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City of St. Charles, Illinois

Ordinance No. 2015-M-18

Motion to approve an Ordinance Amending Title 9, Entitled "Public Peace, Morals and Welfare", Chapter 9.65 "Administrative Adjudication" of the St. Charles Municipal Code.

Adopted by the

City Council

of the

City of St. Charles

March 2, 2015

Published in pamphlet form by authority of the City Council of the City of St. Charles, Kane and Du Page Counties, Illinois, March 6, 2015

Nancy Gamson
City Clerk

CITY OF ST. CHARLES (SEAL) INCORPORATED OCT

JB18

City of St. Charles, Illinois
Ordinance No. 2015-M- 18

An Ordinance Amending Title 9, Entitled "Public Peace, Morals and Welfare", Chapter 9.65 "Administrative Adjudication" of the St. Charles Municipal Code

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE AND DU PAGE COUNTIES, ILLINOIS, AS FOLLOWS:

SECTION 1: That Title 9 Entitled "Public Peace, Morals and Welfare", Chapter 9.65 "Administrative Adjudication" of the St. Charles Municipal Code is hereby amended by deleting this Chapter in its entirety and replacing the same and substituting the following therefore:

Chapter 9.65

ADMINISTRATIVE ADJUDICATION

Sections:
9.65.010 Administrative Adjudication of Municipal Code Violations
9.65.020 Administrative Adjudication Procedures Not Exclusive
9.65.030 Code Hearing Units; Powers of Hearing Officers
9.65.050 Rules of Evidence Shall Not Govern
9.65.060 Judicial Review
9.65.070 Enforcement of Judgment
9.65.080 Impact on Existing Administrative Adjudication Systems
9.65.090 Severability

A. The City of St. Charles hereby provides for a system of administrative adjudication of municipal code violations to the extent permitted by the Illinois Constitution and as expressly authorized by the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 et seq., as amended. As used in this ordinance, a "system of administrative adjudication" shall include the adjudication of any violation of the City of St. Charles municipal ordinances, except for:
   1. proceedings not within the statutory or the home rule authority of municipalities; and
   2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
   3. any reportable offense under Section 6-204 of the Illinois Vehicle Code; and
   4. proceedings governed by Chapter 2.19 and Title 17 of the St. Charles Municipal Code.

(Ord. 2013-M-67 § 1.)

B. The "system of administrative adjudication" shall also include offenses under the Criminal Code which may, at the discretion of the Chief of Police or his sworn officers, be filed as a Municipal Code violation, with the following exceptions:
   1. Any felony or crime of moral turpitude.

9.65.020 Administrative Adjudication Procedures Not Exclusive

A. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce municipal ordinances, including but not limited to, relief in the Circuit Court for the Sixteenth Judicial Circuit, Kane County, Illinois, the Eighteenth Judicial Circuit, DuPage County, Illinois, or any other court of competent jurisdiction.

B. The adoption by the City of a system of administrative adjudication does not preclude the City from using other methods to enforce the laws of the State of Illinois.

9.65.030 Code Hearing Units; Powers of Hearing Officers

A. There is hereby established a Code Hearing Unit in the City of St. Charles municipal government. The Code Hearing Unit shall have jurisdiction to adjudicate any violation of the City of St. Charles Municipal Ordinances (hereinafter referred to from time to time as "Code Violations") except for the following:
   1. proceedings not within the statutory or the home rule authority of municipalities; and
   2. any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and
   3. any reportable offense under Section 6-204 of the Illinois Vehicle Code; and
   4. proceedings governed by Chapter 2.19 and Title 17 of the St. Charles Municipal Code.

(Ord. 2013-M-67 § 2.)

B. Hearing Officers shall preside over all administrative adjudication hearings. The powers and duties of Hearing Officers shall include the following:
   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;
   5. imposing penalties as set forth below, 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 municipality, 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 judicial circuit in which the municipality is located. The maximum monetary fine under this item (5), shall be exclusive of costs of enforcement or costs imposed to secure compliance with the

municipality's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City; and

6. the amount of penalty imposed shall be as set forth in this Paragraph. Said penalties shall not, in any way, modify the amount or type of penalty applicable to any code violation filed in the Circuit Court. Regardless of whether a party requests a hearing pursuant to this Chapter, the penalty for citations issued in accordance herewith shall be as follows:
    a. Section 13.16.205, Water Conservation, $50;
    b. Section 8.24.070, Deposits on Streets, $50;
    c. Section 12.04.185, Snow Removal, $50;
    d. Section 9.32.010, Unauthorized Posting, $50;
    e. Section 9.24.010 et seq., Noise Prohibitions, $75;
    f. Section 8.20.010, Prohibition of Fireworks, $75;
    g. Section 5.16.060(A), Prohibited Sale of Tobacco to Minors, $75;
    h. Section 10.06.010, Automated Traffic Law Enforcement System violation, as set forth in Section 10.06.010; and,
    i. all other code violations fines within the jurisdiction of this system of administrative adjudication are listed under their own specific code title.

C. Prior to conducting administrative adjudication proceedings, administrative Hearing Officers shall 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.

    In addition, every administrative Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three (3) years.

D. A proceeding before a code hearing unit shall be instituted upon the filing of a written pleading by an authorized official of the municipality.

9.65.050 Rules of Evidence Shall Not Govern

The formal and technical rules of evidence shall not apply in an adjudicatory hearing permitted under this Division. 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.

9.65.060 Judicial Review

Any final decision by a Code Hearing Unit shall constitute a final determination for purposes of judicial review, and shall be subject to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

9.65.070 Enforcement of Judgment

A. 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 are a debt due and owing the City and may be collected in accordance with applicable law.

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.

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 a municipality 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 municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a Hearing Officer pursuant to this subsection (c), the municipality 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 seven (7) days from the date that notice is served. If notice is served by mail, the seven (7) day period shall begin to run on the date that the notice was deposited in the mail.

D. Upon being recorded in the manner required by Article XII of the Code of Civil Procedure (735 ILCS 5/12-101 et seq.) or by the Uniform Commercial Code (810 ILCS 5/1-101 et seq.) 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 Ordinance. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

E. A Hearing Officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 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 municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection (e), 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 judgment.

9.65.080 Impact on Existing Administrative Adjudication Systems

This ordinance shall not affect the validity of systems of administrative adjudication that were authorized by State law, including home rule authority, and in existence prior to the effective date of this ordinance.

9.65.090 Severability

Should a court of competent jurisdiction determine that one or more sections or subsections of this ordinance is, or are invalid, the remaining sections or subsections hereof shall remain in full force and effect.

(Ord. 2007-M-53 § 2.)

SECTION 2. That after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the Council, or (ii)

within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

SECTION 3. This Ordinance shall be in full force and effect from and after its passage by a vote of the majority of the Corporate Authorities now holding office and approval in the manner provided by law.

PRESENTED to the City Council of the city of St. Charles, Illinois, this 2nd day of March, 2015.

PASSED by the City Council of the city of St. Charles, Illinois, this 2nd day of March, 2015.

APPROVED by the Mayor of the city of St. Charles, Illinois, this 2nd day of March, 2015.

Raymond P. Rogina, Mayor

ATTEST:

Nancy Garrison
City Clerk

COUNCIL VOTE:
Ayes : 10
Nays : 0
Absent : 0
Abstain : 0

CITY OF ST. CHARLES INCORPORATED OCT 17 1872

State of Illinois)
) **ss.**
Counties of Kane and DuPage)

Certificate

I, NANCY GARRISON, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

I further certify that on March 2, 2015, the Corporate Authorities of such municipality passed and approved Ordinance No. 2015-M-18, entitled

"Motion to approve an Ordinance Amending Title 9, Entitled "Public Peace, Morals and Welfare", Chapter 9.65 "Administrative Adjudication" of the St. Charles Municipal Code.,"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2015-M-18, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on March 6, 2015, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this 2nd

day of March, 2015.

(S E A L)

Nancy Garrison
Municipal Clerk