

AGENDA
BLOOMINGTON PROPERTY MAINTENANCE REVIEW BOARD
REGULAR MEETING - 4:00 P.M.
THURSDAY, January 24, 2019
COUNCIL CHAMBERS, CITY HALL
109 EAST OLIVE STREET
BLOOMINGTON, ILLINOIS

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

A public comment period not to exceed thirty (30) minutes will be held during each Board and Commission meeting, as well as all regularly scheduled City Council meetings, Committee of the Whole meetings, meetings of committees and/or task forces (hereinafter "committees") created by the City Council, work sessions, and special meetings of the City Council. Nothing herein shall prohibit the combination of meetings, at which only one public comment period will be allowed.

Anyone desiring to address the Board, Commission, Committee or City Council, as applicable, must complete a public comment card at least five (5) minutes before the start time of the meeting. Public comment cards shall be made available at the location of the meeting by City staff at least 15 minutes prior to the start time of the meeting. The person must include their name, and any other desired contact information, although said person shall not be required to publicly state their address information. If more than five individuals desire to make a public comment, the order of speakers shall be by random draw. If an individual is not able to speak due to the time limitation and said individual still desires to address the individuals at a future meeting of the same type, said individual shall be entitled to speak first at the next meeting of the same type. (Ordinance No. 2015-46)

4. MINUTES:

Consideration, review and approval of Minutes from the October 27, 2016 Quarterly Meeting. See Exhibit A.

Consideration, review and approval of Minutes from the September 5, 2018 Special Meeting. See Exhibit B.

5. REGULAR AGENDA

A. CHAIRPERSON SELECTION: Board to nominate and approve chairperson for upcoming year. See Exhibit C.

B. CHECKLIST DISCUSSION: Discussion by Board on procedural methods for rental inspections and complaint driven code enforcement inspections. See Exhibit D.

C. CARBON MONOXIDE DETECTOR DISCUSSION: Discussion on IPMC Code Addition requiring Carbon Monoxide Detectors. See Exhibit E.

6. OLD BUSINESS

A. Ordinance 2018-81; Review of Ordinance Amending The City Code Provisions on Administrative Adjudication as adopted by the City Council. See Exhibit F.

7. NEW BUSINESS

8. ADJOURNMENT

For further information contact:

Carey Snedden, Code Enforcement Division Manager

Department of Community Development

Government Center

115 E. Washington Street, Bloomington, IL 61701

Phone: (309) 434-2345 Fax: (309) 434-2801

E-mail: csnedden@cityblm.org

EXHIBIT A

DRAFT MINUTES
PROMERTY MAINTENANCE REVIEW BOARD
REGULAR MEETING
Thursday, October 27, 2016, 3:00 P.M.
Council Chambers, City Hall
109 East Olive Street, Bloomington, Illinois

Members present: Mr. John Capodice, Mr. Mark Fetzer, Ms. Brittany Mitchell, Ms. Julie Morgan

Members absent: Mr. Brent Moore, Mr. Mark Williams

Also present: Mr. Carey Snedden, Code Enforcement Division Manager
Mr. Tom Dabareiner, AICP, Community Development Director

Mr. Dabareiner opened the meeting and introduced himself. Mr. Snedden introduced himself. The members of the Board introduced themselves. Brittany Mitchell is a tenant member; John Capodice is a Large Landlord representative; Julie Morgan is an At-Large member, Mark Fetzer is the Contractor member. Overall membership requirements were reviewed.

The roll of the Administrative Court versus this Board was discussed. Mr. Capodice asked that landlords understand they have the PMRB as an option. Mr. Snedden explained that the violation notices provide this option. Mr. Snedden added that a majority of the cases in Administrative Court are landlord cases. Mr. Fetzer stated that the Administrative Court process is fair because the hearing officer provides time to comply; he added there is a need for this court.

Mr. Capodice wants to make sure the rules remain reasonable. He asked if there are guidelines or a list of what inspectors are looking for when they conduct a rental inspection. Mr. Dabareiner indicated that at a future meeting inspectors could be present to respond to questions. Ms. Morgan asked if there were any annual special focuses. Like stairwells this year and windows the next; Mr. Dabareiner replied in the negative.

ELECTION OF CHAIR

Mr. Dabareiner introduced the topic. Mr. Morgan nominated Mr. Capodice for chairman; seconded by Ms. Mitchell. The nomination was **approved** by a 4-0 vote as follows: Ms. Mitchell— yes; Mr. Fetzer— yes; Mr. Capodice—yes; Ms. Morgan—yes.

PUBLIC COMMENT Mr. Dabareiner explained the reason for including this item on the agenda. He asked for anyone who is interested in speaking to come forward. There was no public comment made.

MINUTES

There were no meeting minutes to review or approve.

TEXT CHANGE

Consideration and action to revise language in Chapter 45 Section 900.2 – Paragraphs (a), (f) and (g).

Mr. Snedden introduced the case and reviewed the proposed changes. He highlighted that the changes are under the Definitions section under “Acceptable Building.” He noted that in the existing code the phrase “few or no” is not clear and stated that staff proposes to replace the language with “less than three.” He stated other language remained from a prior process and staff seeks to replace it with the process already in existence.

Mr. Dabareiner explained that the City’s attorney recommended the phrase “less than three.”

Chairman Capodice asked the status of any building that fails, then passes upon reinspection. Mr. Dabareiner explained the passing building becomes a building that has passed and would no longer be subject to inspections beginning the following year when the records are updated.

Ms. Mitchell asked about the prior system and confirmed that that system is no longer used. Mr. Snedden concurred that the old grading system is no longer in use.

Ms. Morgan noted the pass-fail system was considered a couple years ago and put in place then. She added that the Board is supposed to recognize use of the 2012 Property Maintenance Code and requested copies for everyone. Mr. Dabareiner recommended bringing the 2012 code adoption issue up under New Business.

Chairman Capodice called for a motion on the proposed text amendment. Ms. Mitchell motioned to accept staff’s recommendation; seconded by Ms. Morgan. The **motion passed** with a 4-0 vote in favor as follows: Ms. Mitchell— yes; Ms. Morgan—yes; Mr. Fetzer— yes; Chairman Capodice—yes.

2017 MEETING SCHEDULE

Mr. Snedden introduced the discussion and highlighted that the meeting schedule proposed would retain the fourth Thursday schedule and on a quarterly basis. He asked for a vote of support from the Board. Ms. Mitchell asked if the meeting time could be after 4:00PM. Mr. Fetzer agreed that the later time may also be easier for any landlords who come before the Board. Chairman Capodice motioned to approve the proposed meeting schedule with a 4:00PM start; seconded by Ms. Morgan. The **motion passed** with a 4-0 vote in favor as follows: Ms. Mitchell— yes; Ms. Morgan—yes; Mr. Fetzer— yes; Chairman Capodice—yes.

OTHER BUSINESS

None

NEW BUSINESS

Ms. Morgan asked that everyone on the Board have a copy of the 2012 International Property Maintenance Code.

Mr. Fetzner asked for a list of typical inspection items to be sent with the registrations. Mr. Dabareiner stated such a list would not be ready this time, but could be for the future; he added that this will be an agenda item for the next meeting so it may change.

ADJOURNMENT

Ms. Morgan motion to adjourn; seconded by Chairman Capodice. The motion passed unanimously by voice vote. Meeting was adjourned at 3:34 PM.

Respectfully,

Tom Dabareiner AICP
Community Development Director
Acting Secretary

EXHIBIT B

DRAFT MINUTES
PROPERTY MAINTENANCE REVIEW BOARD
SPECIAL MEETING

Wednesday, September 5, 2018, 4:00 P.M.
Council Chambers, City Hall
109 East Olive Street, Bloomington, Illinois

Members present: Mr. John Capodice, Mr. Mark Fetzer, Mr. Rodney Smithson,
Mr. Kelby Cumpston, Mr. Robert Garcia.

Members absent: Mr. Mark Williams

Also present: Ms. Angela Fyans Jimenez, Corporation Counsel
Mr. Carey Snedden, Code Enforcement Division Manager
Mr. Bob Mahrt, Community Development Director

1. CALL TO ORDER

Chairman Capodice called the Special Meeting to order at 4:00 p.m.

2. ROLL CALL

Director Mahrt called roll and a quorum was established with five members present.

3. PUBLIC COMMENT

Chairman Capodice asked for public comment from the audience for those items that were not listed on the Special Meeting agenda. There were no public comments made.

4. REGULAR AGENDA

A. TEXT CHANGES:

Director Mahrt introduced Angela Fyans Jimenez, Corporation Counsel who would provide an overview of the proposed text amendments to Chapter 1, Section 9.1 Administrative Adjudication of the Municipal Code. Ms. Fyans Jimenez reviewed the existing Administrative Adjudication section and outlined the specific text amendments.

Mr. Smithson questioned the difference in terminology from Hearing Officer to Administrative Law Judge. Ms. Fyans Jimenez responded that the term is used interchangeably, but is more appropriately referred to as Administrative Law Judge.

Mr. Fetzer requested clarification on the “chronic property” term, the anticipated re-inspection fees for the follow-up 3-month, 6-month, and 12-month inspections, and standards for enforcement of new violations found during re-inspections.

Ms. Fyans Jimenez replied that a “chronic property” included multiple violations for one property within a calendar year. Mr. Snedden indicated that the Division enforces re-inspection fees for the Rental Inspection Program, but typically does not charge the re-inspection fee for code

violation compliance. Ms. Fyans Jimenez indicated that a violation found during a compliance re-inspection would be treated as a new violation, but handled under the existing court case.

Mr. Garcia requested clarification on the use of the term “public official”, as it did not appear to specify a qualified individual to conduct inspections. Mr. Mahrt provided the background on why the term was added to allow for other Departments to utilize the Administrative Hearing process with their employee who may not be classified as an inspector. Ms. Fyans Jimenez stated that legal counsel would review the use of the term for “public official”. Mr. Garcia further requested information regarding dismissal of a chronic property upon payment of court costs and abatement.

There was general discussion on policies and procedures for code enforcement. Ms. Fyans Jimenez stated the procedures outlined in the text amendment had been utilized since 2015, but had not been officially codified.

Chairman Capodice made a motion for recommendation for approval of the text amendment as submitted. Mr. Garcia requested an amended motion regarding refinement of the “public official” definition and review of the potential dismissal of a case upon abatement. Mr. Capodice agreed to the amended motion; seconded by Mr. Fetzer. The motion was **approved** by a 5-0 vote as follows: Mr. Capodice—yes; Mr. Fetzer—yes; Mr. Smithson—yes; Mr. Cumpston—yes; and Mr. Cumpston—yes.

B. MEETING SCHEDULE

Mr. Snedden discussed the 2019 Quarterly Meeting Schedule and requested Board action to meet deadlines for annual approval of meeting dates by the City Council. .

Mr. Smithson made a motion to approve the 2019 Quarterly Meeting Schedule; seconded by Mr. Garcia. The motion passed unanimously by voice vote.

5. OLD BUSINESS

Mr. Smithson questioned when the meeting minutes for the October 27, 2016 would be approved. Mr. Snedden indicated that the review of the minutes would be on the Regular Meeting Agenda for October 25, 2018.

6. NEW BUSINESS

Chairman Capodice discussed the role of the PMRB and Director provided copies of Chapter 25, Section 1000 Property Maintenance Review Board. Mr. Snedden also provided copies of the 2012 ICC Property Maintenance Code. Chairman Capodice indicated that he wants to make sure the rules remain reasonable.

Mr. Smithson requested an enhanced notification process for meetings. Mr. Snedden circulated the membership contact list for meeting notifications.

7. ADJOURNMENT

Mr. Smithson made a motion to adjourn; seconded by Mr. Fetzer. The motion passed unanimously by voice vote. Meeting was adjourned at 5:07 PM.

Bob Mahrt
Community Development Director

Acting Secretary
Prepared (9.6.2018)

EXHIBIT C

CHAIRMAN SELECTION

Chapter 45 : Section 1000.3 : Membership of Board.

1. The Property Maintenance Review Board shall consist of seven members who are qualified by experience, education and/or training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the Board. The Board shall be appointed by the Mayor and ratified by the City Council for three year terms. This term may be extended after the three (3) years for no more than two (2) additional three (3) year terms. Members of the Board shall serve no more than three (3) consecutive three-year terms (a total of nine (9) years). (Ordinance No. 2014-04)

2. Except as provided in subsection (b), all Board members must be residents of the City of Bloomington. Board membership shall be as follows: (Ordinance No. 2014-04)
 - (a) Two (2) contractors in good standing experienced in general construction, remodeling and/or property maintenance. No person named to the Board as a contractor shall, during the term of his or her membership, also have an ownership, management, or tenant interest in rental property. (Ordinance No. 2014-04)

 - (b) Two (2) landlords in good standing owning rental property within the City of Bloomington, of which one may reside outside the corporate limits of the City. One landlord member shall be named from each of the following categories:
 - (i) Small – owning not more than 12 units;

 - (ii) Large – owning more than 12 units.

 - (c) Two (2) tenants, leasing and residing in dwelling units located within the corporate limits of the City of Bloomington.

 - (d) One (1) at-large citizen of the City of Bloomington.

 - (e) Disqualification of member - A member shall not hear an appeal in which that member has a personal, professional or financial interest. A member shall resign, or shall be removed from the Board by the Mayor, if that member no longer meets the prescribed standards and requirements of this Section. (Ordinance No. 2014-04)

 - (f) Chairman – The Board shall annually select one of its members to serve as Chairman. (Ordinance No. 2014-04)

 - (g) Alternate members – The Mayor shall appoint four (4) alternate members who, following ratification of their appointment by the City Council, shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. All alternate members shall possess the qualifications required for Board membership. One (1) alternate Board member shall be named for each category of membership described in paragraphs (a) through (d) of this Section. (Ordinance No. 2014-04)

RENTAL PROPERTY CHECKLIST

EXHIBIT D

See Attached List



Rental Property Checklist

Dear Landlord:

The City of Bloomington is providing this checklist as a tool to evaluate the condition of your rental property prior to a routine inspection. By using this guide, you may avoid a lengthy inspection and potentially costly re-inspection fees. While it is impossible to list every violation of the *Property Maintenance Code*, this list contains violations that are commonly found during a routine inspection. A slide presentation of code violations may be viewed at: www.cityblm.org/upload/images/cd/pdfs/PMC_Train_eng.pdf

Exterior of Building

- 1 Are sidewalks, walkways, stairs, driveways, parking spaces and similar areas in a proper state of repair, and maintained free from hazardous conditions?
- 2 Are accessory structures including detached garages, fences and walls structurally sound, good repair with no peeling paint?
- 3 Are exterior wood surfaces, other than decay-resistant woods, protected from the elements and decay by paint or some other protective covering or treatment? Is bare wood visible, does it show signs of rot and decay?
- 4 Are all siding and masonry joints maintained weather resistant and water tight?
- 5 Are the address numbers visible from street? Are apartments properly identified?
- 6 Is the foundation free from holes, large cracks and openings?
- 7 Are exterior walls free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated to prevent deterioration? Are the surface coatings consistent with surrounding areas of the exterior walls?
- 8 Is the roof and flashing sound, tight and not have defects that admit rain? Are the roof drains, gutters and downspouts maintained in good repair and free from obstructions?
- 9 Are all cornices, belt courses, corbels, terra cotta trim, wall facing and similar decorative features maintained in good repair with proper anchorage and in a safe condition?
- 10 Is every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads? Do they have level, uniform treads & risers?
- 11 Are guardrails present for all open porches, decks, and landings that are higher than 30 inches above grade?
- 12 Are all chimneys, cooling towers, and smoke stacks maintained structurally safe and sound, and in good repair?
- 13 Are exterior doors, door assemblies and hardware maintained in good condition?
- 14 Are basement hatchways and doors maintained to prevent the entry of rodents, rain and drainage water?
- 15 Are operable windows located 6ft or less above the ground level equipped with locking devices?
- 16 Are exterior doors equipped with deadbolt locks (slide bolts are not acceptable)?
- 17 Is garbage properly stored (lids on all cans) and cans not visible from the street?

Interior of Building

- 18 Is every window, skylight, door and frame in sound condition, good repair and weather tight? Are all glazing materials free from cracks and breaks? Is every window, other than fixed, easily openable and capable of being held in position by window hardware?
- 19 Are the walls and ceilings free from peeling paint and loose plaster? (Raw and unfinished drywall is not considered clean or sanitary)
- 20 Are all walking surfaces in sound condition and good repair?
- 21 In a multi-family building, are door closures self-closing and latching (if required)?
- 22 Are doors free from cracks, breaks, or holes? Do they fit reasonably well within the frame?
- 23 Are handrails firmly fastened and maintained in good condition? (Required if more than 4 risers)

Light, Ventilation, and Occupancy Limitations

- 24 Is every common hall and stairway in a multi-family building lit at all times?
- 25 Does the bathroom or toilet room have an operable window OR a mechanical means of ventilation?
- 26 Is the clothes dryer vented to the exterior?
- 27 Does the dwelling meet the space needs of the occupants?

Plumbing System

- 28 Does each dwelling contain a bathtub or shower, lavatory, water closet and kitchen sink that is maintained in a sanitary, safe working condition? (no leaking water pipes, sufficient hot and cold water supply and pressure)
- 29 Are plumbing fixtures properly installed and free from obstructions?
- 30 Is the water heater equipped with a temperature/pressure relief valve, relief valve discharge pipe (copper or galvanized) and gas shut off valve?
- 31 Do all plumbing stacks, vents, waste and sewer lines function properly, free of obstructions and leaks?
- 32 Is the washing machine properly connected to the drainage system?
- 33 Are there any open drain lines?

Electrical System

- 34 Are electrical equipment, wiring and appliances installed properly and maintained in a safe manner? (no missing cover plates, open splices or painted receptacles, junction boxes are secured, cover over the electric panel, wiring is supported)
- 35 Does every habitable space contain at least two receptacles? Does every laundry room contain a grounded type receptacle or a GFCI? Does every bathroom contain at least one receptacle?
- 36 Is the electrical system free of hazards?
- 37 Is there a working light fixture present for every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, and furnace room?

Heating System/Mechanical Equipment

- 38 Is the heating system capable of maintaining a room temperature of 68 degrees F in all habitable rooms, bathrooms and toilet rooms (October 1 - May 31)?
- 39 Are all mechanical equipment, fireplaces and solid fuel-burning appliances installed properly and maintained in a safe working condition?
- 40 Are all fuel-burning heating equipment connected to an approved chimney or vent?
- 41 Does the fuel-burning equipment have a proper shut off valve?

Fire Safety

- 42 Are smoke detectors located on each floor of the dwelling, including the basement? Are smoke detectors located **within** all rooms used for sleeping? Are smoke detectors located just outside the immediate vicinity of bedrooms. Do all smoke alarms function properly?
- 43 Does every sleeping/bedroom have a least one operable window that meets emergency egress/rescue standards?
- 44 Are hallways, exit doors, egress windows, and stairways unobstructed and clear of rubbish or storage?
- 45 Is there a 3 foot clearance around any heating appliance or other source of ignition within the dwelling? (not including cooking stoves)

EXHIBIT E

CARBON MONOXIDE DETECTORS DISCUSSION

Carbon monoxide law in Illinois complies with Public Act 094-0741. The law requires that a carbon monoxide detector be installed within 15 feet of each sleeping area in a dwelling unit. The carbon monoxide detector may be combined with a smoke alarm provided that the detector differentiates between the two types of warnings. See attached Illinois Compiled Statute 430 ILCS.

The following to be considered for addition to Chapter 45, Section 704; Fire Protection Systems in the current adopted International Property Maintenance Code.

Potentially add as follows:

Section 704.5 - Carbon Monoxide Detectors.

Every dwelling unit shall be equipped with at least one approved carbon monoxide alarm in an operating condition within 15 feet of every room used for sleeping purposes.

Information maintained by the Legislative Reference Bureau

Updating the database of the Illinois Compiled Statutes (ILCS) is an ongoing process. Recent laws may not yet be included in the ILCS database, but they are found on this site as [Public Acts](#) soon after they become law.

For information concerning the relationship between statutes and Public Acts, refer to the [Guide](#).

Because the statute database is maintained primarily for legislative drafting purposes, statutory changes are sometimes included in the statute database before they take effect. If the source note at the end of a Section of the statutes includes a Public Act that has not yet taken effect, the version of the law that is currently in effect may have already been removed from the database and you should refer to that Public Act to see the changes made to the current law.

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(430 ILCS 135/1)

Sec. 1. Short title. This Act may be cited as the Carbon Monoxide Alarm Detector Act.

(Source: P.A. 94-741, eff. 1-1-07.)

(430 ILCS 135/5)

Sec. 5. Definitions. In this Act:

"Approved carbon monoxide alarm" or "alarm" means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association.

"Dwelling unit" means a room or suite of rooms used for human habitation, and includes a single family residence as well as each living unit of a multiple family residence and each living unit in a mixed use building.

(Source: P.A. 94-741, eff. 1-1-07.)

(430 ILCS 135/10)

Sec. 10. Carbon monoxide detector.

(a) Every dwelling unit shall be equipped with at least one approved carbon monoxide alarm in an operating condition within 15 feet of every room used for sleeping purposes. The carbon monoxide alarm may be combined with smoke detecting devices provided that the combined unit complies with the respective provisions of the administrative code, reference standards, and departmental rules relating to both smoke detecting devices and carbon monoxide alarms and provided that the combined unit emits an alarm in a manner that clearly differentiates the hazard.

(b) Every structure that contains more than one dwelling unit shall contain at least one approved carbon monoxide alarm in operating condition within 15 feet of every room used for sleeping purposes.

(c) It is the responsibility of the owner of a structure to supply and install all required alarms. It is the responsibility of a tenant to test and to provide general maintenance for the alarms within the tenant's dwelling unit or rooming unit, and to notify the owner or the authorized agent of the owner in writing of any deficiencies that the tenant cannot correct. The owner is responsible for providing one tenant per dwelling unit with written information regarding alarm testing and maintenance.

The tenant is responsible for replacement of any required batteries in the carbon monoxide alarms in the tenant's dwelling unit, except that the owner shall ensure that the batteries are in operating condition at the time the tenant takes possession of the dwelling unit. The tenant shall provide the owner or the authorized agent of the owner with access to the dwelling unit to correct any deficiencies in the carbon monoxide alarm that have been reported in writing to the owner or the authorized agent of the owner.

(d) The carbon monoxide alarms required under this Act may be either battery powered, plug-in with battery back-up, or wired into the structure's AC power line with secondary battery back-up.

(Source: P.A. 94-741, eff. 1-1-07.)

(430 ILCS 135/15)

Sec. 15. Violation.

(a) Willful failure to install or maintain in operating condition any carbon monoxide alarm required by this Act is a Class B misdemeanor.

(b) Tampering with, removing, destroying, disconnecting, or removing the batteries from any installed carbon monoxide alarm, except in the course of inspection, maintenance, or replacement of the alarm, is a Class A misdemeanor in the case of a first conviction and a Class 4 felony in the case of a second or subsequent conviction.

(Source: P.A. 94-741, eff. 1-1-07.)

(430 ILCS 135/20)

Sec. 20. Exemptions. The following residential units shall not require carbon monoxide detectors:

(1) A residential unit in a building that: (i) does not rely on combustion of fossil fuel for heat, ventilation, or hot water; (ii) is not connected in any way to a garage; and (iii) is not sufficiently close to any ventilated source of carbon monoxide, as determined by the local building commissioner, to receive carbon monoxide from that source.

(2) A residential unit that is not sufficiently close to any source of carbon monoxide so as to be at risk of receiving carbon monoxide from that source, as determined by the local building commissioner.

(Source: P.A. 94-741, eff. 1-1-07.)

CITY OF BLOOMINGTON

2018 – 81

**AN ORDINANCE AMENDING THE CITY CODE PROVISIONS ON
ADMINISTRATIVE ADJUDICATION**

**Adopted by the City Council
of the City of Bloomington
on September 24, 2018**

Published in pamphlet form by authority of the City Council of the
City of Bloomington, McLean County, Illinois, on September 27, 2018.

STATE OF ILLINOIS)
) ss.
COUNTY OF MCLEAN)


CERTIFICATE

I, Cherry L. Lawson, certify that I am the duly appointed and qualified municipal clerk of the City of Bloomington, County of McLean, Illinois.

I further certify that on the Corporate Authorities of the above municipality passed and approved Ordinance No. 2018-81, entitled, An Ordinance Amending the City Code Provisions on Administrative Adjudication, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of this Ordinance, including the Ordinance and cover sheet thereof, was prepared, and a copy of the Ordinance was posted in the municipal building, commencing on September 27, 2018 and continuing for at least ten days thereafter. Copies of the Ordinance were also available for public inspection upon request in the office of the municipal clerk.

Dated at Bloomington, Illinois, on 09/27/2018


Cherry Lawson
City Clerk

the findings, decision and order of an Administrative Law Judge Hearing Officer under this Section.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

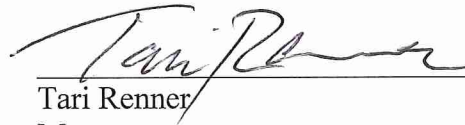
SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect ten (10) days after approval and publication.

PASSED this 24th day of September 2018.

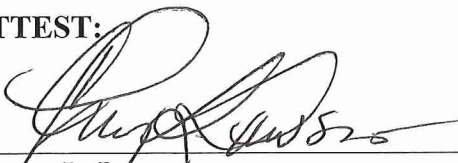
APPROVED this 25th day of September 2018.

APPROVED:



Tari Renner
Mayor

ATTEST:



Cherry L. Lawson
City Clerk

ORDINANCE NO. 2018 - 81

**AN ORDINANCE AMENDING THE CITY CODE PROVISIONS ON
ADMINISTRATIVE ADJUDICATION**

BE IT ORDAINED by the City Council of the City of Bloomington, Illinois (additions are indicated by underlining; deletions are indicated by strikeouts):

SECTION 1. That Bloomington City Code Chapter 1, shall be amended by amending Section 9.1 to read as follows:

SEC. 9.1: ADMINISTRATIVE ADJUDICATION.

(a) Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (1) Alleged violator. Person charged with violating any ordinance or law in the City of Bloomington.
- (2) Building code. Any City ordinance or law that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures in the City.
- (3) Code violation. Non-compliance with any building code or non-building code ordinance or law adopted by the City.
- (4) Hearing Officer. Also known as an Administrative Law Judge, is a A licensed attorney in the State of Illinois who is appointed by the City Manager and who meets the requirements of Section 9.1(d), whose duty it is to:
 - a. Preside at an administrative hearing called to determine whether or not a Code violation exists;
 - b. Hear testimony and accept evidence from the inspector, the building or property owner and all interested parties relevant to the existence of a Code violation;
 - c. Take judicial notice of all public records of McLean County, Illinois;
 - d. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing; and
 - e. Issue and sign a written finding, decision and order stating whether a Code violation exists.

- (5) Inspector/Public Official. A City employee whose duties may include the inspection and examination of structures or property in the City to determine if zoning or other Code violations exist.
- (6) Non-building code. Any City ordinance or law, except for a building code ordinance or law, which prohibit certain actions or behaviors that are contrary to the public's health, safety and welfare.
- (7) Officer. A full or part-time Bloomington Police Department Officer or Security Officer.
- (8) Chronic property. A property location that has had more than one violation issued against the property location within 12 calendar months of the initial violation occurrence.
- (9) Court costs. The costs associated with operating the City's administrative court, including the payment of the hearing officer, City attorneys, clerical staff and service fees.

(b) Code Hearing Division.

- (1) There is hereby established a Code Hearing Division, the function of which is to expedite the prosecution and correction of Code violations in the manner set out in this Section. The Administrative Law Judge hearing officer and such other agents or employees assigned to assist the Administrative Law Judge hearing officer by the City Manager shall constitute the Code Hearing Division.
- (2) The adoption of this Section does not preclude the City from using other lawful methods to enforce the provisions of this Code.

(c) Powers of the Hearing Officer. The Administrative Law Judge Hearing Officer shall have the following powers:

- (1) Preside at an administrative hearing called to determine whether or not a Code violation exists;
- (2) Hear testimony and accept evidence that is relevant to the existence of a Code violation;
- (3) Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon the request of the parties or their representatives;
- (4) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;

- (5) Issue a written determination based on the evidence presented at the hearing, stating 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
- (6) Impose court costs in the amount of \$110.00 for each case that appears in Administrative Court. When a violation is not abated and/or behavioral fine is not paid in full prior to the first court appearance in Administrative Court, the minimum penalties shall be imposed consistent with applicable Code provisions and upon finding a party liable for the charged violation. In lieu of court costs, the administrative law judge may approve a plea agreement in behavioral cases if offered by both the attorney representing the City and the defendant. Impose penalties consistent with applicable Code provisions and assess costs upon finding a party liable for the charged violation. The maximum monetary fine under this Section shall not exceed \$50,000.00. The fine 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 municipality.
- (7) Issue a determination of chronic property, status and order re-inspection dates at a minimum of 3 months, 6 months and 12 months.

(d) Requirements of the Administrative Law Judge Hearing Officer. Prior to conducting a hearing as provided under this Section, the Administrative Law Judge Hearing Officer shall have successfully completed a formal training program which includes the following:

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

The Administrative Law Judge Hearing Officer must be an attorney licensed to practice law in the State of Illinois for at least three years. The Corporation Counsel and City Manager shall certify that all requirements provided under this subsection (d) have been met.

- (e) Code Hearing Procedure.

- (1) When an inspector, public official, or officer finds a code violation, he shall note the violation on a violation notice and report form, indicating the name and address of the property owner of alleged violator, the type and nature of the violation, the date and time the violation was observed, the names of witnesses to the violation, and the address of the property or location where the violation was observed. A chronic property which has been to Administrative Court once already within a rolling calendar year, shall be immediately referred to Administrative Court on any and all future violations. Individuals who have not been to Administrative Court within a rolling calendar year on a property code violation will first be sent a notice and abatement opportunity in accordance with the procedures of the Community Development Department.
- (2) The violation report form shall be forwarded by the inspector or officer to the Code Hearing Division where a docket number shall be affixed to the form and a hearing date noted in the blank spaces provided for that purpose on the form. For any Code violation, the hearing date shall not be less than 14 days after a Code violation is reported by the inspector or officer. Hearings shall be scheduled with reasonable promptness, provided that an alleged violator shall have at least 16 14 days after service of process to prepare for a hearing. 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.
- (3) One copy of the violation report form shall be maintained in the files of the Code Hearing Division and shall be part of the record of hearing; one copy of the report form shall be returned to the inspector or officer; and one copy of the report form shall be served by personal service or first class mail on the alleged violator or the owner of the property, in the case of a code violation, along with a summons commanding the owner to appear at the hearing. For Code violations, if the name of the owner of the property cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation report form on the front door of the property where the violation was found, not less than 16 14 days before the hearing date.
- (4) Parties 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 a Code violation is found when the party is the owner or manager of the property.
- (5) Parties shall be given notice of the hearing which includes the type and nature of the Code violation to be adjudicated, 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.

- (6) Parties shall be provided with an opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross examine opposing witnesses. Parties may request the Administrative Law Judge Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents.
- (7) If the Administrative Law Judge determines the property falls within the chronic property definition, the property owner shall be notified in Administrative Court that this property location is considered a chronic property and the provisions of this subsection shall apply. Chronic property shall not be offered dismissal of the case upon payment of court costs and abatement. Rather, a code violation issued on a chronic property shall be placed on an inspection schedule with minimum inspections being held at 3 months from the first administrative court date, 6 month inspection from the first administrative court date and a 12 month status check from the first administrative court date. If the property has no further violations within that 12 month time frame, the Administrative Court case shall be dismissed upon payment of court costs, any applicable re-inspection fees, and the minimum fines. If violations are found within the 12-month period, the Administrative Law Judge shall order a fine of no-less the minimum set forth in the applicable City Code provisions.

(f) Subpoenas. At any time prior to the hearing date, the Administrative Law Judge Hearing Officer assigned to hear the case may, at the request of the inspector, the officer, attorney for the City, or the alleged violator or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.

(g) Default.

- (1) If on the date set for hearing the alleged violator or his attorney fails to appear, the Administrative Law Judge Hearing Officer may find the alleged violator in default and shall proceed with the hearing and accept evidence relevant to the existence of a Code violation.
- (2) No violation may be established except upon proof by a preponderance of the evidence; provided, however, that a violation notice or a copy thereof, issued and signed in accordance with subsection (e) shall be prima facie evidence of the correctness of the facts specified therein.

(h) Representation at Code Hearings and Continuances.

- (1) The case for the City may be presented by an attorney designated by the City Manager. However, in no event shall the case for the City be presented by an employee of the Code Hearing Division. The case for a dwelling owner involving a Code violation may be presented by the owner, his attorney, or any other agent or representative as allowed by law. The case

for an alleged violator involving a Code violation may be presented by the alleged violator or his attorney.

- (2) For Code violations, continuances shall only be authorized by the Administrative Law Judge-Hearing Officer and/or by agreement with City Legal. Lack of preparation shall not be grounds for a continuance in proceedings under this Section except in cases where good cause is shown at the hearing.

(i) Evidence at Hearing.

- (1) At the hearing, a Administrative Law Judge-Hearing Officer shall preside and shall hear testimony and 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 Section. 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.

- (2) All testimony shall be given under oath or affirmation.

(j) Retaliatory Action Against Occupants Prohibited. No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceedings shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a Code violation hearing.

(k) Defenses to Code Violations. It shall be a defense to a Code violation charged under the Bloomington City Code if the owner, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

- (1) The Code violation alleged in the notice did not in fact exist at the time of the alleged violation; or
- (2) For violations of a building code or property code, the Code violation has been removed or remedied by the alleged violator at the time of the hearing, but only if the alleged violator has not had a Code violation within the previous 24 months. The violator shall be required to provide proof of compliance.

(l) Findings, Decision, Order of the Hearing Officer, Hearing Costs.

- (1) At the conclusion of the hearing, the Administrative Law Judge-Hearing Officer shall make a determination, on the basis of the evidence presented at the hearing, whether or not a Code violation exists. The determination shall be in writing and shall be designated as the findings, decision and order. The findings, decision and order shall include the Hearing Officer's

findings of fact, a decision whether or not a Code violation exists based upon the findings of fact, and an order, ordering the owner to correct the violation or dismissing the case in the event a violation is not proved. If a Code violation is proved, the order may also impose the sanctions that are provided in the Code for the violation proved. A copy of the findings, decision and order shall be served on the owner within five days after they are issued. Service shall be in the same manner as the report form and summons are served pursuant to subsection (e) of this Section. Payment of fines shall be made as directed by the City Manager and the disposition of fine money may be determined, from time to time, by separate ordinance or resolution of the City Council.

- (2) In the event that the order provided for the correction of the violation, the Administrative Law Judge ~~Hearing Officer~~ shall establish a hearing date which would be after the date established for the correction of the violation in order to determine compliance with the order. At such time, the Administrative Law Judge ~~Hearing Officer~~ shall hear testimony and accept any evidence relevant to the abatement of the violation in accordance with the order.
- (3) Unless a finding of not liable is made by the Administrative Law Judge, the Administrative Law Judge shall order payment of court costs in the amount of \$110.00. If the hearing officer determines that a Code violation exists, the Hearing Officer shall order payment to cover the costs of the hearing in the amount of \$100.00. The costs shall become an amount due and owing to the City and shall be part of the order issued against the violator.

(m) Administrative Review Law to Apply. Any final decision by a Administrative Law Judge ~~Hearing Officer~~ that a Code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law. Any person filing for judicial review under the Administrative Review Law shall be subject to the assessment of costs for the preparation and certification of the record of proceedings before the Hearing Officer. Any failure to pay such fee shall subject the party seeking review to the provisions of 735 ILCS 5/3-109, including dismissal of the complaint on a motion by the City.

(n) Enforcement of Judgment.

- (1) 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 municipality and may be collected in accordance with applicable law.
- (2) 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 Administrative Law Judge-Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

- (3) 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 an Administrative Law Judge-hearing officer pursuant to this subsection (3), the City shall provide notice to the defendant that states that the defendant shall appear at a hearing before the Administrative Law Judge 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 days from the date that notice is served. If notice is served by mail, the seven day period shall begin to run on the date that the notice was deposited in the mail.
- (4) Upon being recorded in the manner required by Article XII of the 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.
- (5) An Administrative Law Judge-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 Administrative Law Judge 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. If any judgment is set aside pursuant to this paragraph (5), the Administrative Law Judge 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.

(o) Findings and Sanctions to Run with Property on Code Violations. The order to correct a Code violation and the sanctions imposed by the City as the result of a fine of a Code violation under this Section shall attach to the property as well as to the owner of the property, so that a finding of a Code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to

the findings, decision and order of an Administrative Law Judge ~~Hearing Officer~~ under this Section.

SECTION 2. Except as provided herein, the Bloomington City Code, as amended, shall remain in full force and effect.

SECTION 3. The City Clerk shall be, and she is hereby directed and authorized to publish this Ordinance in pamphlet form as provided by law.

SECTION 4. This Ordinance is enacted pursuant to the authority granted to the City as a home rule unit by Article VII, Section 6 of the 1970 Illinois Constitution.

SECTION 5. This Ordinance shall take effect ten (10) days after approval and publication.

PASSED this 24th day of September 2018.

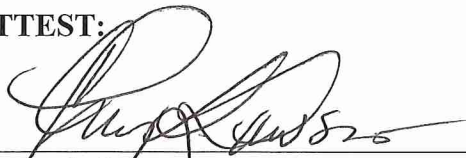
APPROVED this 25th day of September 2018.

APPROVED:



Tari Renner
Mayor

ATTEST:



Cherry L. Lawson
City Clerk