

Exhibit – Civil Enforcement

6-9(C)(5) Administrative Civil Enforcement

If the ZEO determines that a violation of the IDO has not been adequately cured within a reasonable time after an initial notice has been issued pursuant to Subsection 14-16-6-9(C)(2), the ZEO may pursue administrative civil enforcement pursuant to this Subsection 14-16-6-9(C)(5). Such administrative civil enforcement does not preclude any other enforcement action authorized by law.

6-9(C)(5)(a) Notice of Administrative Civil Enforcement

If the ZEO chooses to pursue administrative civil enforcement, the ZEO shall prepare and serve a written notice that includes all of the following information:

1. The name and contact information of the individual(s) believed to be responsible for the violation.
2. The physical address or legal description of the location where the alleged violations have occurred or are occurring.
3. A description of the alleged violation(s), including citations to the IDO Sections believed to have been violated and the facts indicating that such Sections are being violated.
4. A description of the actions or penalties that are sought by the ZEO for the alleged violation(s).
5. A statement that the notice will be immediately filed with the City Office of Administrative Hearings within 3 business days and that a hearing on the matter will be scheduled between 15 and 45 calendar days after the office receives the notice.
6. The address, email, and telephone number to contact the ZEO or appropriate City department for additional information and for delivery of any responses to the allegations.

6-9(C)(5)(b) Notice of Hearing

1. The City Office of Administrative Hearings shall schedule pursuant to the Independent Hearing Office Ordinance (ROA 1994 Part 2-7-8). ~~a hearing on all matters for which it has received a notice of administrative civil enforcement between 15 and 45 calendar days after the office receives the notice.~~
2. A notice of hearing may be served by any employee or agent of the City, including the ZEO or any sworn officer of the Albuquerque Police Department.
3. The notice of hearing shall be served to all individuals listed on the notice of administrative civil enforcement and the ZEO through any of the following means:
 - a. Personal service upon the person(s) or their attorney or duly authorized agent(s).
 - b. First class mail, return receipt requested.
 - c. Conspicuous posting within the frontage of the property where the alleged violation has occurred for a period of at least 30 days. It is unlawful for any person to remove or otherwise tamper with

this posting, and any removal or tampering of the notice is punishable pursuant to the criminal penalties of Part 1-1-99 of ROA 1994 (General Penalty).

4. The notice of hearing shall include all of the following information:
 - a. The date, time, and location of the hearing; the name of the hearing officer scheduled to preside of the matter; and contact information for the City Office of Administrative Hearings where individuals may request additional information.
 - b. A brief description of the nature and purpose of the hearing.
 - ~~Notification of the right to testify, present reasonable evidence, call and question witnesses, and have an attorney or duly authorized agent present.~~
 - ~~Notification of the right to respond to the allegations in writing before the hearing, which may include a limit on the scope, format, or length of the response, and any deadline by which the response must be filed.~~
 - ~~A statement that the alleged violator(s) or their attorney or duly authorized agent may meet with the ZEO prior to the hearing to attempt to resolve the alleged violations and avoid an enforcement hearing.~~

8-5. If a resolution is reached before a scheduled hearing, the ZEO shall request, as soon as possible, that the hearing be cancelled. The City Office of Administrative Hearings shall provide notice that the hearing has been cancelled to all individuals listed on the notice of administrative civil enforcement and any other parties to this matter by email or first class mail.

9-6. If the terms of the resolution are not met by the alleged violator(s) to the satisfaction of the ZEO, the ZEO may request that the City Office of Administrative Hearings reschedule and provide notice of the rescheduled hearing pursuant to the procedures above.

6-9(C)(5)(c) Response to Notice of Administrative Civil Enforcement

1. The alleged violator or their attorney or duly authorized agent may request to meet with the ZEO prior to the hearing to attempt to resolve the alleged violation(s) and avoid a hearing.
2. Once a hearing is scheduled, parties may submit a written response to the City Office of Administrative Hearings no less than 5 business days before the hearing. Any response submitted shall include proof that the response has also been provided to any other parties listed on the notice of administrative civil enforcement and the ZEO.

6-9(C)(5)(d) Hearing

1. The hearing shall be conducted pursuant to the provisions of the Independent Hearing Office Ordinance. See ROA §2-7-8-1 et. Seq.
- ~~1. All parties may present evidence and testimony, call witnesses, cross examine all witnesses, and be represented by and receive the advice of an attorney or duly authorized agent.~~
- ~~2. All individuals listed in the notice of administrative civil enforcement who are alleged to be violating or to have violated any provision of~~

~~this IDO shall be present at the hearing or represented by an attorney or duly authorized agent.~~

~~3-2.~~ If the hearing officer finds that a violation of the IDO occurred or is occurring, the hearing officer may issue a civil penalty against any individual(s) who was served notice of administrative civil enforcement pursuant to Subsection 14-16-6-9(D)(3)(b) above, regardless of the presence of that individual(s) at the hearing.

~~0. To reschedule, continue, or cancel the hearing, all of the following requirements shall be met:~~

~~-. A written request shall be filed with the City Office of Administrative Hearings.~~

~~-. The written request shall be served upon all parties no less than 7 business days before the scheduled date of the hearing.~~

~~-. The hearing officer finds good cause for, or all parties unanimously consent to, the rescheduling, continuation, or cancellation.~~

~~0. The hearing officer shall notify all parties in writing as to whether the request has been granted and, if continued or rescheduled, the date of the next hearing.~~

~~6-9(C)(5)(j)~~6-9(C)(5)(e)

Enforcement of Remedies and Penalties

1. Within 15 calendar days after the hearing, the hearing officer shall send a written order of remedy or penalty to all parties by email, first class mail, or facsimile.
2. The order of remedy or penalty shall state the determination of the hearing officer regarding the alleged violations listed in the notice of administrative civil enforcement and shall contain findings of fact and conclusions of law.
3. If the hearing officer determines that no violation of this IDO is being or has been committed, the order of remedy or penalty shall state that the alleged violation is being dismissed
4. If the hearing officer determines that a violation of the IDO is being or has been committed, the order of remedy or penalty shall state the remedies or penalties to be imposed by the City. The remedies and penalties may include any of the following:
 - a. An order to cease and desist violations of this IDO.
 - b. An order to bring the property in question into compliance with the IDO.
 - c. An order to pay all of the City's costs for the associated enforcement action and administrative hearing.
 - d. An order to pay a civil fine not to exceed \$500 per violation per day.
5. Any party aggrieved by a final decision of the hearing officer may appeal the decision to the District Court within 30 days of the final order, pursuant to the New Mexico Rules of Civil Procedure.
6. The Planning Department shall monitor compliance with the order of remedy or penalty. If the Planning Department has reason to believe that any individual subject to the order is not complying with the

order, the Planning Department may take one or more of the following actions:

- a. Refer the matter to the City Attorney for the commencement of a civil action.
- b. Refer the matter to the City Attorney or the District Attorney for the commencement of criminal proceedings.
- c. Place a lien on the property in an amount equal to the outstanding fines ordered pursuant to this ordinance until the owner has fully complied with the order.
- d. Commence a supplemental enforcement action as otherwise provided by law, including but not limited to Part 1-1-99 of ROA 1994 (General Penalty).