

INTRODUCTION

In 2009 the Rochester City Council approved the Administrative Fine Enforcement Process as an alternate method of enforcement for some Rochester City Code and State Statute violations.

The process is intended to be informal and less intimidating to alleged violators. The following Rochester City Codes and State Statute Violations are subject to Administrative Fines:

ROCHESTER CITY CODE CHAPTER	STATE STATUTE
Alcoholic Beverage Regulation (Ch. 5-19)	Speeding of less than 10 MPH over posted limits
Animal Regulations (Ch. 3-1)	Equipment Violations
Park Regulations (Ch. 9-16)	Stop Line Violations
Peace Plaza Regulations (Ch. 9-3)	
Public Nuisances (Ch. 8-3)	
Refuse Collection & Disposal (Ch. 12-10)	
Smoking Regulations (Ch. 8-7, 8-7-14, 8-7-15 8-7-17)	
Gambling Regulations (Ch. 8-10)	
Vending Carts (Ch. 9-10)	
Street & Sidewalk Regulations (Ch. 9-1)	
Sidewalk Maintenance (Ch. 9-6; 9-6-2)	
Repeat Nuisance Regulations (Ch. 8-4)	
Tall Grass and Weed Regulations (Ch. 8-5)	
Outdoor Dog Permit (Ch. 3-2)	
Housing Code: Registration of Rental Units (Ch. 7-5)	
Piling of Snow (Ch. 11-8; 11-8-6)	
Sidewalks, Driveways, Curbs, Curb Cuts, and Streets (Chapters: 9-1, 9-5, 9-6, 9-7, 9-11 & 9-18)	
Sewers (Ch. 12-2; 12-2-3)	

This handout is intended to explain the process.

You may obtain copies of the Rochester City Code section enacting the Administrative Fine Enforcement Program or any specific Rochester City Code on the City’s website at www.rochestermn.gov or by calling the City Clerk’s Office.

AFTER RECEIVING A CITATION

When you receive an Administrative Fine, you must respond within ten (10) calendar days by either:

1. paying the fine, or
2. requesting a hearing.

If you do nothing, a late payment fee of 10 percent of the fine may be assessed if the fine remains unpaid 30 days after the due date and again at 60 days after the due date. The amount of the civil fine and the late payment fee must be paid in full. No partial payments of the civil fine or the late payment fee will be accepted.

An unpaid civil fine imposed for property-related violations may be assessed against the property which was the subject matter or related to the subject matter of the civil fine or property which was the location of an activity, proposed use, delivery of city service or other circumstance which resulted in the civil fine.

PAYING THE FINE

The City has established by resolution various fine amounts for each Rochester City Code violation. The fine amount for a State Statute Violation is \$60.00.

Payment of the civil fine constitutes admission of the violation.

If you wish to pay the fine, you can pay with cash, check, money order, or credit card. A check or money order must be payable to the City of Rochester for the correct amount. You may pay in person at City Hall or mail a copy of the Administrative Fine with the payment to:

**Office of the City Clerk
Administrative Fine Enforcement Program
201 4th St SE
Rochester, MN 55904**

PLEASE NOTE: Some administrative violations, including for Tall Grass/Weeds and Snow Removal from Sidewalks, may result in additional charges if the City needs to hire a contractor to remediate the issue. Those charges, if any, are billed separately from the administrative fine. This means you may receive two separate invoices relating to the same violation.

REQUESTING A HEARING

If you request a hearing, the City Clerk's Office will provide you a confirmation, by mail or email, of the date, time and location for your hearing as well as the name of the hearing officer at least ten (10) days in advance of the scheduled hearing unless a shorter time is accepted by all parties. Other cases may be scheduled at the same time and you may have to wait. The City Clerk's Office must be notified in advance if you will be represented by legal counsel.

Costs of Mediation and Hearing

The hearing process has been updated to reduce the upfront cost that must be paid to request a hearing, with the nonprevailing party being ultimately responsible for the hearing officer's expenses. If you want to request a hearing, you need to submit a fee of \$25.00 towards the cost of the administrative hearing at the time of your request. If the hearing officer finds that you have not violated the Rochester City Code, all costs for the hearing officer will be paid by the City and the \$25 fee you paid will be refunded. If the hearing officer finds that you did violate the Rochester City Code, you are responsible for paying the entire cost of the hearing officer's expenses within 30 days of invoicing, in addition to the amount of the administrative fine and any other costs assessed to you relating to the fine.

Changes to the Hearing Date or the Assigned Hearing Officer

You and the City are each entitled to one request to change a scheduled hearing. If you request a hearing and do not attend, and also fail to request a continuance at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the requested hearing shall be charged to you and deducted from any prepayment made.

The hearing officer is chosen from an approved list of private lawyers who are not City employees. You may not contact the hearing officer before the hearing to discuss your case. You have the right to request, no later than five days before the date of the hearing, that an assigned hearing officer be removed from the case. One such request for each case will be granted automatically. A subsequent request is directed to the assigned hearing officer who will decide whether they can fairly and objectively review the case. If such a finding is made, the hearing officer shall remove them self from the case and another hearing officer shall be assigned.

THE HEARING

Failure to Appear

If you fail to appear for the hearing and failed to request a continuance of the hearing at least 48 hours in advance of the scheduled hearing, all costs incurred by the City attributable to the requested hearing will be charged to you.

Hearing Procedure

The hearing will be informal without strict rules of evidence. At the hearing, parties shall have the opportunity to present testimony and question any witnesses. The City Clerk's Office shall record the hearing and maintain a full record of the hearing. The hearing officer will receive testimony and exhibits, and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

Decision

The decision of the hearing officer shall be in writing and will contain findings of fact and conclusions of law. The written report will be served on the parties by mail within 20 days of the last date of the hearing.

If the hearing officer decides that you violated the Rochester City Code or State Statute, the hearing officer has the authority to:

1. Determine whether a violation occurred;
2. Dismiss the administrative citation;
3. Impose the scheduled civil fine; or
4. Reduce or waive a scheduled civil fine either unconditionally or upon compliance with appropriate conditions.

In 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 or 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 notice of hearing;
6. The good faith effort by violator to comply;
7. The economic impact of the fine on the violator;
8. The impact of the violation upon the community;
9. Prior record of city code violations; or
10. Any other factors appropriate to a just result.

The hearing officer cannot impose a fine greater than the established fine, except that the hearing officer can impose a fine for each day that the violation continued if:

1. The violation caused a serious threat of harm to the public health, safety or welfare; or
2. The accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.

AFTER THE HEARING

Appeal

The decision cannot be appealed to someone else in the City. You may pursue the matter further, at your expense, in Olmsted County District Court by writ of certiorari. You should consult with a lawyer about how to do that.

Failure to Pay

If you do not pay the fine, the City has the authority to do one or more of the following:

1. A late payment fee of 10 percent of the fine may be assessed each month the fine remains unpaid. After notice and a right to a hearing, this fine amount will be added to your property tax statement as a special assessment if you own property in the City and it was the subject of the violation.
2. Deny an application for a City issued license or permit that is associated with the violation.
3. Start a criminal prosecution against you in Olmsted County District Court charging you with the underlying violation.

Assessment of Civil Fines for Property-Related Violations

In addition to any other remedies provided, an unpaid civil fine imposed for property-related violations may be assessed against:

1. Property which was the subject matter or related to the subject matter of the civil fine; or
2. Property which was the location of an activity, proposed use, delivery of city service or other circumstance which resulted in the civil fine.

Prior to any assessment for an unpaid civil fine, the City Clerk's Office shall seek voluntary payment of the fine by notifying the owner of the property in writing of the fine imposed. The unpaid civil fine and late fee, including the administrative charge, together with interest thereon at the maximum lawful rate permitted, against said lot or parcel together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. Prior to certification to the County Auditor, the owner shall be given written notice of the proposed assessment and be provided an opportunity to be heard before the Common Council.

An administrative charge of \$25.00 shall be due upon the mailing of the notice of proposed assessment.



Office of the City Clerk

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