

130. Administrative Citations - Civil Enforcement Procedure.

130.01 Purpose.

The City Council finds that there is a need for alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the City and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard City Code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement shall be in addition to any other legal remedy, which may be pursued for City Code violations. This Section shall govern administrative citations and civil penalties for violations of the City Code.

130.02. General Provisions.

Subd. 1 Administrative offenses. A violation of any provision of the City Code may be charged as an administrative offense, which may be subject to an administrative citation and civil penalties pursuant to Sections 130.01 through 130.08. Each day a violation exists constitutes a separate offense.

Subd. 2 Civil Penalty. An administrative offense may be subject to a civil penalty not exceeding \$700.00.

Subd. 3 Fee Schedule. The City Council must adopt by Resolution a Schedule of fees or fines for offenses initiated by administration citation.

Section 130.03 Administrative Citation.

Subd. 1 Issuance of Citations. Any person authorized to enforce provisions of the City Code may issue an Administrative Citation upon belief that a Code violation has occurred. The citation must be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation.

Sub. 2 Payment of Fine - Hearing Request. The person responsible for the violation must either pay the scheduled fine or request a hearing within seven days after issuance. Payment of the fine constitutes admission of the violation. A late payment fee of 10% of the scheduled fine amount shall be imposed.

130.04. Administrative Hearing.

Subd. 1 Hearing Officer. The City Council or selected members of the Council shall act as the "hearing officer", as that term is used herein, or may select a hearing officer to hear and determine a matter for which a hearing is requested. The accused shall have the right to request no later than five days before the date of the hearing that the assigned hearing officer be removed from the case. One such request for each case will be granted automatically by the City Clerk. The Hearing Officer is not a judicial officer but is a public officer as defined by Minnesota Statute § 609.415.

Subd. 2 Issuance of Subpoenas. Upon the Hearing Officer's own initiative or upon written request of an interested party demonstrating the need, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for civil actions and for paying the fees and

expenses of any witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena shall be guilty of a misdemeanor or such civil penalty that the Hearing Officer may impose. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.

Subd. 3 Notice. Notice of the hearing must be served in person or by mail on the person responsible for the violation at least ten days in advance, unless a shorter time is accepted by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The Hearing Officer may all tape record the hearing and receive testimony and exhibits. The Hearing Officer shall tape the proceedings if requested by the accused. The officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

Subd. 4 Authority of Hearing Officer. The Hearing Officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the Hearing Officer may consider any or all of the following factors:

- (a) the duration of the violation,
- (b) the frequency or reoccurrence of the violation,
- (c) the seriousness of the violation,

- (d) the history of the violation,
- (e) the violator’s conduct after issuance of the notice of hearing,
- (f) the good faith effort by the violator to comply,
- (g) the economic impact of the penalty on the violator,
- (h) the impact of the violation upon the community, and
- (i) any other factors appropriate to a just result.

The Hearing Officer may exercise discretion to impose a fine for more than one day of a continuing violation, but only upon a finding that:

- (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that
- (2) the accused intentionally and unreasonable refused to comply with the Code requirement.

The Hearing Officer’s decision and supporting reasons must be in writing.

Subd. 5 Decision Final - Right of Review The decision of the Hearing Officer is final subject, however, to the right to administrative review. The Hearing Officer’s decision may be appealed to the City Council, if the Council is not the hearing officer, by submitting a request in writing to the City Clerk within ten days after the Hearing Officer’s decision.

Subd. 6 Waiver. The failure to pay the fine or request an appeal within 30 days after the citation or the failure to attend the Hearing constitutes a waiver of the violator’s rights to an administrative hearing and an admission of the violation. The Hearing Officer may waive this result upon good cause shown. Examples of “good cause” are: (a) death or incapacitating illness of the accused;

- (b) a court order requiring the accused to appear for another hearing at the same time;
- (c) lack of proper service of the citation or notice of the hearing.

“Good cause” shall not include: forgetfulness and intentional delay.

130.05. Administrative Review.

Subd. 1 Right of Review. Any person aggrieved by the decision of the Hearing Officer may file an appeal to the City Council for administrative review:

Subd. 2 Hearing Before Council. The appeal shall be heard by the City Council after notice served in person or by registered mail at least ten days in advance. The parties to the hearing shall have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.

Subd. 3 Review by Council. The City Council shall consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The Council is not bound by the Hearing Officer's decision, but may adopt all or part of the officer's decision. The Council's decision must be in writing.

Subd. 4 Imposition of Penalties. If the Council sustains the decision of the Hearing Officer, or makes a finding of a violation, it may impose a civil penalty not exceeding \$700.00 per day per violation. The Council may also reduce, stay, or waive a fine unconditionally or based on reasonable and appropriate conditions.

Subd. 5 Imposition of Additional Conditions. In addition to imposing a civil penalty, the Council may suspend or revoke any City-issued license, permit, or other approval associated with the violation.

130.06 Judicial Review. An aggrieved party may obtain judicial review of the decision of the Hearing Officer or the City Council in accordance with state law.

130.07 Recovery of Civil Penalties.

Subd. 1 Method of Recovery. If a civil penalty is not paid within the time specified, it shall constitute:

(a) a lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation, or

(b) a personal obligation of the violator in all other situations.

Subd. 2 Special Assessment. A lien may be assessed against the property and collected in the same manner as taxes.

Subd. 3. Debt Collection. A personal obligation may be collected by any appropriate legal means.

Subd. 3. Late Payment Penalty. A late payment fee of 10% of the fine shall be assessed for each thirty-day period, or part thereof, that the fine remains unpaid after the due date.

Subd. 4 Suspension of License and Permits. During the time that a civil penalty remains unpaid , the City Council may suspend or revoke any license, permit, or other City approval sought by the violator or for property under the violator’s ownership or control.

130.08. Criminal Penalties. The following are misdemeanors, punishable in accordance with state law:

Subd. 1. Failure to Pay Fine Imposed by Fee Schedule. Failure, without good cause, to pay a fine or request a hearing within thirty days after issuance of an administrative citation.

Subd. 2 Failure to Appear. Failure, without good cause, to appear at a scheduled hearing.

Subd. 3 Failure to Pay Fine Imposed by Hearing Officer. Failure to pay a fine imposed by a Hearing Officer within 30 days after is was imposed, or such other time as may be established by the hearing officer, unless the matter is appealed.

Subd. 4. Failure to Pay Fine Imposed by City Council. Failure to pay a fine imposed by the City Council within 30 days after it was imposed, or such other time as may be established by the City Council.