 2020.

*Cindy Smiley*

Cindy Smiley, Clerk  
City of Woodstock,  
McHenry County, Illinois

*By Chief Deputy City Clerk Jane Hourie*

(SEAL)

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**ORDINANCE PASSED BY THE  
MAYOR AND CITY COUNCIL  
OF THE CITY OF WOODSTOCK**

**AT THEIR REGULAR MEETING ON AUGUST 4, 2020**

**PUBLISHED IN PAMPHLET FORM BY THE AUTHORITY OF**

**THE CITY COUNCIL**

**OF THE**

**CITY OF WOODSTOCK**

**Mayor:**

**Brian Sager**

**City Council:**

**Darrin Flynn  
Lisa Lohmeyer  
Wendy Piersall  
James Prindiville  
Gordon Tebo  
Michael Turner**

**Clerk:**

**Cindy Smiley**

