

CHAPTER 1. GENERAL PROVISIONS

Article II. Administrative Citations and Penalties.

Section 1-20. Purpose.

Based on past experience, 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, and the higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. 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 is in addition to any other legal remedy that may be pursued for City Code violations.

Section 1-21. Definitions.

- (a) Code Compliance Officer. Any employee of the City of Anoka as authorized in Chapter 2, Article III, Section 2-61 of the City Code; the Property Maintenance Coordinator; or such other individual as may be designated by the City Manager to carry out the duties of a Code Enforcement Officer.
- (b) Code Offense. A violation of any section, subdivision, paragraph or provision of the Anoka City Code, subject to a civil penalty as determined according to a schedule adopted from time to time by the Anoka City Council and payable directly to the City. Each day the violation exists constitutes a separate Code Offense.
- (c) Owner. An individual, association, syndicate, partnership, corporation, limited liability company, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.
- (d) Person. A natural person of either sex, a firm, partnership, corporation, limited liability company, any other association of people, and includes the manager or agent of that person or organization.

Section 1-22. Administrative Citation Procedure.

- (a) Administrative Notice. A Code Compliance Officer may issue, either in person or by United States first class mail, an Administrative Notice to a person suspected or known to have committed a Code Offense and/or to be the owner of property upon which a Code Offense is being committed.
 - (1) The Administrative Notice shall identify the Code Offense, the location upon which the Code Offense occurred or is occurring, and the corrective action necessary to become Code compliant.
 - (2) The Administrative Notice may also set forth a prescribed period of time within which the alleged violator and/or property owner has to correct or abate the Code Offense.

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- (3) If the alleged violator and/or owner of property upon which a Code Offense is being committed is unable to correct or abate the Code Offense within the prescribed time, that person may request, in writing, an extension of no more than thirty (30) additional days from the Code Compliance Officer.
 - (4) Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration.
 - (5) If the Code Offense is not corrected or abated, as outlined in the Administrative Notice, within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation, as provided below.
- (b) Citation. A Code Compliance Officer is authorized to issue a citation upon the belief that a Code Offense has occurred, or is currently being committed, whether or not an Administrative Notice has first been issued in regard to the Code Offense.
- (1) The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the violation has occurred, either by personal service or by United States first class mail.
 - (2) Said citation shall state the nature of the Code Offense, the time and date said Code Offense occurred, the civil penalty applicable to that Code Offense as set forth in a schedule of civil penalties as adopted by the City Council from time to time, the manner for paying the civil penalty or requesting a hearing before an Administrative Hearing Officer to contest the citation, and the date by which said Code Offense must be corrected.
- (c) Responding to a Citation/Payment. Once a citation is issued, the alleged violator and/or the owner of the property upon which the violation has occurred shall, within fifteen (15) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation and bring the property into compliance, request a hearing in writing according to the procedure set forth in this Section, or request to be charged with a criminal violation through the District Court System.
- (1) The civil penalty may be paid in person at City Hall or by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days.
 - (2) Payment of the civil penalty shall be deemed to be an admission of the Code Offense.
 - (3) In addition to payment of a civil penalty, the alleged violator and/or owner the property must request verification of the property's compliance with the City Code from the Code Compliance Officer before the property may be deemed code compliant.
 - (4) Failure to respond within the required time may result in the City issuing a criminal charge against the alleged violator in District Court.

Section 1-23. Administrative Hearing.

- (a) Requesting a Hearing. Any person contesting a citation issued pursuant to this Article may, within fifteen (15) days of the time of issuance of the citation, request a hearing before a Hearing Officer.
 - (1) Any request for a hearing before a Hearing Officer shall be made in writing on a form provided by the City for such a request and either delivered personally to the City at City Hall or mailed to the City by United States first class mail, postage prepaid and postmarked within said prescribed fifteen (15) days.
 - (2) The hearing shall be held at City Hall within thirty (30) days of receipt of a timely submitted request for a hearing.
 - (3) Failure to attend the hearing constitutes a waiver of the violator's rights to an Administrative Hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. A determination of good cause shall be made by the Hearing Officer, but specifically does not include forgetfulness or intentional delay.
 - (4) A hearing request filing fee shall be paid simultaneously with the filing of the notice of appeal. The hearing request fee will be in the amount adopted by ordinance by the City Council.
 - (5) In cases where a violation was found to have occurred by the Hearing Officer, in addition to any fine or other conditions imposed by the Hearing Officer, the offender shall be responsible for payment of the costs of the hearing, including the Hearing Officer's fees.
- (b) Hearing Officer.
 - (1) The City Council will periodically approve a list of lawyers from which the City Manager will randomly select a Hearing Officer to hear and determine a matter for which a hearing is requested.
 - (2) The accused will have the right to request, in writing and no later than five (5) days before the date of the hearing, that the assigned Hearing Officer be removed from the case without cause. Any subsequent request for the same case must be directed to the assigned Hearing Officer who will decide whether he or she can fairly and objectively review the case.
 - (3) The Code Compliance Officer may remove a Hearing Officer only by requesting that the assigned Hearing Officer find that he or she cannot fairly and objectively review the case. If such a finding is made, the Hearing Officer shall remove himself or herself from the case, and the City Manager will assign another Hearing Officer.

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- (4) The Hearing Officer must not be a City employee.
 - (5) The City Manager must establish a procedure for evaluating the competency of the Hearing Officers, including comments from alleged violators and City staff. These reports must be provided to the City Council.
- (c) Issuance of a Subpoena.
- (1) Upon the Hearing Officer's own initiative, or upon written request of an interested party demonstrating the need and submitted to the City clerk at least fifteen (15) working days before the scheduled hearing, the Hearing 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.
 - (2) The party requesting the subpoena is responsible for serving the subpoena in the manner provided for civil actions and for paying the fees and expenses of the witness served with the subpoena.
 - (3) 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.
 - (4) The Hearing Officer may cancel or modify the subpoena if, in his or her opinion, it is deemed to be unreasonable or oppressive.
 - (5) Alternatively, the party requesting the subpoena may seek an order from District Court compelling the witness' attendance at the hearing.
- (d) The hearing.
- (1) Notice of the hearing must be served in person or by mail on the alleged violator and/or owner of the property at least ten (10) days prior to the hearing date, unless a shorter time period is accepted by all parties.
 - (2) At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidentiary procedure will not apply.
 - (3) The Hearing Officer must tape record the hearing and receive testimony and exhibits.
 - (4) The Hearing Officer must receive and give weight to the evidence presented, including reliable hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (e) Authority of Hearing Officer.
- (1) The Hearing Officer has the authority to determine whether a violation has occurred, or is occurring, and, upon his or her findings, may:
 - A. dismiss the citation;
 - B. impose the scheduled fine amount;

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- C. reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions;
 - D. order that the City be allowed to remedy the violation and assess the costs associated therewith against the property; or
 - E. impose any combination of the foregoing provisions that the Hearing Officer deems to be reasonable.
- (2) When imposing a penalty, the Hearing Officer may consider any or all of the following factors:
- A. the duration of the violation;
 - B. the frequency of 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 the Hearing Officer deems appropriate to achieve a just result.
- (3) 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:
- A. the violation causes a serious threat of harm to the public health, safety and welfare; or that
 - B. the accused intentionally and unreasonably refused to comply with the Code requirement.
- f. Hearing Officer's decision.
- (1) The Hearing Officer's decision must be in writing.
 - (2) The decision of the Hearing Officer is final without any further right of administrative appeal.
 - (3) The Hearing Officer's decision relative to any of the matters set forth in Section 1-24 below may be appealed to the City Council by submitting a request in writing to the City clerk within ten (10) days after issuance of the Hearing Officer's decision.

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- (4) Failure of the accused to attend the hearing constitutes a waiver of the accused's rights to an Administrative Hearing and an admission of the violation. A Hearing Officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the accused; a court order requiring the accused to appear for another hearing at the same time; and lack of proper service of the Administrative Citation or Notice of the hearing. "Good cause" does not include: forgetfulness or intentional delay.

Section 1-24. Administrative Review.

- (a) **Appeal of Hearing Officer's Decision.** The Hearing Officer's decision in any of the following matters may be appealed by a party to the City Council for administrative review:
- (1) An alleged failure to obtain a permit, license, or other approval from the City Council as required by City Ordinance;
 - (2) An alleged violation of a permit, license, or other approval, or the conditions attached to the permit, license, or approval, that was granted by the City Council; and
 - (3) An alleged violation of regulations governing a person or entity who has received a license granted by the City Council.
- (b) **Appeal to the City Council.** To appeal to the City Council, the party seeking the appeal must submit a request in writing to the City clerk within ten (10) days after the Hearing Officer's decision. The appeal must be accompanied by a fee as established by the City Council.
- (c) **Hearing by the City Council.** The appeal will be heard by the City Council after notice served in person or by registered mail at least ten (10) days in advance of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the Hearing Officer's decision.
- (d) **City Council Decision.** The City Council must consider the record, the Hearing Officer's decision, and any additional arguments before making a determination. The City Council is not bound by the Hearing Officer's decision, but may adopt all or part of the Hearing Officer's decision. The City Council's decision must be in writing.
- (e) **Finding of Violation and Imposition of Penalty.** If the City Council makes a finding of a violation, it may impose a civil penalty not exceeding \$1000.00 per day per violation, and may consider any or all of the factors contained in 1-23(e)(2). The City Council may also reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions.
- (f) **Additional Penalties.** In addition to imposing a civil penalty, the City Council may suspend or revoke a city-issued license, permit, or other approval associated with the violation, if the procedure for suspension or revocation, as found elsewhere in the City Code, has been followed. Any hearing required in a suspension or revocation process located elsewhere in the City Code will be satisfied by the hearing before the Hearing Officer, with the right of appeal to the City Council.

Section 1-25. Judicial Review. An aggrieved party may obtain judicial review of the decision of the Hearing Officer or the City Council by proceeding under a writ of certiorari in District Court.

Section 1-26. Recovery of Civil Penalties.

- (a) If a civil penalty is not paid within the time specified, it will constitute:

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- (1) A lien on the real property upon which the violation occurred if the property or improvements on the property were the subject of the violation and the property owner was found responsible for the violation; or
 - (2) A personal obligation of the violator in all other situations.
- (b) A lien may be assessed against the property and collected in the same manner as taxes.
 - (c) A personal obligation may be collected by appropriate legal means.
 - (d) A late payment fee of ten (10) percent of the total fine imposed, or any part thereof that remains unpaid, may be assessed for each thirty (30) day period that the total fine amount remains unpaid after the due date.
 - (e) Failure to pay a fine is grounds for suspending or revoking a license related to the violation and/or the property upon which the violation occurred.

Section 1-27. Criminal Penalties.

- (a) The following are misdemeanors, punishable in accordance with state law:
 - (1) Failure to pay a fine imposed by a Hearing Officer within thirty (30) days after it was imposed, or such other time as may be established by the Hearing Officer, unless the matter is appealed pursuant to Section 1-24, or judicial review is sought pursuant to Section 1-25.
 - (2) Failure to pay a fine imposed by the City Council within thirty (30) days after it was imposed, or such other time as may be established by the City Council.
- (b) If the final adjudication in the Administrative Hearing is a finding of no violation, the City may not pursue a criminal violation in District Court based on the same set of facts. This does not preclude the City from pursuing a criminal conviction for a violation of the same provision based on a different set of facts or upon a finding of a violation. A different date of the same violation will constitute a different set of facts.