



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB4744

Introduced 01/13/06, by Rep. Kathleen A. Ryg

SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-2.2-5
65 ILCS 5/1-2.2-10
65 ILCS 5/1-2.2-20
65 ILCS 5/1-2.2-45
65 ILCS 5/1-2.2-50
65 ILCS 5/1-2.2-55

Amends the Illinois Municipal Code. Provides that code hearing departments in non-home rule municipalities may adjudicate violations of municipal ordinances including building code violations. Provides that adjudicatory hearings shall be presided over by hearing officers and sets forth their powers and duties. Provides that the findings, decisions, and order of the hearing officer shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law. Contains other provisions. Effective immediately.

LRB094 17439 HLH 52734 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 1-2.2-5, 1-2.2-10, 1-2.2-20, 1-2.2-30,
6 1-2.2-45, 1-2.2-50, and 1-2.2-55 as follows:

7 (65 ILCS 5/1-2.2-5)

8 Sec. 1-2.2-5. Definitions. As used in this Division, unless
9 the context requires otherwise:

10 "Code" means any municipal ordinance, including ~~except for~~
11 ~~(i)~~ building code violations that may ~~must~~ be adjudicated
12 pursuant to Division 31.1 of Article 11 of this Act, but does
13 not include ~~and (ii)~~ any offense under the Illinois Vehicle
14 Code or a similar offense that is a traffic regulation
15 governing the movement of vehicles and except for any
16 reportable offense under Section 6-204 of the Illinois Vehicle
17 Code.

18 "Hearing officer" means a municipal employee or an officer
19 or agent of a municipality, ~~other than a law enforcement~~
20 ~~officer~~, whose duty it is to:

21 (1) preside at an administrative hearing called to
22 determine whether or not a code violation exists;

23 (2) hear testimony and accept evidence from all interested
24 parties relevant to the existence of a code violation;

25 (3) preserve and authenticate the transcript and record of
26 the hearing and all exhibits and evidence introduced at the
27 hearing; and

28 (4) issue and sign a written finding, decision, and order
29 stating whether a code violation exists.

30 (Source: P.A. 90-777, eff. 1-1-99.)

31 (65 ILCS 5/1-2.2-10)

1 Sec. 1-2.2-10. Code hearing department.

2 The corporate authorities of any municipality may adopt
3 this Division and establish a code hearing department within an
4 existing code enforcement agency or as a separate and
5 independent agency in the municipal government. The function of
6 the hearing department is to expedite the prosecution and
7 correction of code violations in the manner set forth in this
8 Division.

9 (a) The code hearing department may adjudicate any
10 violation of a municipal ordinance, including ~~except for (i)~~
11 building code violations that may ~~must~~ be adjudicated pursuant
12 to Division 31.1 of Article 11 of this Act but except for ~~and~~
13 ~~(ii)~~ any offense under the Illinois Vehicle Code or similar
14 offense that is a traffic regulation governing the movement of
15 vehicles and except for any reportable offense under Section
16 6-204 of the Illinois Vehicle Code.

17 (b) Adjudicatory hearings shall be presided over by hearing
18 officers. The powers and duties of a hearing officer shall
19 include:

20 (1) hearing testimony and accepting evidence that is
21 relevant to the existence of the code violation;

22 (2) issuing subpoenas directing witnesses to appear
23 and give relevant testimony at the hearing, upon the
24 request of the parties or their representatives;

25 (3) preserving and authenticating the record of the
26 hearing and all exhibits and evidence introduced at the
27 hearing;

28 (4) issuing a determination, based on the evidence
29 presented at the hearing, of whether a code violation
30 exists. The determination shall be in writing and shall
31 include a written finding of fact, decision, and order
32 including the fine, penalty, or action with which the
33 defendant must comply; and

34 (5) imposing penalties consistent with applicable code
35 provisions and assessing costs upon finding a party liable
36 for the charged violation, except, however, that in no

1 event shall the hearing officer have authority to (i)
2 impose a penalty of incarceration, or (ii) impose a fine in
3 excess of \$50,000, or at the option of the municipality,
4 such other amount not to exceed the maximum amount
5 established by the Mandatory Arbitration System as
6 prescribed by the Rules of the Illinois Supreme Court from
7 time to time for the judicial circuit in which the
8 municipality is located. The maximum monetary fine under
9 this item (5), shall be exclusive of costs of enforcement
10 or costs imposed to secure compliance with the
11 municipality's ordinances and shall not be applicable to
12 cases to enforce the collection of any tax imposed and
13 collected by the municipality.

14 (Source: P.A. 90-777, eff. 1-1-99.)

15 (65 ILCS 5/1-2.2-20)

16 Sec. 1-2.2-20. Instituting code hearing proceedings. When
17 a police officer or other individual authorized to issue a code
18 violation finds a code violation to exist, he or she shall note
19 the violation on a multiple copy violation notice and report
20 form that indicates (i) the name and address of the defendant,
21 (ii) the type and nature of the violation, (iii) the date and
22 time the violation was observed, and (iv) the names of
23 witnesses to the violation.

24 The violation report form shall be forwarded to the code
25 hearing department where a docket number shall be stamped on
26 all copies of the report and a hearing date shall be noted in
27 the blank spaces provided for that purpose on the form. In
28 non-emergency situations, if requested by the defendant, the
29 defendant shall have at least 15 days after service of process
30 to prepare for a hearing. For the purposes of this Section,
31 "non emergency situation" means any situation that does not
32 reasonably constitute a threat to the public interest, safety,
33 or welfare. If service is provided by mail, the 15-day period
34 shall begin to run on the day that the notice is deposited in
35 the mail. ~~The hearing date shall not be less than 30 nor more~~

1 ~~than 40 days after the violation is reported.~~

2 One copy of the violation report form shall be maintained
3 in the files of the code hearing department and shall be part
4 of the record of hearing, one copy of the report form shall be
5 returned to the individual representing the municipality in the
6 case so that he or she may prepare evidence of the code
7 violation for presentation at the hearing on the date
8 indicated, and one copy of the report form shall be served by
9 personal service or by first class mail to the defendant along
10 with a summons commanding the defendant to appear at the
11 hearing. In municipalities with a population under 3,000,000,
12 if the violation report form requires the respondent to answer
13 within a certain amount of time, the municipality must reply to
14 the answer within the same amount of time afforded to the
15 respondent.

16 (Source: P.A. 94-616, eff. 1-1-06.)

17 (65 ILCS 5/1-2.2-45)

18 Sec. 1-2.2-45. Findings, decision, and order. At the
19 conclusion of the hearing, the hearing officer shall make a
20 determination on the basis of the evidence presented at the
21 hearing as to whether or not a code violation exists. The
22 determination shall be in writing and shall be designated as
23 findings, decision, and order. The findings, decision, and
24 order shall include (i) the hearing officer's findings of fact;
25 (ii) a decision of whether or not a code violation exists based
26 upon the findings of fact; and (iii) an order that states the
27 sanction or dismisses the case if a violation is not proved. ~~A~~
28 ~~monetary sanction for a violation under this Division shall not~~
29 ~~exceed the amount provided for in Section 1-2-1 of this Act. A~~
30 ~~copy of the findings, decision, and order shall be served on~~
31 ~~the defendant within 5 days after it is issued. Service shall~~
32 ~~be in the same manner that the report form and summons are~~
33 ~~served under Section 1-2.2-20 of this Division. Payment of any~~
34 ~~penalty or fine and the disposition of fine money shall be in~~
35 ~~the same manner as set forth in the code, unless the corporate~~

1 ~~authorities adopting this Division provide otherwise.~~

2 (Source: P.A. 90-777, eff. 1-1-99.)

3 (65 ILCS 5/1-2.2-50)

4 Sec. 1-2.2-50. Review under Administrative Review Law. The
5 findings, decision, and order of the hearing officer shall
6 constitute a final determination for purposes of judicial
7 review and shall be subject to review under the Illinois
8 Administrative Review Law ~~in the circuit court of the county in~~
9 ~~which the municipality is located. The provisions of the~~
10 ~~Administrative Review Law, and the rules adopted pursuant~~
11 ~~thereto, shall apply to and govern every action for the~~
12 ~~judicial review of the findings, decision, and order of a~~
13 ~~hearing officer under this Division.~~

14 (Source: P.A. 90-777, eff. 1-1-99.)

15 (65 ILCS 5/1-2.2-55)

16 Sec. 1-2.2-55. ~~Judgment on findings, decision, and order.~~

17 (a) Any fine, other sanction, or costs imposed, or part of
18 any fine, other sanction, or costs imposed, remaining unpaid
19 after the exhaustion of, or the failure to exhaust, judicial
20 review procedures under the Administrative Review Law are ~~shall~~
21 ~~be~~ a debt due and owing the municipality and, ~~as such,~~ may be
22 collected in accordance with applicable law.

23 (b) After expiration of the period within which judicial
24 review under the Administrative Review Law may be sought for a
25 final determination of the code violation, unless stayed by a
26 court of competent jurisdiction, the findings, decision, and
27 order of the hearing officer may be enforced in the same manner
28 as a judgment entered by a court of competent jurisdiction. ~~the~~
29 ~~municipality may commence a proceeding in the circuit court of~~
30 ~~the county in which the municipality is located for purpose of~~
31 ~~obtaining a judgment on the findings, decision, and order.~~
32 ~~Nothing in this Section shall prevent a municipality from~~
33 ~~consolidating multiple findings, decisions, and orders against~~
34 ~~a person in such a proceeding. Upon commencement of the action,~~

1 ~~the municipality shall file a certified copy of the findings,~~
2 ~~decision, and order, which shall be accompanied by a~~
3 ~~certification that recites facts sufficient to show that the~~
4 ~~findings, decision, and order was issued in accordance with~~
5 ~~this Division and the applicable municipal ordinance. Service~~
6 ~~of the summons and a copy of the petition may be by any method~~
7 ~~provided for by Section 2-203 of the Code of Civil Procedure or~~
8 ~~by certified mail, return receipt requested, provided that the~~
9 ~~total amount of fines, other sanctions, and costs imposed by~~
10 ~~the findings, decision, and order does not exceed \$2,500. If~~
11 ~~the court is satisfied that the findings, decision, and order~~
12 ~~was entered in accordance with the requirements of this~~
13 ~~Division and the applicable municipal ordinance and that the~~
14 ~~defendant had an opportunity for a hearing under this Division~~
15 ~~and for judicial review as provided in this Division:~~

16 ~~(1) The court shall render judgment in favor of the~~
17 ~~municipality and against the defendant for the amount~~
18 ~~indicated in the findings, decision and order, plus costs.~~
19 ~~The judgment shall have the same effect and may be enforced~~
20 ~~in the same manner as other judgments for the recovery of~~
21 ~~money.~~

22 ~~(2) The court may also issue any other orders and~~
23 ~~injunctions that are requested by the municipality to~~
24 ~~enforce the order of the hearing officer to correct a code~~
25 ~~violation.~~

26 (c) In any case in which a defendant has failed to comply
27 with a judgment ordering a defendant to correct a code
28 violation or imposing any fine or other sanction as a result of
29 a code violation, any expenses incurred by a municipality to
30 enforce the judgment, including, but not limited to, attorney's
31 fees, court costs, and costs related to property demolition or
32 foreclosure, after they are fixed by a court of competent
33 jurisdiction or a hearing officer, shall be a debt due and
34 owing the municipality and may be collected in accordance with
35 applicable law. Prior to any expenses being fixed by a hearing
36 officer pursuant to this subsection (c), the municipality shall

1 provide notice to the defendant that states that the defendant
2 shall appear at a hearing before the administrative hearing
3 officer to determine whether the defendant has failed to comply
4 with the judgment. The notice shall set the date for such a
5 hearing, which shall not be less than 7 days from the date that
6 notice is served. If notice is served by mail, the 7-day period
7 shall begin to run on the date that the notice was deposited in
8 the mail.

9 (d) Upon being recorded in the manner required by Article
10 XII of the Code of Civil Procedure or by the Uniform Commercial
11 Code, a lien shall be imposed on the real estate or personal
12 estate, or both, of the defendant in the amount of any debt due
13 and owing the municipality under this Section. The lien may be
14 enforced in the same manner as a judgment lien pursuant to a
15 judgment of a court of competent jurisdiction.

16 (e) A hearing officer may set aside any judgment entered by
17 default and set a new hearing date, upon a petition filed
18 within 21 days after the issuance of the order of default, if
19 the hearing officer determines that the petitioner's failure to
20 appear at the hearing was for good cause or at any time if the
21 petitioner establishes that the municipality did not provide
22 proper service of process. If any judgment is set aside
23 pursuant to this subsection (e), the hearing officer shall have
24 authority to enter an order extinguishing any lien which has
25 been recorded for any debt due and owing the municipality as a
26 result of the vacated default judgment.

27 (Source: P.A. 90-777, eff. 1-1-99.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.