

**VILLAGE OF CAMPTON HILLS
AN ORDINANCE AMENDING THE VILLAGE OF CAMPTON HILLS CODE BY
ADDING A NEW TITLE 8, ADMINISTRATIVE ADJUDICATION**

WHEREAS, 65 ILCS 5/1-2.2 (hereinafter, the "Statute") permits the Village to provide for a system of administrative adjudication of Village Code violations subject to certain exceptions; and

WHEREAS, the Village believes a system of administrative adjudication will enhance the effectiveness and efficiency of the Village's code enforcement activities.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Campton Hills, Kane County, Illinois that:

Section 1. There is hereby added to the Village Code of the Village of Campton Hills a new Title 8 entitled "Administrative Adjudication" as follows:

TITLE 8

**CHAPTER 1
ADMINISTRATION**

ADMINISTRATIVE ADJUDICATION

8-1-1 **ADMINISTRATIVE ADJUDICATION OF MUNICIPAL CODE VIOLATIONS**

The Village of Campton Hills, pursuant to authority of 65 ILCS 5/1-2.2 et seq. hereby establishes the procedure of a system of administrative adjudication for the adjudication of the Village's Code violations to the extent permitted by the Illinois Constitution As used in this Chapter, a "system of administrative adjudication" means the adjudication of any violation found in the Village of Campton Hills Code except for (i) Building Code and Nuisance Violations and (ii) any offense under the Illinois Vehicle Code, or any similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offenses under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204).

8-1-2 **ADMINISTRATIVE ADJUDICATION PROCEDURES NOT EXCLUSIVE**

The adoption by the Village of a system of administrative adjudication procedures does not preclude the Village 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.

CODE HEARING DIVISION

- A. There is hereby established a Code Hearing Division in the Village. The Code Hearing Division shall have the jurisdiction to adjudicate any violation of any Village of Campton Hills Code (previously and hereinafter referred to as "Code Violations" except for Building Code and Nuisance Violations and (ii) any offense under the Illinois Vehicle Code or any similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offenses under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204);
- B. Adjudicatory Hearings shall be presided over by a hearing officer. The powers and duties of the hearing officer shall include:
1. Hearing testimony and accepting evidence that is relevant to the existence of the code violations;
 2. Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of the parties or their representatives;
 3. Preserving and authenticating the record of the hearing and all the 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; and
 5. Imposing penalties consistent with the applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have the authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$750.00 for each violation.
- C. Prior to conducting the administrative adjudication proceedings, the hearing officer shall have successfully completed a formal training program, which includes the following:
1. Instructions on 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, the hearing officer must be an attorney licensed to practice law in the State of Illinois for at least three years.

8-1-4 **ADMINISTRATIVE HEARING PROCEEDING**

- A. Parties shall be given notice of an adjudicatory hearing which includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.
- B. Parties shall be provided with an opportunity to give testimony at the adjudicatory hearing and may be represented by counsel, present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct attendance and testimony of relevant witnesses and the production of relevant documents.
- C. When the Village Code Compliance Officer or other individual authorized to issue a code violation makes a determination of a code violation, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the defendant, (ii) the type and nature of the violation, (iii) the date and time the violation was observed, and (iv) the names of witnesses to the violation. The violation report form shall be forwarded to the code hearing division where a docket number shall be stamped on all copies of the report and a hearing date shall be noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the notice is served. One copy of the violation notice and report form shall be maintained in the files of the code hearing division and shall be part of the record of the hearing, one copy of the report form shall be returned to the individual representing the Village in the case so that he or she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one copy of the report form shall be served either in person or by first class mail to the defendant along with a summons commanding the defendant to appear at the hearing.

8-1-5 **RULES OF EVIDENCE SHALL NOT GOVERN**

The formal and technical rules of evidence do not apply in the Adjudicatory hearing permitted under this Division. Evidence, including

hearsay, may be admitted only if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

8-1-6 SUBPOENAS AND DEFAULTS

At any time prior to the hearing date, but not less than two working days prior to the date of the hearing, the hearing officer assigned to hear the case may, at the request of either party, direct witness to appear and give testimony at the hearing. If on the date set for hearing, the defendant or his or her attorney fails to appear, the hearing officer may find the defendant in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

8-1-7 CONTINUANCES

No continuance shall be authorized by the hearing officer in proceedings under this Division except in cases where a continuance is absolutely necessary to protect the rights of the parties. Lack of preparation shall not be grounds for a continuance.

8-1-8 JUDICIAL REVIEW

Any final decision by a 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.

8-1-9 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 debt due and owing to the Village and may be collected in accordance with applicable law.
- B. After expiration of the period within which judicial review under Administrative Review Law may be sought for a final determination of the code violation, the Village may commence a proceeding in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois for the purpose of obtaining a judgment on the findings, decision, and order. Nothing in this Section shall prevent the Village from the consolidation of multiple findings, decisions, and orders against a person in such a proceeding.

8-1-10 IMPACT ON EXISTING ADMINISTRATIVE ADJUDICATION SYSTEMS

This Chapter shall not affect the validity of systems of administration adjudication that were authorized by State Law, including the Village of

Campton Hills Ordinances, and in existence prior to the effective date of this Ordinance.

8-1-11 SEVERABILITY

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

**CHAPTER 2
ADMINISTRATIVE ADJUDICATION:
BUILDING CODE AND NUISANCE VIOLATIONS**

8-2-1 ADMINISTRATIVE ADJUDICATION OF BUILDING CODE AND NUISANCE VIOLATIONS

The Village of Campton Hills pursuant to authority of 65 ILCS 5/11- 31.1-1 et seq. hereby establishes the procedure of a system of administrative adjudication for the adjudication of the Village's Ordinance violations to the extent permitted by the Illinois Constitution. As used in this Chapter, a "system of administrative adjudication" means the adjudication of any violation found in the Village of Campton Hills Code (i) relative to Building Code and Nuisance Violations and (ii) any offense under the Illinois Vehicle Code, or any similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offenses under Section 6-204 of the Illinois Vehicle Code (625 ILCS 5/6-204).

8-2-2 ADMINISTRATIVE ADJUDICATION PROCEDURES NOT EXCLUSIVE

The adoption by the Village of a system of administrative adjudication procedures does not preclude the Village 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.

8-2-3 CODE HEARING DIVISION

- A. There is hereby established a Code Hearing Division in the Village. The Code Hearing Division shall have the jurisdiction to adjudicate any violation of Title 4, Chapter 4 and Title 9 of the Village of Campton Hills Code (previously and hereinafter referred to as "Code Violations");
- B. Adjudicatory Hearings shall be presided over by a hearing officer. The powers and duties of the hearing officer shall include:
 - 1. Hearing testimony and accepting evidence that is relevant to the existence of code violations;

2. Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of the parties or their representatives;
 3. Preserving and authenticating the record of the hearing and all the 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; and
 5. Imposing penalties consistent with the applicable code provisions and assessing costs upon finding a party liable for the charged violation, except, however, that in no event shall the hearing officer have the authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$750.00 per violation.
- C. Prior to conducting the administrative adjudication proceedings, the hearing officer shall have successfully completed a formal training program, which includes the following:
1. Instructions on rule of procedure of the administrative hearing 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 order.

In addition, every hearing officer must be an attorney licensed to practice law in the State of Illinois for at least three years.

8-2-4

ADMINISTRATIVE HEARING PROCEEDING

- A. Parties shall be given notice of an adjudicatory hearing which includes the type and nature of the code violation to be adjudicated, the date and location of the adjudicatory hearing, the legal authority and jurisdiction under which the hearing is to be held, and the penalties for failure to appear at the hearing.
- B. Parties shall be provided with an opportunity to give testimony at the adjudicatory hearing and may be represented by counsel,

present witnesses, and cross-examine opposing witnesses. Parties may request the hearing officer to issue subpoenas to direct attendance and testimony of relevant witnesses and the production of relevant documents.

- C. When a Building Inspector, Code Compliance Officer or other individual authorized to issue a code violation finds a code violation while inspecting a structure or property, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the structure owner, (ii) the type and nature of the violation, (iii) the date and time of the violation was observed, (iv) the names of witnesses to the violation, and (v) the address of the structure where the violation is observed. The violation report form shall be forwarded to the Code Hearing Division where a docket number shall be stamped on all copies of the report and a hearing date shall be noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the violation is reported. One copy of the violation report 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 shall be returned to the person who originated the violation report. so that he or she may prepare evidence of the code violation for presentation at the hearing, and one copy of the report shall be served by first class mail on the owner of the structure, along with a summons commanding the owner to appear at the hearing. If the name of the property owner cannot be ascertained or if service 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 structure where the violation is found, not less than 20 days before the hearing is scheduled.

8-2-5 RULES OF EVIDENCE SHALL NOT GOVERN

The formal and technical rules of evidence do not apply in the Adjudicatory hearing permitted under this Division. Evidence, including hearsay, may be admitted only if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

8-2-6 SUBPOENAS AND DEFAULTS

At any time prior to the hearing date, but not less than two working days prior to the date of hearing, the hearing officer assigned to hear the case may, at the request of the Village Zoning Officer or other village enforcement official, the attorney for the Village, or the owner or his or her attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing. If on the date set for hearing the owner or his or her attorney fails to appear, the hearing officer may find the owner in

default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

8-2-7 CONTINUANCES

No continuances shall be authorized by the hearing officer in proceedings under this Division except in cases where a continuance is absolutely necessary to protect the rights of the parties.

8-2-8 RIGHTS OF OCCUPANTS

No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies as a code violation hearing.

8-2-9 DEFENSES TO CODE VIOLATIONS

It shall be a defense to a code violation charged under this Division if the owner, his or her attorney, or any other agent or representative proves to the hearing officer's satisfaction that:

- A. The code violation alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;
- B. The code violation has been caused by the current property occupants and that in spite of reasonably attempts by the owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations; and
- C. An occupant or resident of the dwelling has refused entry to the owner or his or her agent to all or part of the dwelling for the purpose of correcting the code violation.

8-2-10 FINDINGS, DECISION, AND ORDER

At the conclusion of the hearing the 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 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 5 days after they are issued.

8-2-11 **ADMINISTRATIVE REVIEW**

The findings, decision and order of the hearing officer shall be subject to review in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois and the provisions of the Administrative Review Law.

8-2-12 **JUDGMENT ON FINDINGS, DECISION AND ORDER**

- 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 Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.
- B. After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the Village may commence a proceeding in the Circuit Court of the Sixteenth Judicial Circuit, Kane County, Illinois for the purposes of obtaining a judgment on the findings, decision and order. Nothing in this Section shall prevent the Village from consolidating multiple findings, decision and orders against a person in such a proceeding.

8-2-13 **SANCTIONS APPLICABLE TO OWNER**

The order to correct a code violation and the sanctions imposed by the Village as a result of a finding of a code violation under this Division 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 a hearing officer under this Division.

8-2-14 **RENTAL PROPERTY OWNERS**

- A. The owner of a building located in the Village in Kane County who, directly or indirectly, had collected, or caused to be collected, rentals from an occupant of that building during a period in which the number of apartments or family units in that building exceeded the number permitted for that building by an Ordinance of the Village, is liable to any such occupant in an amount equal to not more than 3 times the amount of any rentals paid by any such occupant, or in his or her behalf, after January 1, 1970, together with court costs and reasonable attorney's fees.
- B. No liability accrues under this Section until 30 days after the owner of record of a building has been notified in writing that such owner

is in violation of any such Village Ordinance. Such notice shall be personally served upon such owner of record or sent by registered mail to the last know address of such owner.

8-2-15 **APPLICATION FOR GRANTS**

The Village may make application to the Department of Commerce and Economic Opportunity for grants to help defray the costs of establishing and maintaining a Code Hearing Division as provided in 65 ILCS 5/11-31.1-14.

8-2-16 **IMPACT ON EXISTING ADMINISTRATIVE ADJUDICATION SYSTEMS.**

This Chapter shall not affect the validity of systems of administration adjudication that were authorized by State Law, including the Village of Campton Hills Ordinances, and in existence prior to the effective date of this Ordinance.

8-2-17 **SEVERABILITY**

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

Section 2. This Ordinance shall be in full force and effect from and after the date of its passage, approval and publication as required by law. Any and all Ordinances, section or subsections of Ordinances in conflict herewith are hereby repealed. This Ordinance shall be published in pamphlet form.

Passed this 15th day of January, 2008 by roll call vote as follows:

	AYES	NAYS	ABSENT	ABSTAIN
Trustee Bernard Bertsche	<u>X</u>			
Trustee Charles Cappell	<u>X</u>			
Trustee Jim Kopec	<u>X</u>			
Trustee Albert Lenkaitis, Jr.			<u>X</u>	
Trustee Mike Millette	<u>X</u>			
Trustee Roy Pollack				<u>X</u>
President Patsy Smith				

APPROVED THIS 15th DAY OF January, 2008

Patsy J. Smith
Patsy J. Smith, Village President

(SEAL)

ATTEST AND FILED: January 15, 2008

Rebecca R. Lambe

Rebecca R. Lambe, Village Clerk

Published in pamphlet form this 15 day of January, 2008.