

## *ARTICLE VI. ADMINISTRATIVE HEARINGS*

### **Sec. 1.05.500. Administrative hearing procedures.**

This chapter establishes the procedures for the use of hearing officers and the procedures governing administrative hearings.

(Ord. No. 5063, § 1, 11-9-99)

### **Sec. 1.05.505. Appointment of hearing officer.**

Any hearing officer presiding at administrative hearings shall be appointed and compensated by the city. The hearing officer shall not be an employee of the city.

(Ord. No. 5063, § 1, 11-9-99)

### **Sec. 1.05.510. Disqualification of hearing officer.**

Any person designated to serve as a hearing officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law.

(Ord. No. 5063, § 1, 11-9-99)

### **Sec. 1.05.515. Powers of hearing officer.**

- (a) The hearing officer shall preside over administrative hearings.
- (b) The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded.
- (c) The hearing officer, upon receipt of a written request which is submitted no later than five business days before the hearing, may issue a subpoena for witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena.
- (d) The hearing officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an administrative order, modifying an administrative order, or where extraordinary circumstances exist, granting a new hearing.

(Ord. No. 5063, § 1, 11-9-99)

### **Sec. 1.05.520. Failure to obey subpoena.**

It is unlawful for any person to refuse to obey a subpoena issued by a hearing officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as a misdemeanor.

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(Ord. No. 5063, § 1, 11-9-99)

**Sec. 1.05.525. Procedures for requesting an administrative hearing.**

- (a) A responsible person served with one of the following documents, orders or notices may file a request for administrative hearing within ten business days from the service of the notice:
  - (1) A notice of violation issued pursuant to section 1.05.100 of the Code.
  - (2) A notice from the enforcement official indicating an intent to record a notice of violation pursuant to section 1.05.110 of the Code.
  - (3) A denial of a request for a notice of compliance pursuant to section 1.05.130 of the Code.
  - (4) A denial of a request for a notice of satisfaction pursuant to section 1.05.410 of the Code.
  - (5) A administrative citation issued pursuant to section 1.05.210 of the Code.
  - (6) A notice to abate pursuant to section 1.05.310 of the Code.

(b) The request for administrative hearing shall be made in writing on a form provided by the city clerk and shall state the grounds for requesting the hearing and be filed with the city clerk on or before ten business days after service of the notice or citation.

(Ord. No. 5063, § 1, 11-9-99; Ord. No. 5839, § 1, 6-14-06)

**Sec. 1.05.530. Procedures for notification of administrative hearing.**

- (a) Where a responsible person has timely requested an administrative hearing, the city clerk shall schedule a day, time and place for the hearing.
- (b) Written notice of the time and place of the hearing shall be served at least ten business days prior to the date of the hearing to the responsible person.
- (c) The notice of hearing shall be served by any of the methods of service listed in section 1.05.050 of the Code.

(Ord. No. 5063, § 1, 11-9-99; Ord. No. 5839, § 1, 6-14-06)

**Sec. 1.05.535. Procedures at administrative hearing; admission of evidence.**

- (a) The hearing shall be recorded and the record kept with the administrative file. The rules of evidence of courts of the State of Nevada will be generally followed but may be relaxed at the discretion of the hearing officer when deviation from the technical rules of evidence will aid in ascertaining the facts and to ensure fairness for all parties involved. The rules pertaining to discovery do apply.
- (b) An objection to the admissibility of evidence may be made by any party of record and the objection will be ruled on by the hearing officer. When an objection is made to the admission or exclusion of evidence, the grounds upon which the relief is sought must be stated briefly. The hearing officer, with or without objection, may exclude inadmissible, incompetent, repetitious, or irrelevant evidence. Any evidence offered at the hearing must be material and relevant to the issues of the hearing.
- (c) At the administrative hearing, the hearing officer shall only consider evidence that is consistent with the rules and procedures for administrative hearings set forth in sections 1.05.500 through 1.05.560 of the Code, and that is relevant to the following issues:
  - (1) Whether the conditions listed in the issued notice violate the Code;

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- (2) Whether the enforcement official afforded the responsible person due process by adhering to the notification procedures specified in this chapter.
  - (3) Whether costs associated with an abatement are reasonable.
  - (d) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

(Ord. No. 5063, § 1, 11-9-99; Ord. No. 5839, § 1, 6-14-06; Ord. No. 6553, § 1, 3-25-20)

#### **Sec. 1.05.540. Standard of proof.**

The city bears the burden of proof at an administrative hearing to establish the existence of a violation of the Code. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

(Ord. No. 5063, § 1, 11-9-99)

#### **Sec. 1.05.545. Representation.**

Representation in a contested case is limited to representation in proper persona or by an attorney who is licensed to practice law in the State of Nevada.

(Ord. No. 5063, § 1, 11-9-99)

#### **Sec. 1.05.550. Failure to request or attend administrative hearing.**

Any responsible person who;

- (a) Does not request a hearing; or
- (b) Requests a hearing or whose actions are the subject of an administrative hearing, and fails to appear at the hearing;

is deemed to waive the right to a hearing and all objections to the notice or administrative citation, provided that the hearing was properly noticed.

(Ord. No. 5063, § 1, 11-9-99; Ord. No. 5839, § 1, 6-14-06)

#### **Sec. 1.05.555. Administrative order; compliance with administrative order.**

- (a) The decision of the hearing officer shall be entitled "administrative order".
- (b) Once all evidence and testimony are completed, the hearing officer shall issue an administrative order which affirms, modifies or rejects the enforcement official's action. Where applicable, the administrative order may affirm, modify or reject the daily rate or duration of the administrative fines depending upon the review of the evidence and may increase or decrease the total amount of administrative fines assessed.
- (c) The hearing officer may issue an administrative order that requires the responsible person to abate the violation of the Code and to make necessary corrections, repairs, or to complete any other reasonable act requested by the enforcement official, which may be modified by the hearing officer, to bring the property into compliance with the Code. The hearing officer shall include a specific time frame to complete the requested act and may order the city to perform the abatement if the responsible person fails to comply with the administrative order.

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- (d) As part of the administrative order, the hearing officer may establish specific deadlines for the payment of administrative fines, fees and costs and may condition the total or partial assessment of administrative fines on the responsible person's ability to complete compliance by specified deadlines.
  - (e) The hearing officer may issue an administrative order which imposes additional administrative fines with the maximum amount per violation to be as set forth in section 1.05.215 of the Code that will continue to be assessed for each day the violation continues until the responsible person complies with the hearing officer's decision and corrects the violation.
  - (f) The hearing officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the administrative order.
  - (g) The administrative order shall become final on the date of service of the order.
  - (h) The administrative order shall be served on all parties by any one of the methods listed in section 1.05.050 of the Code.

(Ord. No. 5063, § 1, 11-9-99; Ord. No. 5839, § 1, 6-14-06)

### **Sec. 1.05.560. Failure to comply with the administrative order; misdemeanor.**

Failure to comply with an administrative order constitutes a misdemeanor.

(Ord. No. 5063, § 1, 11-9-99)