

## CHAPTER 102 GENERAL PENALTY

### SECTION:

- 102.01 General Penalty  
102.02 Issuance of Ordinance Violation Summons

### **102.01: GENERAL PENALTY:**

- A. General Offense: Unless otherwise provided in City Code, any person violating any provision of the City Code shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$1,000.00, or by imprisonment not to exceed 90 days, or both, or any different amounts adopted by statute. In either case the costs of prosecution may be added<sup>1</sup>. (Ord. 1067, 9-25-89; amd. 1995 Code)
- B. Petty Misdemeanor Offense: A petty misdemeanor offense is an offense which is prohibited by statute which does not constitute a crime and is classified as a petty misdemeanor for which a sentence of a fine of not more than \$300.00 or any different amounts adopted by statute may be imposed<sup>2</sup>. (1995 Code)
- C. Administrative Offense:
1. Purpose: Administrative offense procedures, established pursuant to this Section, are intended to provide the City with an alternative to traditional criminal charges for violations of certain ordinance provisions.
  2. Definitions:
    - a. Administrative Offense: A violation of a provision of this Code that is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Subsection 11., hereafter, and which may or may not have associated compliance requirements.
  3. Notice: Any officer of the Police Department or any other person employed by the City, authorized under Section 102.02 of this Code shall, upon determining that there has been a violation of ordinance or Code, notify the violator or, in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of violation, the name of the official issuing the notice, the amount of the scheduled penalty and required compliance actions, if applicable.
  4. Recovery of Administrative Costs: The owner of the premises, where an administrative offense ticket has been issued by the City's Community Development Department, shall be personally liable for the cost of the City for inspection of said property and administrative costs as allowed per Minnesota Statute 429.101. Staff shall prepare a bill for the cost and mail it to the owner. The amount shall be immediately due and payable at the office of the City Manager.
  5. Notice Contestation and Hearing: Any person contesting an administrative offense may, within seven days of the time of issuance of the notice, request, in writing, a hearing. The Hearing Officer shall forthwith conduct an informal hearing to determine if 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

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<sup>1</sup> M.S.A. §§412.231, 609.033(3), 609.033 and 609.034

<sup>2</sup> M.S.A. §609.0332

penalty imposed.

6. Hearing Officer: The City Manager shall be the hearing officer. The hearing officer is authorized to hear and determine any controversy relating to administrative offenses provided for in this Section.

7. Payment of Penalty: Once notice is given, the alleged violator must pay the specified fine within seven days of the time of issuance of the notice, unless contesting the notice pursuant to Subsection 5. of this Chapter. The amount of the fine shall be set forth on the schedule of penalties for the violation as adopted by the City Council. The penalty may be paid in person or by mail and payment shall be deemed to be an admission of the violation.

8. Failure to Pay Penalty and/or Administrative Costs: In the event a party charged with an administrative offense fails to pay the penalty when due, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. In the event a party does not pay the monetary penalty and/or administrative costs, the City may seek to collect the costs of the administrative offense procedures per Section 407.07 and/or 906 of this Code.

a. If the penalty and/or administrative cost is unpaid, the City Manager shall, on or before September 1, list the total unpaid charges along with all other such charges, as well as other charges for current services to be assessed under Minnesota Statute 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against such property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year, or in annual installments not exceeding ten, as the City Council may determine in each case.

9. Failure to Comply: If a violation requires code compliance within a set period of time and the compliance does not occur by the deadline specified, the City may initiate an abatement process, as provided in Chapter 407 of the City Code, and/or charge the party with a misdemeanor.

10. Disposition of Penalties: All penalties collected pursuant to this Section shall be paid to the City Treasurer and may be deposited in the City's general fund.

11. Offenses and Penalties: Offenses that may be charged as administrative offenses are infractions to the City Code. Monetary penalties associated with offenses shall be identified in the City's Fee Schedule. Subsection 314.05

12. Subsequent Offenses: In the event a party is charged with a subsequent administrative offense within an 18 month period for the same or substantially similar offense, the subsequent administrative penalty shall be increased by 100% above the previous administrative penalty.

The City shall only increase the penalty twice within this period. (Ord. 1134, 1-24-94)

(Ord. 1366, 4-21-2008)

## **102.02: ISSUANCE OF ORDINANCE VIOLATION SUMMONS:**

The persons hereinafter named, as employees or agents of the City, shall have power to issue summons with complaints incorporated therein (citations) in the form adopted by rule by the Municipal Court, but such issuance by those named shall relate only to offenses involving the City Code; building construction, operation or maintenance; fire and fire prevention; public health and sanitation; and zoning. No such employee or agent hereinafter authorized to issue said summons shall be authorized to arrest or otherwise take a violator into custody or to secure a promise to appear in court in lieu of arrest.

Those authorized are as follows:

Fire Marshal  
Fire Inspector

Director of Public Works  
Chief Code Enforcement Officer  
Code Enforcement Officer  
Electrical Inspector  
Reserve Police Officer  
Community Service Officer  
Director of Community Development

Other employees or agents of the City specifically designated, in writing, by the City Manager shall also have such authority. (Ord. 1019, 8-10-87; amd. 1995 Code)