

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 1.24 OF THE CODE OF ORDINANCES OF THE CITY OF CREST HILL, ILLINOIS.**

**WHEREAS**, pursuant to its express authority granted by the Illinois Municipal Code, the City of Crest Hill has from time to time deemed it necessary to amend its Code of Ordinances; and

**WHEREAS**, The City of Crest Hill has previously exercised said authority by adopting Chapter 1.24 Hearing Procedures for Enforcement of Building, Housing and Zoning Code Violations, and amending it from time to time; and

**WHEREAS**, The City Council has determined that it is necessary to amend the City of Crest Hill Code Chapter 1.24 Hearing Procedures for Enforcement of Building, Housing and Zoning Code Violations as set forth in this ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Crest Hill, Illinois, as follows:

**SECTION 1: PREAMBLE.** The preamble of this Ordinance is declared to be true and correct and is incorporated by reference as if fully set forth in this Section 1.

**SECTION 2: APPROVAL.** The Chapter 1.24 of the City code of ordinance is and shall be repealed and replaced in their entirety as follows:

**CHAPTER 1.24: HEARING PROCEDURES FOR ENFORCEMENT OF BUILDING, HOUSING AND ZONING CODE VIOLATIONS**

**Section**

- 1.24.010 Adoption
- 1.24.020 Definition
- 1.24.030 Code Hearing Department
- 1.24.040 Code hearing procedure
- 1.24.050 Subpoenas
- 1.24.060 Default
- 1.24.070 Continuances and representation at code hearings
- 1.24.080 Evidence at hearing
- 1.24.090 Retaliatory action against occupants prohibited
- 1.24.100 Defenses to code violations
- 1.24.110 Findings, decision, order of hearing officer
- 1.24.120 Fines and sanctions
- 1.24.130 Administrative review law to apply
- 1.24.140 Disposition of violations
- 1.24.150 Sanctions and findings to run with the property

**§ 1.24.010 ADOPTION.**

The City of Crest Hill hereby adopts ILCS Ch. 65, Act 5, §§ 11-31.1-1 et seq. in its current form and as it may be amended from time to time.

## **§ 1.24.020 DEFINITIONS.**

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CODE.** Any Crest Hill ordinance, law, housing, building code or zoning ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures in Crest Hill.

**CODE ENFORCEMENT OFFICER.** Any Crest Hill sworn police officer, community service officer, or the Community and Economic Development Director or their designee, whose duty it is to enforce the Crest Hill Code as defined herein.

**HEARING OFFICER.** A Crest Hill employee or an officer or agent of Crest Hill, other than a property inspector or law enforcement officer, whose duty it is to:

- (1) Preside at an administrative hearing called to determine whether or not a code violation exists;
- (2) Hear testimony and accept evidence from the property inspector, the building owner and all interested parties relevant to the existence of a code violation;
- (3) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
- (4) Issue and sign a written finding, decision and order stating whether a code violation exists.

**PROPERTY OWNER.** The legal or beneficial owner of a structure.

## **§ 1.24.030 CODE HEARING DEPARTMENT.**

- (A) There is hereby established a Code Hearing Department the function of which is to expedite the presentation and correction of code violations in the manner set out in ILCS Ch. 65, Act 5, §§ 11-31.1 et seq. and this chapter.
- (B) The adoption of this chapter does not preclude Crest Hill from using other lawful methods to enforce the provision of its code.

## **§ 1.24.040 CODE HEARING PROCEDURE.**

- (A) When any Code Enforcement Officer finds a code violation while inspecting a property, he or she shall note the violation on a multiple copy violation notice and report form, indicating the name and address of the property owner, 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 where the violation is observed.
- (B) The violation report form shall be forwarded by the Code Enforcement Officer, to the Code Hearing Department where a docket number shall be stamped on all copies of the report, and a hearing date noted in the blank spaces provided for that purpose on the form. The hearing date shall be at the next available Administrative Hearing date which is not less than 30 days after the violation is reported by the Code Enforcement Officer.
- (C) One copy of the violation report form shall be maintained in the files of the Code Hearing Department and shall be part of the record of hearing, one copy of the report form shall be

returned to the Code Enforcement Officer so that he 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 by first class mail on the property owner along with a summons commanding the property owner to appear at the hearing. If the municipality in which the property is situated has an ordinance requiring property owners to register with the municipality, service may be made on the property owner by mailing the report and summons to the property owner's address registered with the municipality. If the name of the property owner of the structure cannot be ascertained or if service on the property owner cannot be made by mail, service may be made on the property owner by posting or mailing 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.

- (D) If the Code Hearing Department has reason to believe that the occupant of the property is other than the property owner, the Code Hearing Department should further serve a copy of the report form and summons on the occupant by mailing it directly to the property. This additional notice is intended as a courtesy to permit the occupant to protect its own rights in any code enforcement matter and any failure by the Code Hearing Department to notify the occupant shall not effect the Code Hearing Department's jurisdiction over the citation and the property owner.

#### **§ 1.24.050 SUBPOENAS.**

At any time prior to the hearing date the hearing officer assigned to hear the case may, at the request of the Code Enforcement Officer, or the attorney for Crest Hill, or the respondent or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing.

#### **§ 1.24.060 DEFAULT.**

If on the date set for hearing the respondent or his attorney fails to appear, the hearing officer may find the respondent in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

#### **§ 1.24.070 CONTINUANCES AND REPRESENTATION AT CODE HEARINGS.**

No continuances shall be authorized by the hearing officer in proceedings under this chapter except in cases where a continuance is absolutely necessary to protect the rights of the respondent. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this section shall be to the next available Administrative Hearing date. The case for Crest Hill may be presented by the Code Enforcement Officer, by any other Crest Hill employee or agent or by an attorney designated by Crest Hill. However, in no event shall the case for Crest Hill be presented by an employee of the Code Hearing Department. The case for the respondent may be presented by the owner and/or occupant themselves, their attorney(s), or any other agent or representative.

#### **§ 1.24.080 EVIDENCE AT HEARING.**

At the hearing, a hearing officer shall preside and shall hear testimony and accept any evidence relevant to the existence or non-existence of a code violation relating to a property or structure indicated. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this chapter.

#### **§ 1.24.090 RETALIATORY ACTION AGAINST OCCUPANTS PROHIBITED.**

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 at a code violation hearing.

#### **§ 1.24.100 DEFENSES TO CODE VIOLATIONS.**

It shall be a defense to a code violation charge under this chapter if the property owner, his 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 reasonable attempts by the property owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations;
- (C) An occupant or resident of the dwelling has refused entry to the property owner or his agent to all or a part of the dwelling for the purpose of correcting the code violation.

#### **§ 1.24.110 FINDINGS, DECISION, ORDER OF HEARING OFFICER.**

- (A) 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 finding of fact, a decision whether or not a code violation exists based upon the findings of facts, and an order ordering the property owner to correct the violation or dismissing the case in the event a violation is not proved.
- (B) 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 property 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 § 1.24.040(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, unless the corporate authorities adopting the chapter provide otherwise.

#### **§ 1.24.120 FINES AND SANCTIONS.**

The City of Crest Hill adopts by reference all current and future local ordinances, and those current and future provisions of ILCS Ch. 65, Act 5, § 11-31.1 et seq. governing property or zoning codes applicable to structures or properties relative to construction, plumbing, heating, electrical, fire prevention, sanitation and other health and safety standards in Crest Hill, for its enforcement and adjudication within the geographical boundaries of Crest Hill.

#### **§ 1.24.130 ADMINISTRATIVE REVIEW LAW TO APPLY.**

The findings, decision and order of the hearing officer shall be subject to review in the Circuit Court of Will County, and the provisions of the administrative review law, being ILCS Ch. 735, Act 5, § 3-101 et seq. and all amendments and modifications thereto, and the rules adopted pursuant thereto are adopted and shall apply to and govern every action for the judicial review of the final findings, decision and order of a hearing officer under this chapter.

#### **§ 1.24.140 DISPOSITION OF VIOLATIONS.**

- (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 to Crest Hill and, as such, may be collected in accordance with applicable law.
- (B) After expiration of the period within judicial review under the administrative review law may be sought for a final determination of the code violation, Crest Hill may commence a proceeding in the Circuit Court of Will County for purposes of obtaining a judgement on the findings, decision and order. Nothing in this section shall prevent Crest Hill from consolidating multiple findings, decisions and orders against a person in such a proceeding. Upon commencement of the actions, Crest Hill shall file a certified copy of the findings, decision and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision and order was issued in accordance with this chapter and applicable state law. 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 amounts of fines, other sanctions and costs imposed by the findings, decision and order do not exceed \$2,500.00.

#### **§ 1.24.150 SANCTIONS AND FINDINGS TO RUN WITH THE PROPERTY.**

The order to correct a code violation and the sanctions imposed by Crest Hill as the result of a finding of a code violation under this chapter shall attach to the property as well as to the property owner 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 chapter.

[Left Intentionally Blank]

PASSED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

	Aye	Nay	Absent	Abstain
Alderwoman Jennifer Methvin	_____	_____	_____	_____
Alderman Scott Dyke	_____	_____	_____	_____
Alderwoman Claudia Gazal	_____	_____	_____	_____
Alderman Darrell Jefferson	_____	_____	_____	_____
Alderperson Tina Oberlin	_____	_____	_____	_____
Alderman Mark Cipiti	_____	_____	_____	_____
Alderman Nate Albert	_____	_____	_____	_____
Alderman Joe Kubal	_____	_____	_____	_____
Mayor Raymond R. Soliman	_____	_____	_____	_____

\_\_\_\_\_  
Christine Vershay-Hall, City Clerk

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_  
Raymond R. Soliman, Mayor

ATTEST:

\_\_\_\_\_  
Christine Vershay-Hall, City Clerk