

1.10.060 APPEAL OF ADMINISTRATIVE CITATION.

(a) Persons receiving an administrative citation may appeal it within 10 working days from the date the administrative citation is served. The notice of appeal must be in writing, and accompanied by the nuisance abatement fee, and must specify the basis for the appeal. It must be received by the Director of the Community Development Department ~~City~~ within 10 working days. If the deadline falls on a weekend or City holiday, then the deadline shall be extended until the next regular business day.

(b) The Community Relations Commission will hear and decide administrative citation appeals, except for administrative citation appeals relating to violations of Chapter 7.14, Chapters 23.06 through 23.56, Chapter 23.70, and Chapter 23.72 of this Code.-

A hearing officer will hear and decide administrative citation appeals relating to violations of Chapter 7.14, Chapters 23.06 through 23.56, Chapter 23.70, and Chapter 23.72 of this Code.

The City Manager, or his or her designee, shall appoint a hearing officer for administrative citation hearings under this section who shall not be the citing enforcement officer. The evaluation, compensation, and/or other benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of the administrative fees or penalties, or the rulings upheld, revised, or otherwise issued by the hearing officer.

~~(b)(c)~~ As soon as practicable after receiving the written notice of appeal, the ~~City~~ Director of the Community Development Department shall review it for sufficiency. If found to be complete and in conformance with this section, the City shall set the appeal hearing for the next available Community Relations Commission meeting, or for administrative citation appeals held pursuant to subsection (bb)(1) above, a hearing before a hearing officer. Written notice of the time and place for the hearing may be served by personal service, or first class mail to the address provided by the responsible party on the notice of appeal.

~~(c)(d)~~ The failure of any person with an interest in the property to receive such properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter. Service by first class mail shall be effective on the date of mailing.

~~(d)(e)~~ Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of that person's rights to contest the merits of the citation and the imposition of the nuisance abatement fee.

~~(e)(f)~~ The Community Relations Commission or hearing officer shall conduct an orderly fair hearing and accept evidence on which persons commonly would rely in the conduct of their business affairs as follows:

(1) A valid citation and any additional report submitted on behalf of the City shall ~~be~~ constitute presumptive evidence of the facts contained in those documents and prima facie evidence of the violation;

(2) The Community Relations Commission or hearing officer shall ~~may~~ conduct the hearing informally, both as to the rules of procedure and admission of evidence, and in any manner which will provide a fair hearing to obtain additional evidence ~~accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation;~~

(3) The owner, agent, responsible party, or any other interested person may present testimony or evidence concerning the violation and the means and time frame for correction; and-

~~(3)~~(4) The failure of any alleged violator to appear at the hearing after proper notice or, in the alternative, to present written or other evidence shall constitute an admission of the violation and an exhaustion of administrative remedies that will bar judicial review.

~~(f)~~(g) The City shall establish all appropriate administrative regulations for conducting hearings and rendering decisions pursuant to this section.

~~(g)~~(h) The Community Relations Commission or hearing officer shall determine whether to affirm or dismiss the administrative citation. The Commission or hearing officer may reduce, waive or conditionally reduce the nuisance abatement fee stated in the citations or any late fees assessed based on a showing of good cause. The Commission or hearing officer may impose conditions and deadlines for correction of violations and make such direction to enforcement officers to assure compliance.

~~(h)~~(i) The Community Relations Commission or hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The City shall preserve all exhibits submitted by the parties for a 180-day period and shall serve the decision by first class mail on the contestant within 10 working days after the hearing. The decision of the Commission or hearing officer may be appealed to the City Council in writing within 10 working days of the day the Commission's or hearing officer's decision is served. The appeal before the City Council will follow the same procedures and requirements as the underlying appeal hearing before the Community Relations Commission or hearing officer. ~~hearing-~~