

Administrative Fines Enforcement Program Manual



City of New Hope
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INTRODUCTION

The city of New Hope Administrative Fines Enforcement Program was adopted by ordinance in April of 2009. It is intended to be more informal, less intimidating, and more effective for alleged violators than going through the Hennepin County Court System. Administrative enforcement of city ordinances starts when a city inspector writes an Administrative Notice to the property owner where the violation exists. The notice includes information regarding the type of violation, the location of the violation, the correction required, and the compliance date for the correction.

This handbook explains, in common terms, the processes that take place after the citation has been issued. To see the ordinance itself, request a copy from the city clerk for a small charge, view a copy of the ordinances at New Hope City Hall, or go to the city's official website at newhopemn.gov.

THE ADMINISTRATIVE CITATION

When a property owner fails to correct a code violation within seven (7) calendar days after an Administrative Notice is sent, an Administrative Citation will be issued either in person or by mail. If the Administrative Notice was mailed, the property owner is allotted an additional three (3) days from the compliance date to respond to the citation and may either:

1. Pay the scheduled fine and correct the violation; **OR**
2. Request an extension in writing; **OR**
3. Request an Administrative Hearing; **OR**
4. Proceed through the Hennepin County Court System process.

OPTION #1 - PAY THE FINE AND CORRECT THE VIOLATIONS

By paying the fine, you admit you violated city ordinance.

Pay the fine in one of the following three (3) manners:

1. Payments may be made in person at New Hope City Hall by cash, check, or credit card.
2. Payments may be sent in the mail and paid by check or money order, payable to the City of New Hope for the correct amount. Do not send cash in the mail. Include a copy of the citation. Payments can be sent to the following address:

City of New Hope
Community Development
4401 Xylon Avenue North
New Hope, MN 55428

Fines may be dropped off in the payment box located near the entrance to New Hope City Hall and paid by check, made payable to the City of New Hope, attention Community Development Department for the correct amount. Do not put cash in the drop box. Include a copy of the citation.

ALL PAYMENTS MUST BE ACCOMPANIED BY A COPY OF THE CITATION.

Failure to Pay a Fine

If the city of New Hope does not receive a request for an Administrative Hearing within seven (7) days after the citation was issued, or payment of the fine within 30 days, a late fee will be assessed per the city's fee schedule. At this time the city will send an invoice for the total amount unpaid. If unpaid, the total bill will be certified to your property taxes and all city licenses may be revoked.

Failure to Correct Violations

When a violation continues, the city may:

1. issue an administrative citation; **OR**
2. correct the violations and certify the charges for doing so onto the property taxes; **OR**
3. file criminal charges; **OR**
4. take other action(s) to require compliance with city ordinances.

Repeat Violations within 12 Months

If the same property and property owner are charged with a subsequent violation within a 12-month period for the same, or substantially similar offense, the fine increases to the amount set forth in the city's fee schedule. A second violation within a 12-month period would be classified as "Citation #2," a third violation within a 12-month period would be classified as "Citation #3," etc.

Abatement Procedure

The city may take action to correct or remove a violation of the City Code, including towing and impounding of motor vehicles or recreational vehicles which are inoperable, unlicensed, or parked in violation of the City Code, and removal of other public nuisances such as refuse, construction or landscaping materials, debris, waste and/or any other exterior storage which are in violation of the City Code. Property owners will be notified of violations subject to the abatement procedure with an administrative notice and two administrative citations prior to the city taking any action. If the violation is not corrected within seven (7) days of when the second administrative citation was issued, the city may immediately abate the nuisance. Costs associated with the abatement process will be assessed to the subject property.

OPTION #2 – REQUEST AN ADMINISTRATIVE HEARING

Property owners may request an Administrative Hearing if they believe that they did not violate an ordinance or if they want to refute the citation. The cost of requesting a hearing is set forth in the city's fee schedule

All Administrative Hearings are held before an independent hearing officer who is not a city employee and has no other connection with the city other than to serve as a hearing officer. When a hearing is requested, the city clerk randomly selects an officer from the list of hearing officers approved by the City Council.

To request a hearing, the property owner must file a written request in person at the New Hope City Hall either with the city clerk or customer service representative. The City Clerk's Office will work to accommodate the schedules of all involved parties and will notify the property owner by mail of the date, time and location of the hearing. The notice will contain the names of the parties, the identity of the hearing officer, the location of the alleged violation and the type of violation alleged. The notification will be received by mail at least ten (10) days in advance of the scheduled hearing unless a shorter time is accepted by all parties. Expect to be available for two (2) hours to attend the Administrative Hearing.

The property owner may provide the City Clerk's Office with a case file containing a summary report, photographs, written testimonies or any other written, audio or visual material they would like the hearing officer to review before the hearing. They must bring it to New Hope City Hall two (2) days, 48 hours, before the scheduled hearing start time. They may not contact the hearing officer before the hearing to discuss the case. Direct all questions to the City Clerk's Office at 763-531-5117.

Request to Change Hearing Officers

If the property owner has an objection to the hearing officer assigned to their case, they may file a written request with the city clerk to have the officer changed. The request must be made no later than five (5) days before the hearing. A reason is not required and the first request will automatically be granted. Any subsequent request for a new hearing officer is referred to the officer assigned, who will determine if he or she can fairly and objectively review the case. If the request is granted, the City Clerk's Office will assign a different officer and notify the property owner of a new date and time for the hearing. If the request is not granted, the hearing will go forward as scheduled. The officer's decision may be mailed or provided on the scheduled date of the hearing.

Request to Change Hearing Date

A request for a continuance of the case must be made to the city clerk at least five (5) days prior to the scheduled hearing date. The City Clerk's Office may grant a continuance if good cause is shown, but for no more than ten (10) days from the originally scheduled date.

Failure to Appear

By failing to appear for a scheduled hearing, the property owner is admitting the charge against them and waiving any right to an Administrative Hearing. The hearing officer may impose a penalty in their absence. If city representatives fail to appear, the charge will be dismissed.

If the property owner has a good reason for missing the hearing, they must contact the city clerk in writing within one (1) day after the scheduled hearing. The assigned hearing officer will be asked to decide whether there was good cause for their absence. Examples of good cause include: death in the immediate family, documented incapacitating illness of the violator, a court order requiring the violator to appear for another hearing or lack of proper notification of the hearing. Good cause **does not** include: forgetfulness, lack of transportation or lack of child care.

Hearing Procedures

The hearing proceedings are informal and strict rules of evidence will not apply. All hearings are recorded. Each party will have the opportunity to present testimony and question witnesses. The city bears the burden of providing a violation and will present testimony first. The property owner will have the opportunity to question the city's witnesses. They also may wish to testify themselves and/or present witnesses, but are not obligated to do so. All witnesses will be sworn to tell the truth. The hearing officer will decide whether there will be opening and/or closing statements.

Use of Attorneys

In order to maintain informality, the use of attorneys is discouraged. The city will not be represented by an attorney at the hearing. If the property owner wishes to have an attorney present, he or she is allowed to advise them, but may not make any presentations.

Decision

The hearing officer may decide the case immediately after testimony has finished. However, he or she may take time to make a decision. In either case, a written decision will be mailed to the property owner within ten (10) days after the hearing. It will include findings of fact, conclusions of law and order.

The hearing officer has the authority to:

1. determine a violation occurred;
2. dismiss the citation;
3. impose the scheduled fine; **AND/OR**
4. reduce, stay or waive a scheduled fine, unconditionally or upon compliance with appropriate conditions.

When deciding which action to take, the hearing officer may consider any or all of the following factors:

1. the duration of the violation;
2. the frequency of reoccurrence of the violation;
3. the seriousness of the violation;
4. the history of the violation;
5. the violator's conduct after issuance of the Administrative Notice and Citation;
6. the violator's conduct after issuance of the notice of hearing;
7. the good faith effort by the violator to comply;
8. the impact of the violation upon the community;
9. prior record of city code violations;
10. other factors appropriate to a just result.

The hearing officer may not impose a fine greater than those established. The hearing officer may impose a fine for each week that the violation continues if:

1. the violation caused or is causing a serious threat of harm to public health, safety or welfare; **OR**
2. the violator intentionally and unreasonably refused or refuses to comply with the code requirements.

Appeals

The decision of the hearing officer is final without any further right of appeal, except in the following two (2) matters:

1. The decision may be appealed to the City Council if the case involved the following:
 - a. a failure to obtain a permit, license or other approval from the City Council; **OR**
 - b. a violation of a permit, license, other approval or conditions, which is granted by the City Council; **OR**
 - c. a violation of regulations governing a person who has received a licensed granted by the City Council.

The property owner's written request for appeal must be submitted to the city clerk within ten (10) days after the hearing officer's decision. You will be notified by mail at least ten (10) days in advance about which City Council meeting to attend. At the hearing you may present oral or written arguments regarding the hearing officer's decision. New witnesses or evidence are not allowed. The City Council will have the transcript of the hearing to review. The council has the authority to impose a civil penalty or revoke a city-issue license, permit or other approval associated with the violation.

2. In all cases, the property owner may obtain judicial review of the hearing officer's or City Council's decision as provided in Minnesota state law. They should consult with a lawyer about how to proceed in this manner.

OPTION #3 – PROCEED THROUGH THE HENNEPIN COUNTY COURT SYSTEM PROCESS

The Administrative Citation process is completely voluntary. If the property owner chooses to do so, they can proceed through the county court system. Choosing to do so may include the following:

1. higher fine schedules as a result of state surcharges; **AND/OR**
2. criminal penalties

SCHEDULE OF FINES

Penalties

Amounts for violations are set forth in the city's fee schedule.

Level One Violation

Level One Violations include the following offenses:

- Failure to obtain Certificate of Property Maintenance
- Failure to obtain Business Use Certificate of Occupancy
- Unapproved home occupation
- Interim erosion and sediment control
- Improperly stored trash container
- Weeds
- Failure to remove graffiti
- Display advertising on parked vehicle
- General maintenance
- Construction of fence with unapproved material or damaged fence
- Damaged light fixture
- Noise ordinance violations
- All other miscellaneous code violations not specified as Level 2 or Level 3 violations

Level Two Violation

Level Two Violations include the following offenses:

- Vacated building
- Removal or disconnection of safety devices such as smoke or carbon monoxide detectors
- Failure to obtain required permit
- Failure to obtain required rental registration permit or complete required inspection
- Unauthorized signs and violations of sign code
- Unlicensed, inoperable vehicles
- Storing junk vehicles
- Exterior storage
- Parking vehicle or recreational vehicle on unapproved surface
- Improperly stored or unscreened recreational vehicles
- Improper sump pump connection or discharge

- Failed or missed hood and duct cleaning

Level Three Violation

Level Three Violations include the following offenses:

- Level 3: Immediate life and safety matter, supported by the enforcement officer's written justification

Repeat Violations within 12 Months

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