



SHELLY HUGGINS, CITY CLERK

CITY OF HERRIN

300 NORTH PARK AVENUE

HERRIN, ILLINOIS 62948

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STATE OF ILLINOIS)
WILLIAMSON COUNTY)
CITY OF HERRIN)
CERTIFICATE OF PUBLICATION)

I, SHELLY HUGGINS, DO HEREBY CERTIFY that I am the duly qualified City Clerk of the City of Herrin, Illinois, Williamson County, and as such clerk I am the keeper of the records and files of the City Council of said City.

I further certify that on November 27, 2023 the Corporate Authorities of the above municipality passed and approved Ordinance 32-2023 Adding Chapter 2 Administrative Adjudication to the Herrin Revised Code of Ordinances: Creating a Code Hearing Unit and other Actions in Connection therewith for the City of Herrin, Illinois.

The pamphlet form of Ordinance 32-2023, included the Ordinance and a cover sheet thereof, was prepared and a copy of such Ordinance was posted in the municipal building and on the municipality's website, commencing on November 28, 2023 and continuing for at least 10 days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the City of Herrin, Illinois at my office this 28th day of November, 2023.

SHELLY HUGGINS, CITY CLERK
HERRIN, ILLINOIS

SEAL

CITY OF HERRIN

ORDINANCE NO. 32-2023

ORDINANCE ADDING CHAPTER 2 ADMINISTRATIVE ADJUDICATION TO THE HERRIN
REVISED CODE OF ORDINANCES: CREATING A CODE HEARING UNIT AND OTHER
ACTIONS IN CONNECTION THEREWITH FOR THE CITY OF HERRIN, ILLINOIS

ADOPTED BY THE CITY COUNCIL OF THE
CITY OF HERRIN, ILLINOIS, NOVEMBER 27, 2023

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL OF
THE CITY OF HERRIN, WILLIAMSON COUNTY, ILLINOIS, THIS 28TH DAY OF
NOVEMBER, 2023.

Shelly Huggins
City Clerk

ORDINANCE NO. 32-2023

AN ORDINANCE ADDING CHAPTER 2: ADMINISTRATIVE ADJUDICATION TO THE HERRIN REVISED CODE OF ORDINANCES: CREATING A CODE HEARING UNIT AND OTHER ACTIONS IN CONNECTION THEREWITH FOR THE CITY OF HERRIN, ILLINOIS

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and

WHEREAS, the City of HERRIN, ILLINOIS is a municipal corporation and a home rule unit of local government pursuant to the Constitution of the State of Illinois of 1970, as amended (which, together with any successor municipal corporation or public body hereinafter designated by or pursuant to law, is hereinafter called "City"); and,

WHEREAS, pursuant to Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 *et seq.*, the City is empowered to establish a Code Hearing Unit for the purposes outlined therein; and,

WHEREAS, the corporate authorities of the City believe that the creation of a Code Hearing Unit would provide the City with an efficient method for adjudicating alleged ordinance violations in a manner that is less costly to both the City and the accused, while providing the necessary due process protections for the accused, and doing so will allow the City to more efficiently protect the health, safety and general welfare of its residents; and,

WHEREAS, in furtherance of this belief, the corporate authorities have reviewed the proposed Chapter 2 of the City of Herrin Code of Ordinances, attached hereto and incorporated herein as *Exhibit A*; and,

WHEREAS, upon review of the same, the corporate authorities believe that this addition to the Code of Ordinances will accomplish the goals outlined herein; and,

WHEREAS, the corporate authorities of the City hereby state their belief that the amendment of the City Code of Ordinances to add Chapter 2, as provided herein, is in the best interests of the City and its citizens.

NOW, THEREFORE, be it ordained, by the City Council of Herrin as follows:

Section 1. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

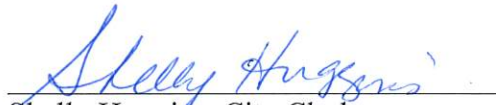
Section 2. The corporate authorities wish to amend the City of Herrin Code of Ordinances, and that same is hereby amended to include Chapter 2, as shown in the attached *Exhibit A*.

Section 3. Repeal of Conflicting Provisions. All ordinances, resolutions, and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 4. Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 5. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.


PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF HERRIN, ILLINOIS THIS 27th DAY OF NOVEMBER, 2023.



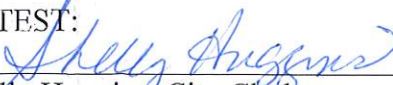
Shelly Huggins, City Clerk

<u>NAME</u>	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Alderman Sheila Ahlgren	x			
Alderman David Shoemake	x			
Alderman Randy Crompton	x			
Alderman Paul York	x			
Alderman Steve Miller				x
Alderman Scott Kinley	x			
Alderman Bill Sizemore				x
Alderman Marilyn Ruppel	x			

APPROVED BY THE MAYOR OF THE CITY OF HERRIN, ILLILNOIS THIS 27th DAY OF NOVEMBER, 2023.



Steve Frattini, Mayor

ATTEST:


Shelly Huggins, City Clerk

Shelly Huggins, City Clerk

Exhibit A

CHAPTER 2: ADMINISTRATIVE ADJUDICATION

§ 2.01. Creation of a System of Administrative Adjudication

The City of Herrin (City) pursuant to Article I, Division 2.1 of the Illinois Municipal Code, 65 ILCS 5/1-2.1-1 *et seq.*, hereby establishes a system of administrative adjudication, subject to the limitations of this Chapter, that provides due process of law, including notice and an opportunity for a hearing for all affected persons. In the event a conflict between this Chapter and Article I, Division 2.1 of the Illinois Municipal Code exists, then the Illinois Municipal Code shall prevail.

§ 2.02. Establishment of Code Hearing Unit.

- (a) There is hereby established a Code Hearing Unit within the City that is responsible for conducting adjudicatory hearings, exercising the powers conferred in this Chapter and in the manner set out in this Chapter.
- (b) The Code Hearing Unit shall have jurisdiction to adjudicate all alleged violations of the Code, except for: (i) proceedings not within the statutory authority of the City; (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles; and, (iii) any reportable offense under Section 6-204 of the Illinois Vehicle Code.
- (c) The establishment of the Code Hearing Unit does not preclude the City from using other methods to enforce the provisions of its Code.
- (d) The Code Hearing Unit shall consist of one or more Hearing Officers, as that term is defined herein, and such other agents or employees assigned to assist the Hearing Officer by the City.

§ 2.03. Definitions.

For this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) “Adjudicatory Hearings” means any hearing called by the Code Hearing Unit pursuant to this Chapter.
- (b) “Code” means the City’s Code of Ordinances.
- (c) “Code Hearing Unit” is defined in Section 2.02, herein.
- (d) “Complaint” means a written pleading, filed with the Code Hearing Unit by an authorized official of the City, which alleges a violation of the Code.

- (e) “Final Administrative Order” is defined in Section 2.07, herein.
- (f) “Hearing Officer” means an agent of the City whose duty it is to:
 - (1) hear testimony and accept evidence that is relevant to the existence of an alleged violation of the Code;
 - (2) issue subpoenas directing witnesses to appear and give relevant testimony at the adjudicatory hearing, upon the request of the parties or their representatives;
 - (3) preserve and authenticate the record of the adjudicatory hearing and all exhibits and evidence introduced at the adjudicatory hearing;
 - (4) issue a determination, based on the evidence presented at the adjudicatory hearing, of whether or not a violation of the Code exists; and,
 - (5) impose penalties consistent with applicable provisions of the Code and assess costs upon finding a party liable for the charged violation, except, however, that in no event shall the Hearing Officer have authority to (i) impose a penalty of incarceration; or, (ii) impose a fine either in excess of \$50,000, or such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the judicial circuit in which the **City** is located. Any such fine imposed under this Chapter shall be exclusive of costs of enforcement or costs imposed to secure compliance with the Code and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the City.
- (g) A “Non-Emergency Situation” means any situation that does not reasonably constitute a threat to the public interest, safety or welfare.

§ 2.04. Requirements of Hearing Officers.

- (a) Any attorney licensed to practice law in the State of Illinois for at least three years may be a Hearing Officer, provided that he or she complies with the provisions of this Section.
- (b) Prior to conducting adjudicatory hearings, Hearing Officers shall have successfully completed a formal training program which includes the following:
 - (1) instruction on the 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.

- (c) A person who has served as a judge in Illinois is not required to fulfill the requirements of subsection (b), herein.
- (d) Any person seeking to be appointed as a Hearing Officer for the City must present evidence of his or her compliance with this Section to the corporate authorities, in such form as deemed appropriate by the corporate authorities.

§ 2.05. Proceedings for Adjudicatory Proceedings.

- (a) The filing of the Complaint shall serve to institute proceedings before the Code Hearing Unit.
- (b) Parties shall be served with process in a manner reasonably calculated to give actual notice. For the purposes of this Chapter, “a manner reasonably calculated to give actual notice” shall mean, as appropriate, personal service of process upon a party, its employee or its agent; service by first-class mail at a party’s address; or notice that is posted upon the property where the alleged Code violation is found when the party is the owner or manager of the property. If the City requires the party to respond to the Complaint within a specified amount of time, the City shall file a reply with the Code Hearing Unit within the same amount of time afforded to the party responding to the Complaint.
- (c) Parties shall be given notice of any adjudicatory hearing. Said notice must, at a minimum, include: (i) the type and nature of the Code violation to be adjudicated; (ii) the date and location of the adjudicatory hearing; (iii) the legal authority and jurisdiction under which the adjudicatory hearing is to be held; and, (iv) the penalties for failure to appear at the adjudicatory hearing.
- (d) Parties shall be provided with an opportunity for an adjudicatory hearing during which they may be represented by counsel, present witnesses and cross-examine opposing witnesses. Parties may request the Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses, as well as the production of relevant documents.
- (e) Adjudicatory hearings shall be scheduled with reasonable promptness, provided that for adjudicatory hearings scheduled in all non-emergency situations, if requested by the defendant, the defendant shall have at least 15 days after service of process to prepare for an adjudicatory 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.

§ 2.06. Hearing; Evidence.

The formal and technical rules of evidence shall not be applied in an adjudicatory hearing under this Chapter. The Hearing Officer may accept any evidence, including hearsay, if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

§ 2.07. Findings, Decision and Order.

- (a) At the conclusion of the adjudicatory hearing, the Hearing Officer shall make a determination (the “Final Administrative Decision”), based on the evidence presented at the adjudicatory hearing, of whether or not a violation of the Code exists. The Final Administrative Decision 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.
- (b) A copy of the Final Administrative Decision shall be served on the Parties within five days after issuance. The Final Administrative Decision shall be served in a manner allowed by Section 2.05(b), unless the parties agree to an alternative form of service.
- (c) Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Code.

§ 2.08. Review Under Administrative Review Law.

Any Final Administrative Decision by a Code Hearing Unit, 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, 735 ILCS 5/3-101 *et seq.*

§ 2.09. 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 Illinois Administrative Review Law are a debt due and owing the City and may be collected in accordance with applicable law.
- (b) After expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a Final Administrative Decision of a Code violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Hearing Officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- (c) 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 City 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 City and may be collected in accordance with applicable law. Prior to any expenses being fixed by a Hearing Officer pursuant to this subsection, the City shall provide notice to the defendant that states that the defendant shall appear at a hearing before the 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.

- (d) Upon being recorded in the manner required by Article XII of the Code of Civil Procedure, 735 ILCS 5/12-101 *et seq.*, or by the Uniform Commercial Code, 810 ILCS 5/1-101 *et seq.*, 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 Chapter. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.
- (e) A 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 Hearing Officer determines that the defendant's failure to appear at the adjudicatory hearing was for good cause or at any time if the defendant establishes that the City did not provide proper service of process. If any judgment is set aside pursuant to this subsection, the Hearing Officer shall have the 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.



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