

RESOLUTION NO 15-1

WHEREAS, the Sangamon County Board believes that it is in the best interests of the general health, safety, comfort and welfare of the people of Sangamon County that the Board approve the creation of an Ordinance Violation Hearing Department;

WHEREAS, the efficient administration of administrative adjudication of ordinance violations would be and requires the formation of a Sangamon County Hearing Department;

WHEREAS, numerous changes are necessary to reflect current administrative practices and remove the obsolete language and archaic language;

NOW THEREFORE BE IT RESOLVED, by the members of the Board of Sangamon County, Illinois in session this 10th day of February, 2009, that:

1. Chapter 5.30 of the Sangamon County Code is repealed in its entirety, and a new chapter 5.30 attached hereto and marked "Exhibit A" is hereby adopted, effective immediately.
2. Section 15.0521 of the Sangamon County Code is repealed in its entirety, and a new section 15.05.21 attached hereto and marked "Exhibit B" is hereby adopted, effective immediately.
3. Chapter 17.78.010 of the Sangamon County Code is repealed in its entirety, and a new chapter 17.78.010 attached hereto and marked "Exhibit C" is hereby adopted, effective immediately.
4. All ordinances or resolutions and parts of ordinances or resolutions in conflict with this resolution are hereby repealed.

Paul Palezzolo  
SANGAMON COUNTY AUDITOR

RECEIVED  
FEB 05 2009

FILED

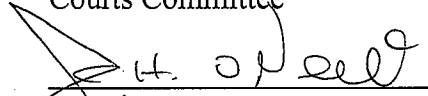

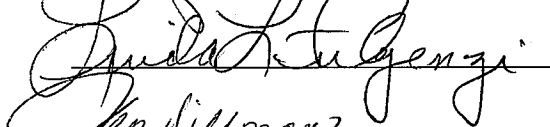

FEB 06 2009

Joe Aiello  
Sangamon County Clerk

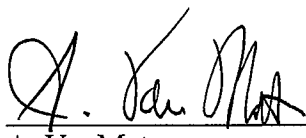
- 5. This resolution shall become effective immediately upon passage.
- 6. The Sangamon County Clerk is directed to cause the amendments provided herein to the Sangamon County Code to become printed as part of the Sangamon County Code.
- 7. The Sangamon County Clerk is directed to publish this resolution as required by law and maintain a certificate of publication with the county records.

Respectfully submitted,

Courts Committee

	_____
	_____
	_____
	_____
_____	_____

Adopted, on February 10, 2009, by the Sangamon County Board.



A. VanMeter  
Sangamon County Board Chairman

Chapter 5.30

Ordinance Violation Hearing Department

Sections:

- 5.30.010 Establishment
- 5.30.020 Purpose
- 5.30.030 Definitions
- 5.30.040 Combined Hearing Department
- 5.30.050 Appointment
- 5.30.060 Powers and Duties – Hearing Officers
- 5.30.070 Qualifications Hearing Officers
- 5.30.080 Procedure
- 5.30.090 Administrative Hearings
- 5.30.100 Enforcement of Judgment
- 5.30.110 Incorporated Laws
- 5.30.120 Severability

**5.30.010 Establishment.**

There is hereby created an Ordinance Violation Hearing Department which shall be known as the “Sangamon County Hearing Department” authorized to conduct administrative adjudication proceedings to enforce compliance with any county ordinance that pertains to or regulates any of the following: animal control; the definition, identification, and abatement of public nuisances; the accumulation, disposal, and transportation of garbage, refuse, and other forms of solid waste; the construction and maintenance of buildings and structures; sanitation practices, zoning, ordinances.

**5.30.020 Purpose.**

The purpose of this chapter is to provide for fair and efficient enforcement of county ordinances as may be allowed by law and directed by ordinance, through an administrative adjudication of violations of such county ordinances.

**5.30.030 Definitions.**

As used in this chapter:

“Code” means any county ordinance that pertains to or regulates any of the following: animal control; the definition, identification, and abatement of public nuisances; the accumulation, disposal, an transportation of garbage, refuse and other forms of solid waste; the construction and maintenance of buildings and structures; sanitation practices, zoning, or animal control ordinances of the City of Springfield.

“Code enforcement officer” means a county employee authorized to issue citations by local or state law for county code violations and to conduct inspections of public or private real property to determine whether code violations exist.

“ Sangamon County Hearing Department Clerk” means a county employee designated to oversee and implement the efficient administration of the Sangamon County Hearing Department with the following powers and duties:

1. Act as clerk of the Sangamon County Hearing Department attending adjudication sessions and receive, date and preserve all pleadings, motions, rulings and orders;
2. Preserve and authenticate the record of all hearings and all exhibits and evidence introduced at any administrative hearing;
3. Create and require the use of preprinted order and related pleading forms in the hearing process;
4. Receive, preserve and administer violation citations issued under State law and collected by the local entity;
5. Collect all fines, fees and costs as required by law or by order of the Administrative Hearing Officer.

“Hearing officer” means a person other than a code enforcement officer or law enforcement officer having the following powers and duties:

1. To preside at an administrative hearing called to determine whether a code violation exists.
2. To hear testimony and accept evidence from the code enforcement officer, the respondent, and all interested parties relevant to the existence of a code violation.
3. To issue and sign written findings and a decision and order stating whether a code violation exists.
4. To impose penalties consistent with applicable code provisions and to assess costs reasonably related to instituting the proceedings upon finding the respondent liable for the charged violation. In no event, however, shall the hearing officer have the authority to impose a penalty of incarceration.

“Property owner” means the legal or beneficial owner of an improved or unimproved parcel of real estate.

“Respondent” means a property owner, waste hauler, or other person charged with liability for an alleged code violation and the person to whom the notice of violation is directed.

“Solid waste” means demolition materials, food and industrial processing wastes, garden trash, land cleaning waste, mixed refuse, non-combustible refuse, and trash as defined in the Solid Waste Disposal District Act.

“Waste hauler” means any person owning or controlling any vehicle used to carry or transport garbage, refuse, other forms or solid waste.

**5.30.040 Combined Hearing Department Authorized.**

The Sangamon County Hearing Department may be combined with any adjacent unit of local government for the efficient and just adjudication of any and all the violation cases for the various units of local government.

**5.30.050 Director and Hearing Officer – Appointment.**

The Chairman of the County Board, with the advice and consent of the County Board, shall appoint one or more hearing officers for the purpose of this section.

**5.30.060 Hearing Officers – Powers and Duties.**

The hearing officer shall preside over all adjudication hearings and shall have all powers authorized by State laws, included but not limited to the following:

1. Hear testimony and accept relevant evidence to the existence of the ordinance violation;
2. Issue subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of the parties or their representatives;
3. Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
4. Issue and sign a written findings and decision stating whether a ordinance violation exists. The written decision shall include a finding of fact and decision and order including the fine amount, penalty or actions with which the respondent must comply;
5. Impose penalties, sanctions or such other relief consistent with applicable ordinance provisions and assessing costs upon finding a party liable for the charged violation, except that in no event shall the hearing officer have the authority to impose a penalty of incarceration.
6. Administer oaths and affirmations;
7. Rule upon motions, objections and admissibility of evidence.

**5.30.070 Qualifications of hearing officer.**

Prior to conducting administrative adjudication proceedings under this chapter, the hearing officer shall have successfully completed a formal training program which includes the following:

1. Instruction on the rules of procedure of the administrative hearings over which the hearing officer shall preside;
2. Orientation to each subject area of the ordinance violation the hearing officer will adjudicate;

- 3. Observation of administrative hearings;
- 4. Participation in hypothetical cases including ruling on evidence and issuing final orders.

In addition, a hearing officer must be an attorney licensed to practice law in the State of Illinois.

**5.30.080 Procedure.**

A. When a code enforcement officer observes a code violation, the officer shall note or, in the case of an animal control violation, the code enforcement officer may respond to the filing of a formal complaint by noting the violation on a violation notice and report form, indicating the following: the name and address of the respondent, if known; the name, address, and state vehicle registration number of the waste hauler who deposited the waste, if applicable; 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 ration or property where the violation is observed.

B. The violation notice and report form shall contain a file number and a hearing date noted by the code enforcement officer in the blank spaces provided for that purpose on the form. The violation notice and report shall state that failure to appear at the hearing on the date indicated may result in a determination of liability for the cited violation and the imposition of fines and assessment of costs as provided by the applicable county ordinance. The violation notice and report shall also state that upon a determination of liability and the exhaustion of or failure to exhaust procedures for judicial review, any unpaid fines or costs imposed will constitute a debt owed to the county.

C. A copy of the violation notice and report form shall be served on the respondent either personally or by first class mail, postage prepaid, sent to the address of the respondent. If the name of the respondent property owner cannot be ascertained or if service on the respondent cannot be made by mail, service may be made on the respondent property owner by posting, not less than twenty days before the hearing is scheduled, a copy of the violation notice and report form in a prominent place on the property where the violation is found. The original or a facsimile of the violation notice shall be retained by the hearing officer or his designated administrative assistant and kept as a record in the ordinary course of business.

**5.30.090 Administrative hearings.**

A. Evidence: At the hearing, a hearing officer shall preside and shall hear testimony and accept any evidence relevant to the existence or nonexistence of an ordinance violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this chapter. Evidence, including hearsay, may be submitted if it is of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs. Parties shall be given an opportunity to present witnesses, and cross-examine opposing witnesses.

B. Subpoenas: At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of the inspector, the officer, the attorney for

the county, or the alleged violator or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.

C. Default: If on the date set for hearing, the alleged violator or his attorney fails to appear, the hearing officer may find the alleged violator in default and shall proceed with the hearing and accept relevant evidence to the existence of an ordinance violation. A hearing officer may set aside any judgment entered by default and set a new hearing date upon a petition filed within thirty days after the issuance of the order of default if the hearing officer determines that the petitioner's failure to appear was for good cause or at any time if the petitioner establishes a lack of proper service of process as provided in Section 5.30.080 C.

D. Findings, decision and order of the hearing officer: At the conclusion of the hearing, the hearing officer shall make a determination, on the basis of the evidence presented at hearing, whether or not an ordinance violation exists. The determination shall be in writing and shall be designated as the hearing officer's finding, decision and order. It shall include the hearing officer's findings of fact, a determination of whether a code violation exists based on the findings of fact, and an order imposing a fine or other penalty, directing the respondent to correct the violation, or dismissing the case if the violation is not proved. The order may also impose sanctions that are provided in the code for the violations proved, including the imposition of fines and the recovery of the costs of the proceedings. Costs may be recovered in the same manner as fines and penalties. A copy of the findings, decision, and order shall be served by personal service or by any method provided for service of the violation notice and report form under Section 5.30.080 C.

E. Payment: payment of any penalty or fines or cost of the proceedings shall be made to the Ordinance Violation Hearing Department and the disposition of that money shall be made pursuant to the applicable ordinance violated or as may be determined by separate ordinance of the county board.

F. Record: Oral proceedings or any part thereof shall be recorded stenographically or by other means that will reasonably insure the preservation of the testimony or oral proceedings. The record in a contested case shall also include the following:

- 1. All pleadings, motions and rulings;
- 2. All evidence received;
- 3. All statements of matters officially noticed;
- 4. Any offers of proof, objections, and rulings thereon;
- 5. Any proposed findings and exceptions;
- 6. Any decision, opinion or report by the hearing officer.

G. Review: Any final decision by the hearing officer that a code violation 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.

**5.30.100 Enforcement of judgment.**

A. Any fine, other sanction, or costs imposed, or any part of any fine, or other sanction or costs imposed, remaining unpaid after the exhaustion of or failure to exhaust procedures for judicial review under the Administrative Review Law is a debt due and

owed to the county and, as such, may be collected in accordance with applicable law. Any subsequent owner or transferee of property takes subject to this debt if a notice has been filed pursuant to 55 ILCS Section 5/5-41050.

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 county may commence a proceeding in the Circuit Court of the county for purposes of obtaining a judgment on the hearing officer's findings, decision, and order. Nothing in this section prevents a county from consolidating multiple findings, decisions, and orders against a person or property in such a proceeding.

C. Upon commencement of the action, the county shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show the findings, decision, and order were issued in accordance with 55 ILCS 5/5-41005 et seq. and the applicable county ordinance. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines or other sanctions and costs imposed by the findings, decision, and order does not exceed five thousand dollars.

D. If the Court is satisfied that the findings, decision, and order were entered within the requirements of 55 ILCS 5/5-41005 et seq. and the applicable county ordinance and that the respondent had an opportunity for a hearing under 55 ILCS 5/5-41005 et seq. and for judicial review provided in Section 5/5-41045:

1. The Court shall render judgment in favor of the county and against the respondent for the amount indicated in the findings, decision, and order plus court costs. The judgment has the same effect and may be enforced in the same manner as other judgments for the recovery of money.

2. The Court may issue other orders or injunctions, or both, requested by the county to enforce the order of the hearing officer or to correct a code violation.

**5.30.110 Incorporated laws.**

In addition to the provisions of this chapter, the Administrative Adjudication of Ordinance Violations Act, 55 ILCS 5/5-41005 et seq. is adopted and incorporated herein.

**5.30.120 Severability.**

If any provision of this chapter or the application thereof, to any party, person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or application of this chapter, and to the end that the provisions or application of this chapter are declared to be severable.



**Section 15.05.21 Violation Penalties**

Any person who violates a provision of the codes referenced in Section 15.05.070 or fails to comply with any of the requirements thereof, or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official or code official, or of a permit or certificate issued under the provisions of the codes, commits a petty offense.

Any person who commences construction without having made application to the Department of Zoning and Building Safety and received authorization from said department to begin said construction shall be subject to an application fee of 150% of the normal fee.

The State's Attorney may bring action to enforce compliance of the requirements of this ordinance by filing an action before the Sangamon County Ordinance Violation Hearing Department or by filing an action in Sangamon County Circuit Court requiring conformance with this ordinance, fines, fees and costs for violation of this ordinance or such other order as the Court or Hearing Officer may deem necessary.

Any person who violates this ordinance shall be fined not less than Twenty-five (\$25) dollars nor more than Two Thousand Five Hundred (\$2,500.00) dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**Chapter 17.78.010 Violation Penalties**

Any person who violates the terms of this chapter shall be guilty of a petty offense.

The State's Attorney may bring action to enforce compliance of the requirements of this ordinance by filing an action before the Sangamon County Ordinance Violation Hearing Department or by filing an action in Sangamon County Circuit Court requiring conformance with this ordinance, fines, fees and costs for violation of this ordinance or such other order as the Court or Hearing Officer may deem necessary.

Any person who violates this ordinance shall be fined not less than Twenty-five (\$25) dollars nor more than Five Hundred (\$500.00) dollars. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.