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## Sec. 46-20. Hearings.

- (a) *Hearing officers.* The city council will periodically approve a list of lawyers by resolution, from which the city administrator will select a hearing officer to hear and determine a matter for which the hearing is requested. The person who has requested the hearing has the right to request, no later than 15 days before the date of the hearing, that the assigned hearing officer be removed from the case. One such request for each case will be granted by the city administrator. A subsequent request must be directed to the assigned hearing officer who will decide whether the hearing officer can fairly and objectively review the case. If such a finding is made, the hearing officer shall remove himself or herself from the case, and the city administrator shall assign another hearing officer. The hearing officer is not a judicial officer, but is a public officer as defined by Minnesota Stat. § 609.415, as amended. The hearing officer shall not be a current or former employee of the City of Northfield.
- (b) *Hearing procedures.* At the hearing, the parties shall have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall record the hearing and receive testimony and exhibits and the full record of the hearing shall be kept. The hearing officer shall receive and give weight to evidence, including hearsay evidence probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
- (c) *Authority of the hearing officer.* The hearing officer shall determine whether a violation did or did not occur. If the hearing officer determines that a violation did not occur then the citation shall be dismissed. If the hearing officer determines that a violation did occur, then the officer may do any of the following: impose a fine anywhere within or up to, but not exceeding, the maximum penalty for an administrative offense, stay or waive a fine either unconditionally or upon compliance with the appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following:
- (1) The duration of the violation;
  - (2) The frequency of recurrence 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 of the violator to comply;
  - (7) The economic impact of the penalty on the violator;
  - (8) The impact of the violation upon the community; and
  - (9) Any other factors appropriate to just result.
- (d) *Fines for continuing violations.* The hearing officer may exercise discretion to impose a fine for more than one day of a continuing violation but only on a finding that the violation caused a serious threat of harm to the public health, safety, or welfare, or 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.
- (e) *Decision of the hearing officer.* The hearing officer shall issue a decision in writing to both parties within ten days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the hearing officer's order. If the fine is not paid, the city may assess the civil penalty against the owner's property pursuant to Minn. Stat. ch. 429, as amended. If the hearing officer determines that no violation occurred, the city may not proceed with criminal prosecution for the same act or conduct. The decision of

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the hearing officer is final and may only be appealed to the Minnesota court of appeals by petitioning for a writ of certiorari pursuant to Minn. Stats. § 606.01, as amended.

- (f) *Payment for cost of hearing.* The cost of the hearing shall be borne solely by the non-prevailing party. The city shall provide an estimate of the cost of the hearing at the time of the request for hearing. The city council has the authority to reduce the non-prevailing party's costs where that party can demonstrate indigency by clear and convincing evidence. Proof of indigency can be demonstrated by the party's receipt of means-tested governmental benefits or a demonstrated lack of assets or current income. Such proof shall be presented to the city council for determination subsequent to the hearing. However, the hearing officer at the time of the hearing shall make specific findings as to whether or not the party is indigent with said findings presented to the city council. In all cases, where the party requesting the hearing is unable to attend and fails 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 hearing shall be charged to the requesting party.

(Ord. No. 1032, § 1, 4-5-2022)