

**Article 2: Code Enforcement
Judicial and Administrative Remedies**

Division 4: Administrative Enforcement Hearing Procedures
*(“Administrative Enforcement Hearing Procedures”
added 8–10–1993 by O–17956 N.S.)*

§12.0401 Administrative Enforcement Hearing Procedures

Division 4 of Article 2 of Chapter 1 establishes the procedures for conducting administrative enforcement hearings.

(“Administrative Enforcement Hearing Procedures” added 8–10–1993 by O–17956 N.S.)

§12.0402 Declaration of Purpose

- (a) The Council finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to the Municipal Code. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action.
- (b) The City Manager is authorized to develop policies and procedures relating to the qualifications, appointment and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena powers and other matters relating to administrative enforcement hearings.

(“Declaration of Purpose” added 8–10–1993 by O–17956 N.S.)

§12.0403 Procedures for Notification of Enforcement Hearing

- (a) Where an administrative enforcement remedy or proceeding authorized by Chapter 1 provides for an enforcement hearing, the Director may request the City Manager to appoint an Enforcement Hearing Officer and to 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 (10) calendar days prior to the date of the hearing to the Responsible Person.

- (c) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the City Manager.
- (d) The notice of hearing shall be served by any of the methods of service listed in Section 11.0301 of this Code.

(“Procedures for Notification of Enforcement Hearing” added 8-10-1993 by O-17956 N.S.)

§12.0404 Qualifications of Enforcement Hearing Officer

The City Manager shall promulgate rules and procedures as are necessary to establish a pool of qualified persons who are capable of acting on behalf of the City as Enforcement Hearing Officers.

(“Qualifications of Enforcement Hearing Officer” added 8-10-1993 by O-17956 N.S.)

§12.0405 Appointment of Enforcement Hearing Officer

Enforcement Hearing Officers presiding at administrative enforcement hearings shall be appointed and compensated by the City Manager. The City Manager shall develop policies and procedures relating to the employment and compensation of Enforcement Hearing Officers.

(“Appointment of Enforcement Hearing Officer” added 8-10-1993 by O-17956 N.S.)

§12.0406 Disqualification of Enforcement Hearing Officer

Any person designated to serve as an Enforcement 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. Rules and procedures for the disqualification of an Enforcement Hearing Officer shall be promulgated by the City Manager.

(“Disqualification of Enforcement Hearing Officer” added 8-10-1993 by O-17956 N.S.)

§12.0407 Powers of Enforcement Hearing Officer

- (a) The Enforcement 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.
- (b) The Enforcement Hearing Officer, at the request of any party to the hearing, may subpoena 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. The City Manager shall develop policies and procedures relating to the issuance of subpoenas in administrative enforcement hearings, including the form of the subpoena and related costs.

- (c) The Enforcement Hearing Officer has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Enforcement Order, modifying an Administrative Enforcement Order, or where extraordinary circumstances exist, granting a new hearing.
- (d) The Enforcement Hearing Officer has the authority to require a Responsible Person to post a Code Enforcement Performance Bond to ensure compliance with an Administrative Enforcement Order.

(“Powers of Enforcement Hearing Officer” added 8-10-1993 by O-17956 N.S.)

§12.0408 Procedures at Administrative Enforcement Hearing

- (a) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the City Manager.
- (b) The City bears the burden of proof at an administrative enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.
- (c) The standard of proof to be used by the Enforcement Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.
- (d) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

(“Procedures at Administrative Enforcement Hearing” added 8-10-1993 by O-17956 N.S.)

§12.0409 Failure to Obey Subpoena

It is unlawful for any person to refuse to obey a subpoena issued by an Enforcement Hearing Officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as a misdemeanor.

(“Failure to Obey Subpoena” added 8–10–1993 by O–17956 N.S.)

§12.0410 Failure to Attend Administrative Enforcement Hearing

Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

(“Failure to Attend Administrative Enforcement Hearing” added 8–10–1993 by O–17956 N.S.)

§12.0411 Administrative Enforcement Order

- (a) The decision of the Enforcement Hearing Officer shall be entitled “Administrative Enforcement Order” and shall be issued in accordance with the rules and procedures promulgated by the City Manager.
- (b) The Administrative Enforcement Order shall become final on the date of service of the order.
- (c) The Administrative Enforcement Order shall be served on all parties by any one of the methods listed in Section 11.0301 of the Municipal Code.

(“Administrative Enforcement Order” added 8–10–1993 by O–17956 N.S.)

§12.0412 Judicial Review

Once an *Administrative Enforcement Order* becomes final as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure section 1094.6. Should any court of competent jurisdiction determine that the City must provide an appeal to any final *Administrative Enforcement Order* in a manner other than set forth in California Code of Civil Procedure section 1094.6, then it is the intent of the City Council that the administrative penalty process remain as provided herein and to provide that any appeal which is timely requested follow the procedures set forth in Government Code section 53069.4.

(“Judicial Review” added 8–10–1993 by O–17956 N.S.)

(Amended 2-26-07 by O-19579 N.S.; effective 3-28-2007.)

§12.0413 Failure to Comply with Administrative Enforcement Order

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final Administrative Enforcement Order pursuant to Section 11.0301 of the Municipal Code to fail to comply with the order. Failure to comply with a final Administrative Enforcement Order may be prosecuted as a misdemeanor. (*“Failure to Comply with ‘Administrative Enforcement Order’” added 8-10-1993 by O-17956 N.S.*)