

Forestry's Use of Administrative Citations

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SECTION I – INTRODUCTION

The City Council has found that there is a need for better enforcement of neighborhood problems affecting the livability of neighborhoods and that there is a need to encourage compliance with ordinances that affect the livability of neighborhoods by requiring those who violate said ordinances to pay for their lack of compliance and the cost of enforcement. This has led to an alternative method of enforcement for violations of the Denver Revised Municipal Code (RMC) as codified under the RMC 2-281 through 2-294 as the administrative citation program. The above code sections both require the Manager of Parks and Recreation to promulgate rules and regulations to effect said code sections and give the Manager authority to do so.

SECTION II – CODE CHAPTERS AND SECTIONS AUTHORIZED FOR ENFORCEMENT THROUGH ADMINISTRATIVE CITATIONS

1. Chapter 57 (Vegetation): Sections 57-18 through 57-28, 57-61, 57-62, and 57-71 through 57-83.
2. Chapter 59 (Zoning): Section 59-126.

SECTION III – DEFINITIONS

1. City shall mean the City and County of Denver.
2. Code shall mean those provisions of the RMC enumerated in Section II, above.
3. Manager shall mean the Manager of Parks and Recreation (DPR) or the Manager's designee.
4. Enforcement Official shall mean a person assigned to DPR charged with enforcing the ordinances of the City and County of Denver.
5. AHO shall mean Administrative Hearing Officer.
6. Responsible Party shall mean a person or entity who has violated the Code or, in the case of property violations, the property owner, or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property subject to an administrative citation under this article.
7. Amici curiae literally means "friends of the court" and refers to someone, not a party to the case, who volunteers to offer information on a point of law or some other aspect of the case to assist the court in deciding a matter before it.

SECTION IV – TO WHOM A CITATION CAN BE ISSUED

1. The person who caused the violation.
2. The owner of the property on which the violation exists.
3. Agent for or in any other legal capacity on behalf of the owner.

SECTION V – ISSUANCE REQUIREMENTS

1. The following penalties may be assessed for each Administrative Citation issued for violations of the same code section or sections:
 - a) 1st Administrative Citation = one hundred and fifty dollars (\$150)
 - b) 2nd Administrative Citation = five hundred dollars (\$500)
 - c) 3rd Administrative Citation = nine hundred and ninety-nine dollars (\$999)
2. Administrative Citations shall be issued only after the Responsible Party has received a notice/order and time to comply provided for by ordinance or policy.
3. No additional Administrative Citations shall be issued for the same violation for ten (10) days.
4. If the Responsible Party fails to correct the violation or violations within ten days (10) of issuance of 1st Administrative Citation, a 2nd Administrative Citation may be issued. If no compliance within ten (10) days of the 2nd Administrative Citation, a 3rd Administrative Citation may be issued. Additional Administrative Citations for the same violation after the 3rd Administrative Citation shall carry the same penalty as the 3rd Administrative Citation.
5. No additional Administrative Citations shall be issued, if the Responsible Party appeals, until the Administrative Hearing Officer (AHO) has made a determination (Administrative Enforcement Order).
6. Failure to comply with an Administrative Enforcement Order issued by AHO may be criminally prosecuted and have additional penalties imposed.
7. Payment of the penalty shall not excuse the failure to correct violations nor shall it bar further enforcement action by the City.

SECTION VI – FILING AN APPEAL

1. Any Responsible Party served with an Administrative Citation may file a notice of appeal. Such notice must be filed within ten (10) calendar days from the service of the Citation on the Responsible Party. The notice of appeal must be filed with the Manager of Parks and Recreation.
2. The notice of appeal must be in writing and shall be mechanically produced or reproduced or legibly hand printed.
3. No particular form of appeal is required; provided, that the following information is set forth:
 - a) The reasons the appellant believes the administrative citation is objectionable, incorrect or illegal.
 - b) The amount and type of claim or dispute involved and the time during which it accrued or occurred.
 - c) The name, address and telephone number of the appellant.
 - d) If the appellant is to be represented by another person, the name, address and telephone number of the said representative.
 - e) The signature of the appellant, legal representative and/or corporate agent.
4. If, in the opinion of the Manager, the appeal meets all requirements of 1., 2. and 3. above, the Manager shall assign a case number and submit the appeal to the Administrative Hearing Officer (AHO),
5. If, in the opinion of the Manager, the appeal does not meet all requirements of 1., 2. and 3. above, the Manager shall promptly return the appeal and notify the appellant of what requirement the appeal fails to meet.
6. Upon receipt of an appeal from the Manager, the AHO shall set a time and place for the hearing, and notify the appellant.
7. The parties to the hearing shall be the Responsible Party as the appellant and the City as the Respondent.

SECTION VII – QUALIFICATIONS AND SELECTION OF ADMINISTRATIVE HEARING OFFICER

1. The Administrative Hearing Officer must be an attorney licensed to practice law in the state with a minimum of five years of experience.
2. Budget approval and scope of work required.
3. Applicants are hired through Career Service Authority or by a professional service contract.
4. Interview applicant.
5. The Administrative Hearing Officer is paid an hourly wage.

SECTION VIII – DUTIES AND REQUIREMENTS OF ADMINISTRATIVE HEARINGS OFFICER

1. The Administrative Hearing Officer (AHO) shall determine whether appeals of Administrative Citations are valid. In doing so the AHO shall determine whether the Administrative Citation appealed from was issued in compliance with the requirements of the Charter and Ordinances of the City of Denver. In each case, the AHO shall be charged with performing all functions relating to the final determination and order, and entertaining petitions or protests made in writing as set forth in the Charter and/or Ordinances of the City of Denver. The AHO shall perform those duties and functions necessary and incidental to determining the matter, issuing subpoenas, authorizing depositions, hearing all evidence, examining all documents, ruling on evidentiary questions, and generally conducting the hearing as a hearing tribunal and quasi-judicial proceeding in conformance with the procedures and time limitations set forth Sections 2-281 through 2-294, the Charter of the City, any other applicable Ordinances of the City, and these Rules and Regulations.
2. Upon receipt of an appeal, the AHO shall assign the time and place for hearing the case, unless, if requested by the appellant and in the sole discretion of the AHO, it is submitted on written brief and supporting material. The AHO shall notify the parties of the time and place of the hearing. In the discretion of the AHO, parties to the hearing may be required to file a pre-hearing statement before the case is set for hearing. The pre-hearing statement may include: the issues raised by the appeal; agreed and disputed facts; copies of exhibits not previously included in the record; names of witnesses with a brief statement summarizing their testimony; an estimate of the time necessary to present a party's evidence and other matters as requested by the AHO.
3. All hearings or, when an appeal is submitted for determination based on written argument and written facts and figures, all examination of such written petitions and papers shall be conducted by the AHO assigned to conduct the hearing or to examine the written material submitted.
4. Cases shall be set for hearing in the order in which the petition is filed, provided, however, the AHO may accelerate cases of particular significance which he determines should be advanced on the docket.
5. All testimony in proceedings before the AHO shall be given under oath administered by the AHO in substantially the following form: "I solemnly (swear by the ever living God, or affirm by my person) that the testimony I am about to give is the truth the whole truth, and nothing but the truth (so help me God)."
6. The conduct of hearings and the admission of evidence shall generally be in accordance with these Rules without regard to whether they conform to common law or statutory rules of procedure or evidence or other technical rules. The admissibility of evidence shall be encouraged and the AHO shall consider all evidence of probative value. The AHO may utilize his or her experience, technical competence, and specialized knowledge in the evaluation of evidence presented.
7. The appellant shall have the burden of proof to show that the Administrative Citation was issued in error. That burden must be met by a preponderance of the evidence presented at the hearing or in the evidence submitted by written brief and supporting material.
8. Copies, photographs, and photocopies may be admitted into evidence or substituted in evidence in place of original documents.
9. Whenever an Appellant requests to submit the case on written briefs, supporting data, depositions, affidavits or stipulated facts, rather than through oral testimony, and the AHO has acceded to that request, the Respondent shall not be allowed an oral presentation, but must submit its position in writing.
10. An Appellant who is a natural person may appear in person to represent himself or herself or be represented by an attorney or any other person specifically chosen by the Appellant to represent him or her at the hearing. An Appellant who is not a natural person may be represented by an attorney, corporate officer, partner or any other person who the AHO believes may adequately represent the appellant's interests. The City shall be represented by a City employee.
11. Witnesses intended to give opinion testimony as experts must be qualified as such, and their qualifications should be submitted in advance to the AHO.
12. Hearings shall be recorded by electronic means and transcripts of such recordings shall be made at the expense of the party requesting the transcript. The Appellant may employ at its own expense a general or certified shorthand reporter.
13. Whenever it appears that a petition is not filed within the time permitted by the particular law, Ordinance, Rule, or Regulation involved, or that the Appellant for some other reason lacks jurisdiction, the case may be dismissed on the motion of any party or the AHO.
14. The AHO may permit the appearance for argument only, written or oral, of amici curiae; provided, that the amici argument will be limited to the issues framed by the Appeal.
15. Mailings, notices, computations of time, time limitations, service, and filings shall conform to the requirements of particular Law, Ordinance, or the Rule involved.
16. A decision of the AHO shall be known as an Administrative Enforcement Order.
17. The AHO may uphold the Administrative Citation and all penalties or dismiss the Administrative Citation and all penalties or may waive or conditionally reduce the

penalties assessed by the Administrative Citation.

18. In the event that the AHO does not dismiss the Administrative Citation, the AHO shall assess reasonable administrative costs of not less than one hundred dollars (\$100), but not to exceed two hundred dollars (\$200).

SECTION IX – ADMINISTRATIVE HEARINGS

The order of proceedings for Administrative Hearings shall be as follows:

1. Docket call by AHO.
2. Opening statement by Appellant and by the Respondent, unless waived by either party or reserved by Respondent until the opening of the Respondent's case.
3. Presentation of evidence by Appellant, allowing cross-examination by Respondent. The AHO shall assign a letter to Appellants exhibits.
4. Presentation of evidence by Respondent with cross-examination by Appellant. The AHO shall assign a letter to Appellants exhibits.
5. Rebuttal and surrebuttal evidence, if any.
6. Closing argument by Appellant, followed by closing argument by Respondent. The AHO may allow rebuttal argument by Appellant. The AHO may require argument to be oral or in writing or both. If the Appellant chooses not to present a closing argument, none shall be allowed Respondent.

SECTION X – ADMINISTRATIVE PROCESS / BILLING / LEINS / COLLECTIONS

A. GENERAL

1. All penalties assessed shall be payable to the Manager of Finance.
2. A twenty-five dollar (\$25) late charge plus ten percent (10%) per annum will be charged for failure to pay an Administrative citation within the time specified on the citation or Administrative Enforcement Order.

B. BILLING

1. Accept citation for new penalty fees being assessed daily by City inspectors.
2. Establish individual property accounts
3. Record individual and cumulative penalty fees to database.
4. Initiate City invoices
5. Record payments received

C. LEINS

1. Process past due accounts for property lien recording.
2. Process release of lien upon compliance and payment.
3. Record lien documentation to database.

D. COLLECTIONS

Process past due accounts for referral to City's collection unit.

Denver Parks and Recreation
Forestry Administration
201 W Colfax Ave, Dept 605
Denver, CO 80202

ADMINISTRATIVE CITATION

The penalty must be paid in full within thirty days of issuance of this citation; make checks payable to the "Manager of Finance" and send or hand deliver to the address to the left. Failure to pay the full amount within the time allotted will result in the matter's being referred for collection by any and all means available to the city, in some cases including the assessment of a property lien.

Penalty: \$ _____

Date & Time: _____

Address/Intersection: _____

Location: _____

Violation
Summary:

Sections: _____ Description: _____

Correct the above violation(s) within __ days of this order. Failure to correct the violation(s) listed below may result in the issuance of further citation(s) and/or the completion of the required action (see below), for which you will be billed 105% of the cost of the work's completion.

Corrective
Action(s):

Any person served with this citation may file a notice of appeal within ten (10) days from the service of this notice. The notice of appeal must be made in writing and filed with the Manager of Parks and Recreation pursuant to Parks and Recreation rules and regulations.

Responsible Party/Recipient

Signed: _____

Printed: _____

Inspector (print): _____

residential address: _____

Ph: 720.913.0651 Signed: _____

employment address: _____

DENVER PARKS AND RECREATION
CITY FORESTER'S OFFICE
201 W. COLFAX AVE., DEPT 605
DENVER, CO 80202-5329

CITY FORESTER'S NOTICE

ADDRESS OF VIOLATION

Inspection Date: _____

Please be advised of the following conditions at the above address and comply by _____.

ATTENTION

Failure to correct the violation(s) listed to the left may result in the issuance of administrative citation(s) up to \$999 and/or the City Forester's taking other legal action, pursuant to Chapters 2 and 57 of the Revised Municipal Code.

Any person subject to said order may appeal to the Manager of Parks and Recreation. The notice of appeal must include the basis for appeal and be postmarked or delivered via fax, email, or in person by _____ .

Inspector

Inspector Email

Inspector Phone

Responsible Party

Mailing Address
of Responsible Party

DENVER PARKS AND RECREATION
CITY FORESTER'S OFFICE
201 W. COLFAX AVE., DEPT 605
DENVER, CO 80202-5329

NOTIFICACIÓN DE INFRACCIÓN

ADDRESS OF VIOLATION

Fecha: _____

La presente sirve para notificarle de las siguientes situaciones: Cumpla antes de _____.

ATENCIÓN

Fracaso para corregir la infracción (las infracciones) listó a la izquierda puede tener como resultado la emisión de la citación administrativa (las citaciones administrativas) a \$999 y/o la autoridad forestal está autorizada para tomar otras medidas legales de acuerdo con los Capítulos 2 y 57 del Código Revisado.

Cualquier persona sujeta a dicha ordenanza puede apelar al Director de Parques y Recreación antes de _____ por carte, manda correo electrónico, el fax, o en persona.

Responsible Party

Mailing Address
of Responsible Party

Inspector

Inspector Email

Llama a 3-1-1 para ayuda en Español