

Gurnee Municipal Code

Chapter 2 – Administration

DIVISION 10. ADMINISTRATIVE HEARING PROCEDURES

Sec. 2-300. Purpose; established.

(a) Purpose. The purpose of this section is to provide for the fair and efficient enforcement of village ordinances as may be allowed by law and directed by ordinance, through an administrative adjudication of violations of village ordinances and establishing a schedule of fines and penalties, and authority and procedures for the collection of unpaid fines and penalties. Further, that Division 2.1 of Article 1 of the Illinois Municipal Code (65 ILCS 5/1-2.1) is hereby adopted.

(b) Established. There is hereby established an administrative division of the municipal government to be known as the "Village of Gurnee Administrative Hearing Division," which is vested with the power to enforce compliance with all municipal ordinances as from time to time may be authorized by the village board, except for any offense under the Illinois Vehicle Code (adopted by the Village of Gurnee under chapter 78 of this Code) that is a traffic regulation governing the movement of vehicles, and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code. The establishment of the Village of Gurnee Administrative Hearing Division does not preclude the Village of Gurnee from using any other method to enforce the ordinances of the village.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-301. Jurisdiction.

Matters subject to the administrative hearing division provided for by this title are charges of violation of any ordinance (alternatively, "Municipal Code" or "Code") of the Village of Gurnee so long as the charge is not a moving traffic violation, and the relief sought is not a penalty of incarceration.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-302. Division administrator; powers and duties.

The village administrator or his/her designee shall be the division administrator. The division administrator's responsibilities shall include:

(a) Operating and managing the administrative hearing system;

(b) Promulgating rules and regulations for the conduct of administrative hearing proceedings.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-303. Administrative hearing officer.

(a) Creation and qualifications. The position of administrative hearing officer is hereby created. The administrative hearing officer shall be appointed by the mayor with the consent of the village board. The term of the administrative hearing officer shall be one year. The number of administrative hearing officer positions and compensation shall be approved by the village board. The administrative hearing officer shall be an attorney admitted to the practice of law in the State of Illinois with at least five years of active practice experience.

(b) Powers. The administrative hearing officer shall have all powers necessary to conduct fair and impartial hearings including, but not limited to, the power to:

- (1) Hold conferences for the settlement or simplification of the issues;
- (2) Administer oaths and affirmations;
- (3) Hear testimony;
- (4) Issue subpoenas;
- (5) Rule upon motions, objections, and the admissibility of evidence;
- (6) At the request of any party or on the administrative hearing officer's own motion, subpoena the attendance of relevant witnesses and the production of relevant books, records, or other information;
- (7) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
- (8) Regulate the course of the hearing in accordance with this chapter, or other applicable law;
- (9) Issue a final order which includes findings of fact and conclusions of law;
- (10) Impose penalties and fines, not to exceed \$750.00 per violation per day, issue orders that are consistent with applicable code provisions and assess costs upon finding a party liable for the charged violation. In no event shall an administrative hearing officer have the authority to impose a penalty of imprisonment.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-304. Instituting administrative hearings.

All sworn police personnel, all community service officers, all village inspectors and fire prevention officers are hereby authorized to institute an administrative adjudication hearing by issuing a violation notice specifying the date, time and place of the violation, the ordinance or ordinances violated, and the identification and signature of the person issuing the violation notice. In addition, the notice shall include the date and location of the hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-305. Subpoenas.

(a) Issuance. All subpoenas shall be issued only upon application and approval by the administrative hearing officer after a determination by the administrative hearing officer as to whether the requested testimony of the witnesses or the documents or items sought by the subpoena are necessary to present evidence that is relevant to the case and relates to a contested issue in the case.

(b) Content. A subpoena issued under this chapter shall identify:

- (1) The person to whom it is directed;
- (2) The documents or other items sought by the subpoena, if any;
- (3) The date for the appearance of the witness and the production of the documents or other items described in the subpoena;
- (4) The time for the appearance of the witness and the production of the documents or other items described in the subpoena; and
- (5) The place for the appearance of the witness and the production of the documents or other items described in the subpoena.

(c) Appearance. In no event shall the date identified for the appearance of a witness or the production of documents or other items be less than seven days after service of the subpoena.

(d) Contesting the subpoena. Within three business days of being served with a subpoena issued in accordance with this chapter, the recipient of the subpoena may contest the order authorizing the issuance of the subpoena to the administrative hearing officer, setting forth in detail the recipient's objections to the subpoena. Upon receipt of the contest to the subpoena, the administrative hearing officer shall review the objections and, upon review, enter the appropriate order.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-306. Representation at hearings.

(a) Village representation. The case for the village may be presented by the village attorney or such other person designated by the village administrator or his designee.

(b) Respondent representation. The case for the respondent may be presented by the respondent or an agent or attorney of the respondent. An agent or attorney shall present a written authorization signed by the respondent giving the agent or attorney power to act and to bind the respondent to any orders entered by the administrative hearing officer.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-307. Conduct of hearings.

The administrative hearing officer shall conduct the hearings in an orderly manner and insist upon proper decorum by all persons present at the hearings. The intent of the hearings is to provide the village and the respondent a full and fair presentation of the issues.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-308. Testimony and evidence.

(a) Testimony. Hearsay testimony may be admitted by the administrative hearing officer in making his/her determination. The administrative hearing officer shall determine the weight, if any, to be given to the testimony.

(b) Evidence. The technical rules of evidence shall not apply. Relevant documents may be received into evidence without formal proof of authenticity. The administrative hearing officer shall determine the weight, if any, to be afforded documents received into evidence.

(c) Transcript of proceedings. Either party may request that the proceedings be taken and transcribed by a certified court reporter. The cost of the court reporter shall be borne by the party requesting the court reporter. The village may, at its cost, record the proceedings. If a recording is made, a respondent may obtain a transcript at respondent's cost.

(d) Continuances. All administrative law hearings shall be conducted on the date set for hearing. For good cause shown, a continuance may be granted at the discretion of the administrative hearing officer. The purpose of administrative hearings is to provide a prompt resolution of alleged code violations, and accordingly, the request for and the grant of, continuances shall be granted only for good cause shown.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-309. Orders.

The administrative hearing officer shall issue a written order specifying the ordinance violated, and the fine and other relief granted. The order shall also contain the following notice:

The fines and penalties contained in this order are a debt due and owing the Village of Gurnee and said total of fines and penalties must be paid within 30 days of the date the order is issued by the administrative hearing officer.

Failure to pay any fine or penalty due and owing the village within the aforementioned time-period may result in the village's instituting an action in the circuit court of Lake County to recover said fines and penalties. In addition, the village may petition the Illinois Secretary of State for a suspension of respondent's driver's license for failure to pay fines and penalties totaling \$250.00 or greater under 625 ILCS 6-306.5.

(a) Final orders. The order of the administrative hearing officer becomes final 30 days following entry of the order, or 30 days from a denial of a timely-filed petition to set aside the hearing officer's decision, whichever occurs last.

(b) Petition to set aside determination. A petition to set aside the order of the administrative hearing officer must be filed within 30 days of entry of the administrative hearing officer's order. The petition shall be filed in the village administrator's office. The administrative hearing officer shall set a briefing schedule and hearing date. The grounds for the petition are limited to the following:

1. Lack of proper service;
2. The person not having been the owner or lessee of the property cited on the date the violation notice was issued;
3. The order is against the manifest weight of the evidence, or that new evidence unknown to and unavailable to a party on the date of the hearing will materially affect the order of the hearing officer; or
4. Excusable failure to appear at the hearing or request a new date for a hearing.

In the event the determination is set aside upon a showing of just cause, the administrator shall set a hearing on the merits for that violation at the earliest available date convenient to all parties.

(c) Violations of orders. Any person, having received notice and an opportunity for a hearing as provided in this chapter who knowingly fails to comply with an order issued by an administrative hearing officer under this chapter, including the issuance of a

subpoena, shall, if the order is not stayed by a court of competent jurisdiction prior to its effective date, be guilty of contempt. Contempt shall be punishable by a fine not to exceed \$250.00. Each day that the violation continues shall be considered a separate and distinct offense. In a prosecution under this section, it shall not be a defense that a person came into compliance with an order, sought judicial review of it, or made efforts to comply with an order, subsequent to its effective date.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-310. Fines.

All fines and other monies paid to the village in accordance with this section shall be remitted to the village and deposited in the appropriate village account as designated by the director of finance.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-311. Administrative hearing program procedures not exclusive.

Notwithstanding any other provisions of this chapter, the authority of the administrative hearing division to conduct administrative hearings in accordance with this chapter shall not preclude the village from seeking any remedies for code or ordinance violations through the use of any other administrative procedure or court proceeding.

Nothing in this section shall affect the jurisdiction of the liquor control commissioner, the plan commission, the zoning board of appeals, firefighters pension fund, police pension fund, the civil service commission, or any other commission or board established by Municipal Code of the Village of Gurnee.

(Ord. No. 2007-18, § I, 3-5-2007)

Sec. 2-312. Appeal.

Any party to an administrative hearing may appeal the order of the administrative hearing officer to the circuit court of Lake County within 30 days of the entry of the order. In the event that a party files a timely petition to set aside a hearing officer's ruling pursuant to subsection 2-309(b), a party may appeal the order within 30 days of a decision on a petition to set aside a hearing officer's order. Such appeal shall be limited to a review of the official record of proceedings of the administrative hearing. Only evidence found in the official record of proceedings may be considered on appeal.

(Ord. No. 2007-18, § I, 3-5-2007)