

**CITY OF
HIGHLAND PARK**

**ADMINISTRATIVE
HEARING SYSTEM
CITIZEN'S GUIDE**



ADMINISTRATIVE HEARINGS

An administrative hearing is similar to a court proceeding, except it is less formal and many of the stringent rules of court proceedings do not apply. At an administrative hearing, a Hearing Officer, who is a licensed attorney, listens to testimony and examines evidence to determine if a City ordinance (i.e. building code, sign code, or other sections of the City Code) has been violated. Individuals who are issued a Violation Notice (the "ticket") must attend this informal hearing to dispute the ticket.

LOCATION

All hearings take place in the City Council Chambers (2nd floor) of the Highland Park City Hall, 1707 St. Johns Avenue. Parking is available in the lot located at Hazel and St. Johns (across the street from City Hall).

Hearings are scheduled to occur on the third Thursday of each month. An additional hearing is held on the first Thursday during the months of June through September. Hearings are held in separate daytime sessions: 9:00 a.m., 11:00 a.m., 1:30 p.m., 2:30 p.m. and 3:00 p.m.

SUMMARY OF PROCEDURES

- The defendant must attend the hearing at City Hall on the date and time specified on the ticket
- The defendant has the right to represent himself or herself, or to hire an attorney at his or her own expense
- The defendant may tell his or her side of the story and use witnesses
- The defendant may present physical evidence such as receipts, photographs, etc.
- If the Hearing Officer finds the defendant liable, the defendant must pay any fines and administrative costs on the day of the hearing

PROCEDURES

CONTINUANCE

Not less than five days prior to the hearing, a defendant may make a request of the Highland Park Code Enforcement Administrator (who acts as the clerk for the administrative hearing system) to postpone the hearing for good cause. The decision to postpone the initial hearing shall be at the sole discretion of the Code Enforcement Administrator and shall only be granted once.

On the day of the hearing the Hearing Officer, at his or her sole discretion, may grant a continuance if the defendant or his or her representative appears at the hearing and demonstrates good cause for the continuance.

HEARING CHECK IN

Defendants should arrive 15 minutes prior to the scheduled hearing and check in with the Bailiff. The Code Enforcement Administrator will post the docket at the hearing which will provide the order in which defendants will appear before the Hearing Officer.

Attorneys representing respondents must file an appearance at the hearing.

At the beginning of each hearing session the Hearing Officer will ask each defendant to state his or her plea, whether liable or not liable. Those defendants pleading Liable will be heard first. Defendants pleading not liable will be given a trial.

When the Hearing Officer calls an individual's case, the defendant should answer "here" or "present" and step up to the podium. The City's representative and witnesses, if any, will also step up to the podium at this time. The Hearing Officer will then ask the defendant to state his or her case.

RULES OF EVIDENCE

Both the defendant and the City have an opportunity to present their cases by sworn testimony and/or exhibits. The formal and technical rules of evidence do not apply. 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, which shall be determined by the Hearing Officer. Testimony is given under oath and will be recorded on audiotape. The Hearing Officer may, at the request of either party, issue subpoenas to require that certain witnesses attend the hearing.

THE CITY'S CASE

The City has the initial burden of proof. This means that the City must present evidence that a violation occurred or did not occur. However, a properly prepared and issued ticket constitutes prima facie evidence that the violation occurred and shifts the burden to the defendant. This means that if the ticket was filled out and served on the defendant in the manner required by law, the City need not present any additional evidence or witnesses to support its case against the defendant. The City's attorney is not available during morning sessions, but is available prior to all afternoon hearing sessions.

DEFENDANT'S CASE

The defendant will have an uninterrupted opportunity to tell his or her side of the story. The defendant may present witnesses and relevant evidence that may help to establish his or her innocence.

QUESTIONS BY THE HEARING OFFICER

The Hearing Officer may ask questions of the parties and witnesses in order to clarify the evidence.

THE HEARING OFFICER'S DECISION

After both sides are provided an opportunity to be heard, the Hearing Officer will render a decision. The decision will be based on a preponderance of the evidence; that means the Hearing Officer will determine whether it is more likely than not that an ordinance violation occurred or did not occur. In making a decision that the defendant is liable, the Hearing Officer is not required to make a determination that the defendant is liable beyond all reasonable doubt, as a judge would do in a criminal trial.

The decision will be in the form of a written order entitled Findings, Decisions and Order. If the Hearing Officer finds that a violation has occurred he may impose fines or may require the defendant to undertake corrective actions or both. In addition, the administrative costs of the hearing shall be assessed against the defendant as part of a finding of liability. The current minimum for administrative costs is \$40.00. Therefore if a defendant is found liable, he or she will be faced with costs of at least \$40.00.

FAILURE TO ATTEND HEARING

If a defendant fails to attend a hearing, the Hearing Officer will proceed and a *Finding* of Default will be entered.

The Finding of Default will impose fines and administrative costs. The defendant will have the opportunity to "set aside" or "vacate" (cancel) a Finding of Default if

the defendant files a Motion to Set-Aside Default within 21 days after the Hearing Officer enters the Order. If the defendant alleges he or she did not receive proper service of process, the 21 day limit shall not apply. If the set-aside is granted, the defendant will be expected to attend the next regularly scheduled hearing. If the defendant does not attend the hearing, he or she must adhere to the decision in the Order.

PENALTIES AND FINES

Fines imposed by the Hearing Officer will be in accordance with the guidelines set forth in the pertinent section of the City Code.

If the defendant is found liable, the Hearing Officer may also impose administrative costs (in the minimum amount of \$40.00) against the defendant. The Hearing Officer has no authority to waive or impose an amount less than the minimum amount set by City Ordinance. However, the Hearing Officer may waive administrative costs for adjudged violations of Chapters 72, 73, 74, or 77 of Title VII of the Code.

PAYMENT OF FINES AND ADMINISTRATIVE COSTS

If there are administrative costs or fines to be paid *payment must be made at the conclusion of the hearing* with the Finance Clerk located at the back of the Council Chambers or at the Finance Department window on the first floor of City Hall.

In order to ensure that code violations are remedied and fines are paid in a timely manner, the Hearing Officer may require a defendant to post a compliance bond.

METHODS OF PAYMENT

The City will accept cash, money order, personal or certified check, or Visa, MasterCard, or Discover cards for the payment of fines.

CONSEQUENCES FOR FAILURE TO PAY

If the defendant fails to pay the fine or administrative costs, or does not undertake the corrective actions ordered by the Hearing Officer, then the City may take the following actions:

1. Forward the matter to a collection agency;
2. Request the Hearing Officer to place a lien on the property at a subsequent hearing; or
3. Perform the corrective actions on its own and request the Hearing Officer to assess costs against the defendant at a subsequent hearing.

APPEAL PROCESS

An Appeal of an *Order* issued by the Hearing Officer may be filed by the defendant or the City in accordance with the Illinois Administrative Review Law. This law provides that appeals may be filed with the Lake County Circuit Court within 35 days of the hearing.

RED LIGHT CAMERA VIOLATIONS

Upon receipt of a request for an Administrative Hearing by the Police Department, the ticket is placed on hold. Defendants have the opportunity to request an appearance in person or ask for a non-appearance hearing. Highland Park residents requesting a hearing must appear in person.

The process for red light camera hearings follow the same procedure as outlined above with the exception of the following:

1. Non-appearance respondents waive their right to appear personally at the hearing and must submit a notarized statement of facts along with the hearing request.
2. The violation has been captured by video and is available for viewing at www.photonotice.com (Enter City Code HLPKIL).
3. The Hearing Officer will view the video evidence of each alleged violation.
4. If found liable, payment can be made by check or credit card directly to Red Flex, the managing company for all Red Light Camera Ticket Violations. Defendants also have 30 days to make payment directly to the address on the Order or online at www.photonotice.com. A \$3.50 processing fee is required for all payments made online.
5. A \$100.00 late fee will be added to unpaid fines after 30 days.

Any further questions regarding the Administrative Hearing System may be directed to the City of Highland Park Code Enforcement Administrator at (847) 926-1030.