

Effective Date: March 7, 2006

Amendments: 01-02-08 (Res 08-03) /

### Section 15.1: Administrative Offenses

**15.1.01. Purpose.** The administrative offense procedures established pursuant to this section are intended to provide the public and the City with an informal and cost effective alternative to the traditional criminal procedures followed for charges for violations of certain city code or ordinance provisions. The procedures provided herein are intended to provide the charged party with an election either to proceed pursuant to the voluntary administrative process established herein or elect to proceed under the existing criminal scheme which affords of the charged party with all of the rights afforded by the criminal process. At any time prior to the payment of a listed administrative penalty, as is provided for hereafter, the individual may withdraw from participation in the administrative procedure and require the City to bring criminal charges in accordance with its ordinance, code, and the law. Likewise the City, in its discretion, may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty imposed, the City retains the right to seek criminal charges and can proceed to collect the costs of the administrative offense procedures incurred as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation alleged.

**15.1.02. Administrative Offense Defined.** An administrative offense is a violation of the provisions cited by this section and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Subd. 9 herein.

**15.1.03. Notice.** Any Police Officer of the Cloquet Police Department or any other person employed by the City, authorized in writing by the City Administrator as having authority to enforce this section, shall, upon determining that there has been a violation, provide prompt written notice to the violating party of the offense cited. If the violation involves a motor vehicle, notice should be attached to the vehicle involved in the violation. Said notice shall set forth the nature, date and time of violation, the name of the official issuing the notice, and the amount of the scheduled administrative penalty to be paid.

**15.1.04. Payment.** Once such notice is given, the alleged violator may, within seven (7) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation, or request a hearing in writing, as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**15.1.05. Hearing.** Any person contesting an administrative offense pursuant to this Chapter may, within seven (7) days of the time of issuance of the notice of violation, request an administrative hearing to contest the fact that a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed. Failure to pay the administrative penalty for the violation cited may result in the person being cited for a criminal violation.

**15.1.06. Hearing Officer.** A City employee designated in writing by the City Administrator shall be the hearing officer for purposes of this section. The hearing officer is authorized to hear and determine any controversy relating to the administrative offenses provided for in this section. This process is intended to replace any existing administrative procedures previously established by ordinance with regard to violations enumerated herein.

**15.1.07. Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty provided by this section, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes, code, or ordinance. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such criminal charge may be brought by the City for the same violation.

**15.1.08. Disposition of Penalties.** All penalties collected pursuant to this section shall be paid to the City Administrator's office and may be deposited in the City's general fund.

**15.1.09. Offenses and Penalties.** Offenses which may be charged as administrative offenses shall be designated by the City Council and the penalties for such offenses may be established by resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the office of the City Administrator.

**15.1.10. Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense within a twelve (12) month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty-five percent (25%) above the then existing administrative penalty for the same offense.

**15.1.11. Administrative Penalties.** Listed below are the administrative offenses covered by this section and the corresponding administrative penalties for those offenses. The following administrative penalties will be assessed according to the offenses listed. The offenses and the amounts can be changed by resolution of the City Council from time to time.

<u>OFFENSE</u>	<u>ADMINISTRATIVE PENALTY</u>
Alcohol and Tobacco Sales Violations	
Purchase, Possession by Underage Person	\$ 25.00
Lending I.D. to Underage Person to Purchase	\$ 100.00
Alteration of Land Violations	\$ 500.00
Animals	
Vicious Animal	\$ 200.00
All Other Animal Violations	\$ 50.00
Building Code Violations	\$ 100.00 to \$ 700.00
Curfew Violations	\$ 25.00
Disorderly Conduct Violations	\$ 50.00 to \$ 200.00
Failure to Apply for License Violations	\$ 100.00
Fire, Sign and Obstruction in Street Violations	\$ 50.00
Fires	
No Open Fires	\$ 25.00
Fire Code Violations	\$ 100.00 to \$ 500.00
Fireworks Violations	
Use, Possession, Sale Prohibited	\$ 25.00
Garage/Rummage Sale Violations	
First offense within one year	\$ 150.00
Second offense within one year	\$ 250.00
Third offense within one year	\$ 500.00
Grass and Weed Violations	\$ 25.00
Ice and Snow Violations	\$ 25.00
Junk cars, Household Furnishings and Appliances on Private Property Violations	\$ 100.00
Lane Use and Zoning Code Violations	\$ 200.00
Licenses and Permits not Occurring Elsewhere	\$ 50.00

<u>OFFENSE</u>	<u>ADMINISTRATIVE PENALTY</u>
Miscellaneous Violations	
Illegal Dumping	\$ 50.00
Consuming Alcohol in Unauthorized Places	\$ 25.00
Trespassing	\$ 50.00 to \$ 100.00
Skateboarding and Rollerblading	\$ 25.00
Municipal Utility Violations	\$ 200.00 to \$ 500.00
Parking Violations	
Handicap Zone	\$ 150.00
Fire Lane	\$ 25.00
Snowbird	\$ 25.00
Blocking Fire Hydrant	\$ 25.00
Car on Street During Snow Emergency	\$ 25.00
All Other Illegal Parking	\$ 25.00
Parks	
Park Ordinance Violations	\$ 50.00
Public Nuisance Violations	\$ 50.00 to \$ 100.00
Regulated Business	\$ 100.00
Signs	\$ 50.00
Smoke-Free Ordinance Violation	\$ 25.00
Snowmobiles	\$ 25.00
Storage of Wood, Deposit and Disposal of Refuse	\$ 50.00
Traffic Offenses	
Exhibition Driving	\$ 50.00
Inattentive Driving	\$ 100.00
Weapons	
Discharge or Display of Pellet/BB/Splat Guns	\$ 50.00

**Section 15.2: Administrative Hearing Process**

**15.2.01 Purpose.** The City Council has determined that there is a need for a standard method of addressing administrative appeals and an alternative method of enforcing certain violations of City Code or Ordinances which provide for the imposition of administrative penalties and fees instead of criminal penalties. 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 with regard to certain types of Code or Ordinance violations. This method of enforcement shall be in addition to any other legal remedy which may be pursued by the City for City Code and Ordinance violations.

**15.2.02 Amending Existing Administrative Hearing Processes.** Presently, City Code sections 6.4 and 6.6 provide for administrative hearings which extend due process to those individuals or merchants that are alleged to have bartered or sold tobacco products and/or alcoholic products to individuals that are under legal age. Provisions contained in sections 6.4 and 6.6 presently provide for civil penalties which involve the payment of administrative fees and license suspension with regard to violations. At the time those sections were adopted the system of conducting administrative hearings was untested. Given the experience that has been gained by enforcing those sections, and in the interest of consistency and fairness, it is the express intent of this section to provide for a consistent administrative hearing process for all hearings conducted pursuant to those sections and any other ordinances that the City Council may hereinafter adopt which provide for the imposition of administrative fees and penalties.

**15.2.03. Administrative Citations.** Hereafter, all administrative citations issued with regard to violations of City Code or Ordinances will be issued by a City Police Officer or another City Official authorized by the City to issue a citation regarding the prohibited conduct. All such citations must be issued in person or must be sent by mail to the person or entity responsible for the violation or must be attached to the motor vehicle involved in the violation 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 or authorized individual, the amount of the scheduled administrative penalty, and the manner for paying the administrative penalty or for appealing the citation. The person responsible for the violation must either pay the scheduled administrative fee as provided for in the section for which they are cited or request a hearing within twenty (20) days of the receipt or mailing of the written notice of violation.

**15.2.04. Administrative Hearing Process.** The City Council hereby ordains that all administrative hearings will be conducted before a hearing officer who is either licensed to practice law in the State of Minnesota, is a retired Judge, a hearing officer, or is a trained arbitrator or mediator. The City Administrator is hereby authorized to select a hearing officer to hear and determine matters for which a hearing is requested provided that the person selected as a hearing officer is not a City employee and is not a person that would have a personal interest in the outcome. The cited individual in any given instance shall have the right to ask that the hearing officer assigned to the case be removed from the case, for cause, as long as a written request is filed with the City Administrator within five (5) days after the cited individual or person has been notified as to the identity of hearing officer chosen. If denied, any subsequent requests must be directed to the assigned hearing officer directly and must also be based upon cause. The assigned hearing officer will then decide whether or not he or she can fairly and objectively review the case. If the hearing officer assigned determines that cause exists for removal, that officer shall remove himself or herself from the case and the City Administrator shall assign another hearing officer. A hearing officer is not a judicial officer but is a public officer as defined by Minnesota Statute §609.415.

- (A) **Notice of Hearing.** Notice of a prospective administrative hearing must be served in person or by mail on the person or the entity alleged to be responsible for the violation at least seven (7) days in advance of the proposed hearing unless a shorter time is agreed to by all parties. At the hearing, the City will be required to proceed first to present testimony and question any witnesses that the City believes supports the alleged administrative fee or citation sought to be enforced. The strict rules of evidence will not apply and the hearing 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 personal affairs. Either party is entitled to be represented by an attorney at their own cost and the hearing will not be transcribed by a court reporter unless a transcript is requested and paid for by the person or entity requesting the hearing. Any person requesting that the hearing be transcribed agrees to provide the City with a copy of the transcript at no cost to the City.
- (B) **Hearing Officer's Authority.** The hearing officer chosen herein is authorized by the City Council to determine whether or not a violation has occurred, whether it is proper to impose the scheduled administrative penalty, or whether or not it is proper to reduce, stay, or waive a scheduled penalty.
1. **Subpoena Authority.** 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 requiring the attendance of witnesses or the production of books, papers, records, or other documents that are material to the matter being considered. The party requesting the subpoena shall be responsible for serving the subpoena in a manner provided for civil actions and for paying the fees and expenses and mileage of any witnesses required to attend. A person served with an administrative subpoena pursuant to these provisions may file an objection with the hearing officer promptly but not later than the time specified in the subpoena for compliance. The officer may cancel the subpoena, the hearing, or modify the subpoena if it is unreasonable or oppressive or if the proposed witnesses provide adequate grounds for modification of the subpoena's requirements. However, any person who fails to file an objection, or, without just cause, fails to or refuses to attend and testify or to produce the required documents in obedience to an administrative subpoena issued herein shall be guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek a continuance of the hearing and an Order from the District Court directing compliance with the subpoena issued pursuant to this section.
  2. **Decision.** The hearing officer's decision and supporting reasons must be stated in writing and must be completed within ten (10) days of the date of the hearing. That decision will be produced in writing and provided to the City Administrator and the parties involved within ten (10) days from the date of the hearing. If mailed, the hearing officer will be given an additional three (3) days to provide for mailing.
- (C) **Judicial Review.** Any person that maintains that they are aggrieved by an administrative decision consistent with this provision may have that decision reviewed in the district court consistent with Minnesota Statute §462.361.

**15.2.05. Recovery of Civil Penalties or Administrative Fees.** If a civil penalty or administrative fee assessed pursuant to code or ordinance or determined after an administrative hearing requested herein is not paid within the time specified, it shall constitute a lien against the real property on 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 the violation, and/or, be a personal obligation of the violator in all other situations.

1. A lien assessed herein may be assessed against the property and collected in the same manner as taxes.

2. A personal obligation may be collected by any appropriate legal means.
3. Failure to pay fine or administrative fee assessed herein is grounds for suspending or revoking a license associated with the violation.
4. During the time that any civil penalty administrative fee remains unpaid, the City will be entitled to assess interest based upon the prevailing judgment interest rate and provided by law by the State District Courts.

**15.2.06. Additional Criminal Penalties.** The following are misdemeanors, punishable in accordance with state law:

- (A) Failure without good cause to pay a fine or final determination made by the hearing officer as provided herein.
- (B) Failure to appear at an administrative hearing requested and scheduled pursuant to this section or for failure to comply with an administrative subpoena without filing a timely objection as provided herein.
- (C) Failure to pay a fine imposed by the hearing officer within sixty (60) days of the date of citation or no later than thirty (30) days after the date of any written decision to determine that a violation has occurred and all appeals therefrom.