

WHAT IS AN ADMINISTRATIVE HEARING?

An administrative hearing is similar to a mini civil trial. By law, there are no juries in administrative hearings. Hearings before the Department are held before an administrative hearing officer and are open to the public. The person or entity bringing the case is called the plaintiff, and the person or entity against whom the case is brought is called the defendant. The City is usually the plaintiff in cases before the Department.

Both sides have an opportunity to present their cases by sworn testimony and/or exhibits, with all live testimony given under oath and recorded by a court reporter. Since administrative hearings are civil rather than criminal in nature, the burden of proof required is “by a preponderance of the evidence,” and not “beyond a reasonable doubt.” “By a preponderance of the evidence” means that it is more likely than not that an ordinance violation has occurred. If a violation is found to have occurred, the hearing officer may impose a fine or other penalties, including correction of the violation. Jail time cannot be given. The hearing officer will put his/her final decision in writing, called the “Findings, Decision and Order.” Either party may appeal a final order to the Sangamon County Circuit Court.

WHAT DO I DO IF I RECEIVE A NOTICE OF VIOLATION?

If you receive a notice of violation, and that document orders you to appear at a hearing before the hearing officer, you or your representative **must** show up at the location, date and time specified on the summons.

1. *Your right to an opportunity to be heard.*

You have the right to: (a) represent yourself; (b) hire an attorney to represent you at your own expense; and/or (c) have an authorized person represent you. Your authorized representative may be a friend, family member or employee. Please note that there are

no public defenders in civil matters such as administrative hearings. Also remember that there is no right to a jury in administrative hearings.

You have the right or the opportunity to be heard; that is, to tell the hearing officer your side of the story. You may tell your side of the story by yourself, with witnesses, and/or with physical evidence such as receipts or photos. Your presentation of your side of the case must, however, deal specifically with the violation before the court. You must also bring any witnesses and other evidence with you on the date of your hearing.

2. *What if I cannot attend the hearing?*

If you cannot attend the hearing, you or your representative must arrange for a continuance (a re-scheduling) of the hearing. To get a continuance, you must have a valid reason. The fact that you may be scheduled to work or are unprepared on the hearing date are not valid reasons for a continuance. A written request for a continuance can be filed with the City Clerk. Whether or not you are given a continuance is up to the hearing officer. By ordinance, continuances may not be granted for more than 25 days from the first hearing date.

3. *What if I do not appear at the hearing?*

If you do not appear at the hearing, the hearing officer will hold the hearing without you, and a fine or other penalties may be entered against you. This is called a default judgment. Arriving late for a hearing may be treated as not appearing at all.

4. *What if I missed the hearing due to an illness or an emergency?*

If you missed the hearing due to an illness or emergency, the hearing was probably held without you. You may, however, have an opportunity to set aside, or vacate (cancel), a decision against you if you file a motion to set aside the default judgment with the clerk of the Department within 21 days. If your motion is

allowed, you will be expected to proceed with an immediate hearing. After the 21st day you may not be able to set aside or vacate the decision. You may also appeal a decision against you to the Circuit Court of Sangamon County.

WHAT HAPPENS IN THE HEARING ROOM?

1. *Where do I go?*

Administrative hearings for the City of Springfield are held in the City Council Chambers, Third Floor, Municipal Center West (300 South 7th Street). Your summons should tell you the date and time to appear. If this information is missing, please contact the Department at (217) 789-2375 and ask for help.

2. *What do I do in the hearing room?*

When you get to the hearing room, please sign in and have a seat. Please remain silent until your case is called. Food and drink are not allowed in the Council Chambers. Proper conduct must be maintained at all times. People disrupting the proceedings will be removed from the room and may risk having their cases heard without them.

3. *Negotiating settlement of your case.*

Although not obligated to do so, the municipal prosecutor may offer you an opportunity to settle your case prior to a hearing. Settlement negotiations may offer you a chance to negotiate a lower fine or dismissal. Whether or not you want to discuss your case is entirely your decision. These negotiations are not conducted by the hearing officer or by the Department, and are completely independent and separate from your hearing. You are not obligated to discuss your case and are also not obligated to accept any offer of settlement from the City.

4. *When the hearing officer enters the room.*

When the hearing officer enters the room, he or she may give a few opening remarks. The hearing

officer will then start to call the cases, usually in the following order: cases where the defendant has an attorney, cases where the defendant does not have an attorney, and cases where the defendant has not appeared. Please note that cases where the defendant has an attorney are not being given preferential treatment, but are called first because the attorneys, as officers of the court, may be required to appear before judges in Sangamon County Circuit Court.

WHAT HAPPENS WHEN MY CASE IS CALLED?

When your case is called, you should answer “here” or “present” and step up to the podium in front of the hearing officer. In a case where you are listed as the defendant, before you are even required to tell your side of the story, the hearing officer will hear the City’s case to see if the City has met its initial burden of proof to proceed against you.

1. The City’s case (the Notice of Violation).

The City has the initial burden of proof in all cases where you are listed as the defendant. This means that the City must present evidence that a violation occurred. The City has to do this either by live testimony or by sworn documents (*i.e.*, a signed ticket or signed inspection report). The City’s case will be presented by the municipal prosecutor. In certain circumstances, the Notice of Violation alone may be sufficient for the City to present its case. If the hearing officer determines that the City has not presented sufficient evidence, you may be found “not liable” (you win), and the case will be dismissed. If the hearing officer determines that the City has presented sufficient evidence, you will have the opportunity to explain or rebut the City’s evidence (*i.e.*, to tell your side of the story).

2. The Defendant’s case.

This is your opportunity to tell the hearing officer your side of the story. You, your witness, and/or your evidence may show the hearing officer why the

information on the City’s violation notice is wrong or that the City has cited the wrong person. If you have witnesses or evidence to substantiate or prove your case, you must have present it at the hearing.

3. Questions by the hearing officer.

The hearing officer may ask questions of the parties and their witnesses in order to clarify the evidence.

4. The hearing officer’s decision.

After both sides are provided an opportunity to be heard, the hearing officer will render a decision. The hearing officer’s decision will be based on a preponderance of the evidence; that means whether it is more likely than not that an ordinance violation occurred or did not occur. The decision will be in the form of a written order. If the hearing officer finds that a violation has occurred, he or she may impose fines or other penalties as the ordinance provides. Whether or not a hearing is held, you will be provided with a copy of the hearing officer’s order and any other notices or documents relevant to that day’s proceedings.

WHAT IF I DISAGREE WITH THE ADMINISTRATIVE HEARING OFFICER’S DECISION?

If you disagree with the administrative hearing officer’s decision, it will not help you to continue to argue your case, but you do have the right to appeal the decision to the Circuit Court of Sangamon County. Your order will inform you of the time period you have in which to appeal.

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THE CITY OF SPRINGFIELD, ILLINOIS



CODE HEARING DEPARTMENT

The Springfield Code Hearing Department (the “Department”) was created on June 15, 1997, by City ordinance. The Department holds administrative hearings on matters involving alleged violations of the Springfield Municipal Code. Previously, all ordinance violations were heard in the Sangamon County Circuit Court. Now, most matters involving ordinance violations relating to real property are heard by the Department’s administrative hearing officer.

CASES HEARD BEFORE THE CODE HEARING DEPARTMENT

The Department conducts hearings on a wide variety of ordinance violations. The most common matters coming before the Department involve violations of the City Building, Zoning, Fire Safety, Housing, and Environmental Health Codes.

HOW A CASE GETS TO THE DEPARTMENT

The Department does not initiate or file a case. Cases are referred to the Department by the various city departments or agencies responsible for protecting the public health, safety and welfare. A city inspector may write a citation or file a case in the course of his/her duties or in response to a citizen’s or community group’s complaint about an alleged violation of a local ordinance.