

CHAPTER 2. ADMINISTRATIVE ENFORCEMENT AND HEARING PROCESS

2.10. Purpose. Pursuant to City Charter Chapter 4, Section 5, the city council enacts this Article of the Minneapolis Code of Ordinances to provide an administrative enforcement and hearing process for the resolution of certain violations of the Minneapolis Code of Ordinances. The council finds that an administrative enforcement and hearing process will facilitate compliance with certain provisions of this Code and avoid unnecessary delay in the enforcement of the Minneapolis Code of Ordinances. (2001-Or-104, § 1, 9-14-01)

2.20. Persons authorized to issue citations. The following city employees are authorized to issue citations for violations of the Minneapolis Code of Ordinances:

- (1) Police officers.
- (2) Animal control officers.
- (3) License inspectors.
- (4) Fire chief, fire marshal and fire inspectors.
- (5) Building inspectors.
- (6) Manager of environmental health and environmental health inspectors.
- (7) Housing inspectors.
- (8) Zoning inspectors.
- (9) Traffic Control Agent II for violations of Title 13, Chapter 341.
- (10) Sidewalk inspectors.
- (11) Utility connection inspectors and their supervisor.
- (12) Real estate investigators and their supervisor. (2001-Or-104, § 1, 9-14-01; 2003-Or-086, § 1, 6-20-03; 2003-Or-093, § 1, 7-11-03)

2.30. Alternative methods of enforcement. This administrative enforcement procedure provides for an alternative method for the city to gain compliance with provisions of the Code prior to any formal criminal or civil court action. The administrative enforcement and hearing process provided for in this chapter will be in addition to any other legal or equitable remedy available to the city for Code violations, except that if a determination is made by the hearing officer, pursuant to the hearing process detailed in section 2.100 of this chapter, that a violation did not occur, the city may not then proceed with criminal prosecution for the same act or conduct. (2001-Or-104, § 1, 9-14-01)

2.40. Offenses subject to administrative enforcement. A violation of the following provisions of the Minneapolis Code of Ordinances is an administrative offense that may be subject to the administrative enforcement and hearing process of this Article:

- (1) Title 4 Animals and Fowl
- (2) Title 5 Building Code
- (3) Title 9 Fire and Police Protection
- (4) Title 10 Food Code
- (5) Title 11 Health and Sanitation
- (6) Title 12 Housing
- (7) Title 13 Licenses and Business Regulations

- (8) Title 14 Liquor and Beer
- (9) Title 15 Offenses--Miscellaneous
- (10) Title 17 Streets and Sidewalks
- (11) Title 18 Traffic Code
- (12) Title 20 Zoning Code (2001-Or-104, § 1, 9-14-01)

2.50. Orders to correct; administrative citations. Upon the reasonable belief that an offense detailed in section 2.40 of this chapter has occurred, the city officials listed in section 2.20 of this chapter may serve on the violator an order to correct the violation or may issue a citation for the violation. If compliance is not achieved by an order to correct, the official is authorized to issue an administrative citation pursuant to this chapter of the Code. An administrative citation must be served on the alleged violator. The administrative citation must state the date, time, and nature of the offense, the name of the official issuing the citation, the amount of the scheduled civil fine, and the manner for paying the fine or appealing the citation by requesting a mediation and hearing. (2001-Or-104, § 1, 9-14-01)

2.60. Civil fines. The administrative offenses detailed in section 2.40 may be subject to a civil fine. Civil fines may not be imposed for ordinance violations that prohibit the same conduct that is classified as a crime or petty misdemeanor in Minnesota Statutes, Chapters 168, 168A, 169, 170, 171 and 609. (2001-Or-104, § 1, 9-14-01)

2.70. Schedule of civil fines. The city council will adopt by resolution a schedule of civil fines for administrative offenses. City officials enforcing this chapter must adhere to this schedule of fines. (2001-Or-104, § 1, 9-14-01)

2.80. Payment of civil fine; request for administrative enforcement and hearing. The alleged violator must either pay the scheduled civil fine or request a hearing within twenty (20) days after service of the administrative citation.

2.90. Fee for late payment of civil fine. (a) A late payment fee of ten (10) percent of the civil fine amount will be imposed if the person responsible for the violation fails to pay the civil fine within twenty-five (25) days after service of the administrative citation or fails to timely request a hearing pursuant to this chapter.

(b) If a civil fine is not paid within the time specified and no request for a hearing is timely received, the nonpayment of the civil fine will constitute a personal obligation of the violator. A personal obligation may be collected by the city by any appropriate legal means. If the fine was imposed for a property-related violation, the city may assess the applicable property pursuant to section 2.120 of this chapter. (2001-Or-104, § 1, 9-14-01)

2.100. Administrative hearing procedures. (a) Service; Minnesota Rules of Civil Procedure. The Minnesota Rules of Civil Procedure govern with regard to service of process and calculation of time.

(b) Hearing officers. The city attorney will periodically approve a list of lawyers from which the city attorney will select a hearing officer to mediate and hear a matter for

which a hearing is requested. The alleged violator requesting a hearing will have the right to request, no later than five (5) days before the date of the hearing, that the assigned hearing officer be removed from the case. One request for removal for each case will be granted automatically by the city attorney. A subsequent request will be directed to the assigned hearing officer, who will decide whether the hearing officer cannot fairly and objectively review the case. If such a finding is made, the hearing officer will remove himself or herself from the case, and the city attorney will assign another hearing officer. The hearing officer is not a judicial officer, but is a public officer as defined by Minnesota Statutes, Section 609.415. The hearing officer must not be a current employee of the City of Minneapolis.

(c) Subpoenas. Upon the hearing officer's own initiative or upon written request of an interested party demonstrating the need, the hearing officer may issue an administrative 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 administrative subpoena will be responsible for serving the subpoena and for paying the statutory fees and expenses of any witness. A person served with an administrative subpoena may file an objection with the hearing officer no later than the date specified in the administrative subpoena for compliance. The hearing officer may cancel or modify any portion of the administrative subpoena deemed unreasonable or oppressive. Any person who, without just cause, fails or refuses to comply with an administrative subpoena may be guilty of a misdemeanor. In the alternative, the party requesting the administrative subpoena may seek an order from district court directing compliance with the administrative subpoena.

(d) Notice of hearing. A notice of the hearing must be served on the alleged violator. The notice must be served at least ten (10) days in advance of the scheduled hearing unless a shorter time is accepted by all parties.

(e) Mediation. Immediately prior to any hearing, with the agreement of all parties, the hearing officer may attempt to mediate the dispute. If the dispute is settled as a result of mediation, the hearing will be canceled. Any mediated settlement must be commemorated by the hearing officer in writing and signed by the person responsible for the violation. A mediated settlement that calls for formal action by the city council is contingent on final city council approval and will be presented as a recommendation to the city council from the hearing officer.

(f) Hearing procedure. If a mediated settlement cannot be reached, the matter will proceed to a hearing. At the hearing, the parties will have the opportunity to present testimony and question witnesses, but strict compliance with the Minnesota Rules of Evidence will not be required. The hearing officer will tape record the hearing and receive testimony and exhibits into evidence. The hearing officer will receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The city will have the burden of proof to demonstrate by a preponderance of the evidence that a violation occurred and that the required corrective action, if applicable, is reasonable. The determination by the applicable department director as to the need for the required corrective action shall be accorded substantial weight by the hearing officer in determining the reasonableness of the required corrective action.

(g) Authority of hearing officer. The hearing officer will have the authority to:

- (1) Mediate and enforce a settlement of the dispute;
- (2) Determine whether a violation occurred;
- (3) Dismiss the administrative citation;
- (4) Impose the scheduled fine;
- (5) Reduce, stay, or waive a scheduled fine upon compliance with appropriate conditions; or
- (6) Increase the scheduled fine when the actual costs of enforcement are shown by a preponderance of the evidence to be greater than the amount of the scheduled fine.
- (h) Imposition of civil fine by hearing officer. When imposing a fine for a violation, the hearing officer may consider any or all of the factors listed below:
 - (1) The duration of the violation;
 - (2) The frequency or recurrence of the violation;
 - (3) The seriousness of the violation;
 - (4) The history of the violation;
 - (5) The violator's conduct after issuance of the notice of hearing;
 - (6) The good faith effort by the violator to comply;
 - (7) The economic impact of the fine on the violator;
 - (8) The impact of the violation upon the community;
 - (9) Prior record of city code violations; or
 - (10) Any other facts appropriate to a just result.
- (i) Fines for continuing violations. The hearing officer may exercise discretion to impose a fine for more than one (1) day of a continuing violation but only upon a finding that:
 - (1) The violation caused a threat of harm to the public health, safety, or welfare; or
 - (2) The violator unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.
- (j) Decision of the hearing officer.
 - (1) The hearing officer must determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable and must affirm, vacate or modify the city's decision regarding the alleged violation or corrective action.
 - (2) The hearing officer must issue a written decision and order to the alleged violator that contains the following information:
 - a. The decision regarding the alleged violation including findings of fact and conclusions thereon in support of the decision.
 - b. The required corrective action, if any.
 - c. The date and time by which corrective action must be completed.
 - d. The monetary penalty assessed based on the criteria set forth herein.
 - (3) The decision of the hearing officer must be served on the alleged violator.
- (k) Finality of decision. The decision of the hearing officer shall be final without any further right of administrative appeal. (2001-Or-104, § 1, 9-14-01)

2.110. Judicial review. An aggrieved party may obtain judicial review of the decision of the hearing officer by petitioning the Minnesota Court of Appeals for a writ of certiorari pursuant to Minnesota Statutes, Section 606.01. (2001-Or-104, § 1, 9-14-01)

2.120. Assessment of civil fines for property related violations. (a) Civil fines subject to assessment. In accordance with chapter 10 of the Minneapolis City Charter, unpaid civil fines imposed for property-related violations may be assessed against property that was the subject matter of the civil fines.

(b) Prior voluntary payment. Prior to any assessment for unpaid fines, the city shall seek voluntary payment of the fines by notifying the owner of the property in writing of the fine imposed.

(c) Assessment procedure. On or before the first day of October of each year, the following information relating to property having unpaid civil fines will be certified to the county auditor and collected in the same manner as taxes and special assessments against the property:

(1) The unpaid civil fine and late fees, including the administrative charge due under subdivision (d) of this section.

(2) Interest at the maximum lawful rate permitted under Minnesota Statutes, Chapter 429.

(3) A description of the premises.

(4) The name of the owner of the property.

The assessed-unpaid civil fine will be a perpetual lien on the premises until paid. Prior to the certification to the county auditor, the owner must be given written notice of the proposed assessment and be provided an opportunity to be heard before the city council.

(d) Administrative charge for assessment. An administrative charge of eight dollars (\$8.00) is due upon the mailing of the notice of the proposed assessment. (2001-Or-104, § 1, 9-14-01)