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RULES AND PROCEDURES

BLIGHT ADMINISTRATIVE HEARINGS BUREAU

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City of Detroit
Department of Appeals and Hearings
Blight Administrative Hearings Bureau
Rules and Procedures

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RULES AND PROCEDURES

City of Detroit Department of Appeals and Hearings Blight Administrative Hearings Bureau Rules and Procedures

PART 1. GENERAL.

1.1. Issuing Body and Title.

These Rules and Procedures are promulgated by the City of Detroit's Department of Appeals and Hearings pursuant to 2-111 of the 2012 Detroit City Charter and Section 8.5-3-4 of the 1984 Detroit City Code and shall be referred to as the Blight Administrative Hearings Bureau Rules and Procedures.

1.2. Effective Date and Publication.

In accordance with Section 2-111 of the 2012 Detroit City Charter, these Rules and Procedures, and any subsequent amendments, shall become effective upon publication in a daily newspaper of general circulation. All effective Rules and Procedures shall be printed and made available to the public. Copies of these Rules and Procedures shall be made available at the City of Detroit Department of Appeals and Hearings, the City Clerk's Office, each City Department that issues blight violation notices, Department of Neighborhoods District Offices and at branches of the Detroit Public Library.

1.3. Scope of Rules and Procedures.

These Rules and Procedures shall apply to the conduct of all blight violation proceedings before the City of Detroit Blight Administrative Hearings Bureau. In the absence of a specific rule governing the conduct of any aspect of a blight violation case, the administrative hearing officer shall make a determination on the issue that does not prejudice or affect the substantial rights of the parties.

1.4. Amendment of Rules and Procedures.

These Rules and Procedures shall be subject to amendment by the Director of the Department of Appeals and Hearings in accordance with Section 2-111 of the 2012 Detroit City Charter.

1.5. Supremacy of Michigan Law, the City Charter and the City Code.

Nothing in these Rules and Procedures shall act to override, restrict or relax the procedural requirements of any applicable provision of Michigan law, the 2012 Detroit City Charter, or the 1984 Detroit City Code. In the event that these Rules and Procedures conflict with any such provision, Michigan law, the City Charter, or the City Code shall take precedence.

1.6. Number.

Words used in the singular also apply to the plural, where appropriate.

1.7. Computation of Time.

In computing a period of time under these Rules and Procedures, the day of the act, event, or default is not included. Where the last day of the period falls on a Saturday, Sunday, legal holiday, or on a day that the Department of Appeals and Hearings is officially closed, the period runs until the end of the next day that is not a Saturday, Sunday, legal holiday, or day that the Department of Appeals and Hearings is officially closed.

PART 2. OPERATION OF BLIGHT ADMINISTRATIVE HEARINGS BUREAU.

2.1. Security.

All persons entering the Blight Administrative Hearings Bureau must pass through security and may be subject to inspection.

2.2. Prohibited Activities and Items.

The Blight Administrative Hearings Bureau shall be a weapon-, drug- and smoke- free building. Weapons, including but not limited to, guns, knives, chemical spray and pepper spray, are strictly prohibited and subject to confiscation without return. At his or her discretion, the Director of the Department of Appeals and Hearings, or his or her designee, may ban any item from the building as contraband.

2.3. Other Prohibited Items.

Food or beverages may not be brought into the Blight Administrative Hearings Bureau, except by employees and agents of the City of Detroit performing work-related assignments or by express permission of the Director, or the Manager, of the Department of Appeals and Hearings.

2.4. Disruptive Behavior.

Security personnel may remove, or an administrative hearing officer may order the removal of, any person who is causing or contributing, or has caused or contributed to, a disruption at the Blight Administrative Hearings Bureau, including during any administrative hearing. Any noise from cell phones or other electric devices, shall be considered disruptive behavior by the person using or having the electronic device.

2.5. Accessibility.

The Blight Administrative Hearings Bureau shall comply with the requirements of the Americans with Disabilities Act of 1990, and any applicable state law or City ordinance governing accessibility to the location and the services provided.

PART 3. PRE-HEARING MATTERS.

3.1. Timely Appearance by Attorneys.

Where an appearance by an attorney is not filed five (5) business days prior to the scheduled administrative hearing date, the hearing shall be rescheduled to a day and time when the City of Detroit Law Department attorney is available. The Blight Administrative Hearings Bureau shall provide notice to all parties of the new hearing date.

3.2. Pre-Hearing Settlement Proposals.

The parties, or their attorneys, may enter into a settlement of the case, and/or stipulation of the issue(s), and present the same to the administrative hearing officer when the case is called. The administrative hearing officer shall have the discretion to approve or reject a settlement proposal presented by the parties.

3.3. Pre-Hearing Motions and Requests.

Pre-Hearing matters should be limited to motions for adjournments and requests for subpoenas under these Rules and Procedures.

PART 4. THE ADMINISTRATIVE HEARING PROCESS.

4.1. Jurisdiction.

Pursuant to Section 4q(1) of the Michigan Home Rule City Act, being MCL 117.4q(1) and Chapter 8.5 of the 1984 Detroit City Code, the Blight Administrative Hearings Bureau shall have exclusive jurisdiction to make blight violation determinations, including providing for adjudicatory hearings by administrative hearing officers, to impose fines, costs, fees, and other

sanctions for violations of provisions of the City Code designated as blight violations in accordance with Section 41(4) of the Michigan Home Rule City Act, being MCL 117.41(4).

4.2. Commencement of Blight Violation Proceedings.

A Blight Violation Proceeding shall be commenced upon the issuance of a blight violation notice by an authorized local official and the filing of a copy of the notice with the Blight Administrative Hearings Bureau. A blight violation notice must contain a notice of hearing and be served upon the alleged violator in accordance with Section 8.5-2-15 of the 1984 Detroit City Code. In blight violation proceedings where service is by means other than by personal service, the City department or agency issuing the blight violation notice shall also submit proof of service of the notice to the Blight Administrative Hearings Bureau. In cases where a re-inspection of the subject matter of the proceeding has occurred, the responsible City department or agency shall submit a copy of the re-inspection report to the Blight Administrative Hearings Bureau as soon as is practicable.

4.3. Presentation of the City's Case.

The City bears the responsibility for presenting its case. It also bears the burden of proof in the case and, therefore, must proceed first. In general, the case may be presented by a City of Detroit employee or representative through live sworn testimony of witnesses, and any documentary evidence. The alleged violator may cross-examine any witness. The City may call, as witnesses, any members of the public who have been impacted by an alleged blight violation.

4.4. Presentation of the Alleged Violator's Case and Defenses.

The person alleged to be responsible for a blight violation shall be afforded an opportunity to contest the City's case and present defenses. The defenses available to the alleged violator and the manner in which they may be presented are governed by the City of Detroit ordinance cited in the blight violation notice and Section 4.15 of these Rules and Procedures, which governs the admissibility of evidence at the administrative hearing.

4.5. Opening and Closing Statements.

The administrative hearing officer may afford, at his or her discretion, each party an opportunity to make a brief opening and closing statement concerning any contested case.

4.6. Questions by the Administrative Hearing Officer.

An administrative hearing officer may ask questions of the parties and witnesses, if necessary, to ensure the clarity and completeness of the record for the proceeding.

4.7. Return for Re-Noticing.

In cases where service was by means other than personal service and an alleged violator failed to appear for a scheduled hearing, the administrative hearing officer shall examine the Blight Administrative Hearings Bureau file to determine if the City has filed proof of service. Where no proof of service is in file, the administrative hearing officer may adjourn the hearing with a re-notice of hearing served on all parties.

4.8. Dismissal for Lack of Progress.

Where, at the adjourned date afforded under Section 4.18, the City has not provided proof of service, the administrative hearing officer shall dismiss the matter for lack of progress. The first dismissal for lack of progress shall be without prejudice.

4.9. Representation and Appearances.

Parties may represent themselves, or may be represented by an attorney at their own expense. Any attorney appearing on behalf of an alleged violator in proceedings before the Blight Administrative Hearings Bureau must file a written and signed appearance with the Blight Administrative Hearings Bureau. The filing of an appearance prior to a hearing is subject to Section 3.1 of these Rules and Procedures which governs the timely appearance of attorneys. The filing of an appearance shall constitute an affirmative representation, under penalty of law, by the attorney signing the appearance that he or she has been duly authorized by the alleged violator to act in the proceedings on the alleged violator's behalf. "Proceedings" in this section include the hearing and all pre- and post-hearing matters.

4.10. Witnesses, Documents, and Exhibits.

Parties are expected to have their witnesses, documents and exhibits available and with them at the hearing. An additional copy, for the administrative hearing officer, of any of the documents intended to be offered into evidence is required. Parties wishing to offer electronic evidence must provide the proper equipment. The admission of any evidence is at the discretion of the administrative hearing officer in accordance with Section 4.15 of these Rules and Procedures.

4.11. Constitutional Challenges.

Administrative hearing officers do not have the authority to rule upon the constitutionality of a statute, ordinance, rule or procedure.

4.12. Order of the Docket.

The administrative hearing officer shall call the case by name and by number, dispose of any preliminary matters concerning the case, and place witness(es) under oath. Cases should be called in a manner to achieve timely and efficient management of the docket.

4.13. Subpoenas.

Pursuant to Section 4q of the Michigan Home Rule City Act, being MCL 117.4q, and Section 8.5-3-22 of the 1984 Detroit City Code, administrative hearing may, upon the request of a party, issue subpoenas: 1) to direct witnesses to appear and give relevant testimony at the hearing upon the request of a party, and 2) for the production of relevant documents. The Blight Administrative Hearings Bureau shall provide a form to request the issuance of a subpoena. The party requesting the subpoena of a witness and/or documents is responsible for the payment of the witness fee and mileage, and/or any document copying fees. All requests for subpoenas must be filed with the Blight Administrative Hearings Bureau at least ten (10) days prior to the scheduled hearing date. Fees for subpoenas must be paid in accordance with the Department of Appeals and Hearings' Fee Schedule.

4.14. Discovery.

No discovery is allowed in proceedings before the Blight Violations Bureau.

4.15. Evidence.

Pursuant to Section 4q(15) of the Michigan Home Rule City Act, being MCL 117.4q(15) and Section 8.5-3-22 of the 1984 Detroit City Code, the formal rules of evidence as applied to a non-jury civil case in Circuit Court shall be followed as far as is practicable. Pursuant to Section 4q(15) of the Act, the hearing officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Admission of any evidence where the admission would be contrary to due process of law is prohibited. Further, for the purpose of expediting hearings and when the interest of the parties will not be substantially prejudiced, all or part of the evidence in a blight violation proceeding may be submitted in written form.

4.16. Standard of Proof.

Pursuant to Section 4q(12)(d) of the Michigan Home Rule City Act, Being MCL 117.4(q)(12)(d), a blight violation shall be established, upon proof, by a preponderance of the evidence.

4.17. Ruling and Orders.

The administrative hearing officer shall make a blight violation determination for each blight violation alleged in the notice based upon the evidence presented and shall issue a written decision and order.

4.18. Adjournments.

One (1) adjournment may be granted upon a finding of good cause by the Blight Violations Hearings Bureau. Lack of preparation shall not be grounds for an adjournment. Fees for adjournments shall be paid in accordance with the Department of Appeals and Hearings Fee Schedule.

4.19. Defaults.

If an alleged violator, or his or her attorney of record at the Blight Administrative Hearings Bureau, fails to appear for a scheduled hearing, and the administrative hearing officer determines that proper notice was given, the administrative hearing officer shall find the alleged violator in default and issue a decision and order of default finding the alleged violator responsible for the violation, specifying the amount of the fine, costs, and fees as supported by the record.

4.20. Interpreters.

The Department shall provide interpreter services upon request by a violator. The request for interpreter services shall be made to the City of Detroit Department of Appeals and Hearings no later than seven (7) days before the scheduled hearing. Interpreters shall be sworn-in and shall swear that he or she will provide an accurate translation of the proceedings.

4.21. Public.

Unless otherwise provided by law, all administrative hearings shall be open to the public. In the event of overcrowding, an administrative hearing officer may limit the number of persons allowed in a hearing room in the interest of due process and safety of the parties. In the event of overcrowding, parties to the case shall be afforded priority to the hearing room over persons not party to the case. While welcome to observe, a member of the general public may not testify at the actual hearing unless formally called as a witness by a party to the case pursuant either to Section 10 of these Rules and Procedures.

4.22. Decorum.

Persons appearing at a hearing at the Blight Administrative Hearings Bureau shall conduct themselves at all times in a dignified, orderly, and appropriate manner. During the hearing, all testimony shall be directed to the administrative hearing officer. Direct debate and argument between parties and/or witnesses is not allowed. Persons who fail to conduct themselves with the

proper decorum shall be subject to appropriate sanctions, including but not limited to, removal from the proceedings.

PART 5. RECORDING OF PROCEEDINGS.

5.1. Official Recording.

All proceedings shall be recorded by the Blight Administrative Hearings Bureau by approved means. All other video or audio recording of proceedings at the Blight Administrative Hearings Bureau is prohibited. The photographing, broadcasting or televising of Blight Administrative Hearings Bureau proceedings is prohibited except with the express permission of the Director of the Blight Administrative Hearings Bureau, or his or her designee.

PART 6. POST-HEARING MATTERS.

6.1. Motion to Set Aside a Decision and Order of Default.

A party, or their attorney, may file a written motion to set aside a decision and order of default. The motion must: 1) be filed within twenty-one (21) days after the issuance of the decision and order; 2) present a good cause reason for the movant's failure to appear for the hearing; and 3) present a meritorious defense to the alleged violation. All motions to set aside a decision and order of default must be accompanied by a bond equal to the fine, fees, and costs assessed in the decision and order of default. If the motion is granted, the movant must also be prepared to proceed with an immediate hearing on the violation. The administrative hearing officer may rule on the motion without a hearing. Fees for motions shall be paid in accordance with the Department of Appeals and Hearings' Fee Schedule.

PART 7. APPEALS.

7.1. Appeal of Final Decisions and Orders to the Circuit Court; Posting of Bond for Fine and Costs; Payment for Transcript.

In accordance with Section 4q(17) of the Michigan Home Rule City Act, being MCL 117.4q(17), and Chapter 8.5-2-30 of the 1984 Detroit City Code, upon becoming final, an order of an administrative hearing officer is subject to review in the Wayne County Circuit Court, which allows either party twenty-eight (28) days to appeal after entry of a decision and order by the administrative hearing officer. Pursuant to Section 4q(18) of the Michigan Home Rule City Act, being MCL 117.4q(18), an alleged violator who appeals a final decision and order to the Wayne County Circuit Court shall post with the Blight Administrative Hearings Bureau, at the time the appeal is filed, a bond equal to the fine and costs imposed by the administrative hearing officer. A party who has paid the fine and costs is not required to post a bond. The party filing an appeal with the Wayne County Circuit Court shall be responsible for requesting and for paying for the

hearing transcript. Fees for appeals must be paid in accordance with the Department of Appeals and Hearings' Fee Schedule.

PART 8. MISCELLANEOUS MATTERS.

8.1. Reviewing and Copying of Department Case Files.

Upon request, public case files maintained by the Blight Administrative Hearings Bureau may be viewed during normal business hours, which are Monday through Friday 8:30 a.m. to 4:30 p.m. No file item may be removed from the premises. The Blight Administrative Hearings Bureau may require that the request be made in writing. Fees for copies of case files must be paid in accordance with the Department of Appeals and Hearings' Fee Schedule.

8.2. Forms.

The Director of the Blight Administrative Hearings Bureau shall create and make available forms for the use by the parties in the processing and adjudication of all blight violation notices by the Blight Administrative Hearings Bureau. The use of such forms is required unless otherwise permitted by the Director of the Blight Administrative Hearings Bureau.