

FIRST REGULAR SESSION

HOUSE BILL NO. 1045

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE FALKNER III.

2191H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 479.011, RSMo, and to enact in lieu thereof one new section relating to the administrative adjudication of municipal ordinance violations, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 479.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 479.011, to read as follows:

479.011. 1. (1) ~~[The following cities may establish an administrative adjudication system under this section:~~

~~—— (a) Any city not within a county;~~

~~—— (b) Any home rule city with more than four hundred thousand inhabitants and located in more than one county;~~

~~—— (c) Any home rule city with more than seventy-three thousand but fewer than seventy-five thousand inhabitants; and~~

~~—— (d) Any home rule city with more than one hundred fifty-five thousand but fewer than two hundred thousand inhabitants.~~

~~—— (2) The cities listed in subdivision (1) of this subsection]~~ **A city or village** may establish, by ~~[order or]~~ ordinance, an administrative system for adjudicating housing **violations**, property maintenance **violations**, nuisance **violations**, parking **violations**, ~~[and]~~ other civil **violations**, nonmoving ~~[municipal code violations]~~ **traffic violations, minor traffic violations as defined under section 479.350, and municipal ordinance violations as defined under section 479.350 as administrative adjudications** consistent with applicable state law. **The city or village shall designate a hearing officer who shall be licensed to practice as an attorney at law in the state of Missouri and may be the municipal judge.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 **(2) Such administrative adjudication system shall be subject to practice, procedure, and**
19 **pleading rules established by the state supreme court, circuit court, or municipal court, except**
20 **as provided under this section.** This section shall not be construed to affect the validity of
21 other administrative adjudication systems authorized by state law and created before August 28,
22 2004.

23 **(3) Such administrative adjudications shall not be considered contested cases under**
24 **chapter 536 and shall be governed by the provisions of this section.**

25 **(4) A municipal judge may refer a case pending before the judge, which falls within**
26 **the jurisdiction of an administrative tribunal, to such administrative tribunal. The**
27 **dismissal of the municipal court case shall occur upon notification by the administrative**
28 **tribunal of acceptance of the case. No costs shall be taxed in the event of such a dismissal.**
29 **If the reason for such referral is, in part, due to the respondent not responding to the**
30 **original summons as required on the matter referred, the court shall forward a**
31 **certification of nonappearance to the administrative tribunal.**

32 **(5) An administrative adjudication under an administrative tribunal may be**
33 **commenced by serving a code violation notice upon the respondent by a person designated**
34 **by the city or village for such purpose. Such notice shall, at a minimum, inform the**
35 **respondent of the time and place of the hearing, the sections of the code or ordinance that**
36 **were allegedly violated, the time and place of the alleged violation, and the range of**
37 **penalties for such violation. The code violation notice shall inform the respondent that the**
38 **respondent has a right to appear at the hearing, to present evidence, to question the**
39 **witnesses appearing, to subpoena witnesses, and to be represented by an attorney at the**
40 **respondent's cost. Such notice may be served on the respondent by regular mail if the**
41 **respondent signs and returns an acknowledgment of receipt, or personal service, by**
42 **registered mail with return receipt. If the city or village attempted notice by regular mail**
43 **and the respondent failed to acknowledge receipt, the cost of personal service or service by**
44 **registered mail may be taxed to the respondent regardless of outcome of the matter unless**
45 **the respondent can show good cause for failing to do so.**

46 2. The [~~order or~~] ordinance creating the administrative adjudication system shall
47 designate the administrative tribunal and its jurisdiction, including the code **or ordinance**
48 violations to be reviewed. The administrative tribunal may operate under the supervision of the
49 municipal court, parking commission, or other entity designated by [~~order or~~] ordinance and in
50 a manner consistent with state law. [~~The administrative tribunal shall adopt policies and~~
51 ~~procedures for administrative hearings, and filing and notification requirements for appeals to~~
52 ~~the municipal or circuit court, subject to the approval of the municipal or circuit court.]~~

53 3. The administrative adjudication process authorized in this section shall ensure a fair
54 and impartial review of contested municipal code violations[;] and shall afford the parties due
55 process of law. **The hearing need not be recorded, and the tribunal shall not be considered**
56 **a court of record.** The formal rules of evidence shall not apply in any administrative review or
57 hearing authorized in this section. Evidence, including hearsay, may be admitted only if it is the
58 type of evidence commonly relied upon by reasonably prudent persons in the conduct of their
59 affairs. The code violation notice, property record, and related documentation in the proper
60 form, or a copy thereof, shall be prima facie evidence of the municipal code violation. The
61 officer who issued the code violation citation need not be present. **On a finding that service**
62 **was properly effected, the administrative tribunal may proceed with the hearing regardless**
63 **of whether the respondent participates. The hearing officer shall enter a written finding,**
64 **but the findings of fact and conclusions of law shall not be required.**

65 4. **An administrative tribunal may impose a fine for a violation of any ordinance**
66 **within its jurisdiction.** An administrative tribunal [~~may~~] shall not impose incarceration or any
67 fine in excess of the amount allowed by law **for municipal courts hearing similar cases. In**
68 **addition to any fine, the administrative tribunal may assess the reasonable costs of the**
69 **hearing or of prosecution, not including costs of notice except as provided within this**
70 **section, to the respondent if the respondent is found to have violated the municipal**
71 **ordinance. If the respondent is found to have violated any municipal ordinance that could**
72 **have been prosecuted in the municipal court, the administrative tribunal shall assess any**
73 **fees authorized under sections 488.607, 488.5026, and 488.5336 in the same manner as a**
74 **municipal court.** Any sanction, fine, or costs, or part of any fine, other sanction, or costs,
75 remaining unpaid after the exhaustion of, or the failure to exhaust, [~~judicial~~] administrative
76 review procedures under chapter 536 shall be a debt due and owing the city **or village**, and may
77 be collected in accordance with applicable law. **Any final decision or disposition of a code**
78 **violation by an administrative tribunal shall constitute a conviction as defined under**
79 **section 302.010. Points shall be assessed by the department of revenue for driving**
80 **violations in the same manner as in municipal court proceedings. Upon conviction by the**
81 **administrative tribunal and if authorized by the city or village ordinance, the department**
82 **of revenue shall assess an additional two points if the municipal court issued a certification**
83 **of nonappearance, as provided under this section, and the administrative tribunal finds**
84 **that the respondent presented no just cause for nonappearance.**

85 5. Any final decision or disposition of a code **or ordinance** violation by an
86 administrative tribunal shall constitute a final determination for purposes of judicial review.
87 Such determination is subject to review under chapter 536 or, at the request of the [~~defendant~~]
88 **respondent** made within ten days, a trial de novo in the circuit court. After expiration of the

89 judicial review period under chapter 536, unless stayed by a court of competent jurisdiction, the
90 administrative tribunal's decisions, findings, rules, and orders may be enforced in the same
91 manner as a judgment entered by a court of competent jurisdiction. Upon being recorded in the
92 manner required by state law or the uniform commercial code, a lien may be imposed on the real
93 or personal property of any ~~[defendant entering a plea of nolo contendere, pleading guilty to, or~~
94 ~~found guilty of a municipal code violation]~~ **respondent against whom a judgment is entered**
95 in the amount of any debt due the city **or village** under this section and enforced in the same
96 manner as a judgment lien under a judgment of a court of competent jurisdiction. The city **or**
97 **village** may also issue a special tax bill to collect ~~[fines issued for housing, property~~
98 ~~maintenance, and nuisance code violations]~~ **judgments entered under this section. The special**
99 **tax bill shall have the same priority, be enforced in the same manner, and be treated in all**
100 **respects as any regular tax bill on real or personal property.**

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