

Administrative Hearings Bureau- Orientation Manual City of Pontiac

DRAFT

Introduction

Administrative Hearings Bureau – Description

The Administrative Hearings Bureau adjudicates blight violations, assesses civil fines and costs and provide quality administrative hearings in a timely, efficient and cost-effective manner, with respect for the dignity of individuals and their process rights.

Goal

- Adjudicate blight code violations issues by Code Enforcement officers with sensitivity to the violations' impact on the problem of blight in the City of Pontiac and enhance collectability of fines and fees.

Blight Violations

Blight violations refers to the violation pertaining to:

- Building or Property Maintenance.
- Solid Waste and Illegal Dumping.
- Disease and Sanitation.
- Noxious Weeds.
- Vehicle Abandonment, Inoperative Vehicles, Vehicle Impoundment, and Municipal Vehicle Licensing.
- Right-of-Way Signs. For the purpose of this subsection Right-of-Way Sign violations means the placement of signs in a right-of-way without a proper permit from the City.
- Zoning.
- A code section that is substantially the same as sections 138 to 142 if the Housing Law of Michigan, 1917 PA 167.

Blight Violation Hearing Officer Role/Responsibilities

A Blight Violation Hearing Officer shall preside over contested blight violation hearings, shall be a licensed attorney appointed and subject to removal in a manner consistent with State law.

The Blight Violation Hearing Officer has all power necessary to conduct fair and impartial hearings including, but not limited to, the power to:

- Hold conferences for the settlement or simplification of the issues
- Administer oaths and affirmations
- Hear testimony
- Rule upon motions, objection, and admissibility of evidence
- Subpoena the attendance of relevant witnesses and the production of relevant books, records or other information subject to the restrictions contained in subpoena at the request of any party or on the Blight Violation Hearing Officer's own motion
- Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing
- Regulate the course of the hearing in accordance with this chapter, the rules adopted by the bureau or other applicable law
- Issue a determination, based upon the evidence presented at the hearing, whether a blight violation exists. The determination shall be in writing and shall include written findings of fact, a decision and an Order. The City shall have the burden of establishing the responsibility of the alleged violator by a preponderance of the evidence. Unless the burden is met, the matter shall be dismissed.
- A decision and an Order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence. A decision and Order finding the alleged violator responsible for the violation shall include the civil fine, if any, or any action with which the violator must comply, or both.
- Impose reasonable and proportionate sanctions consistent with applicable ordinance provisions and assessing costs upon a finding that the alleged violator is responsible for the alleged violation.
- Not impose a fine in excess of \$10,000 and the fined amount is exclusive of costs to secure compliance with the City code and is not applicable to enforce the collection of any tax imposed and collected by the city.

Fees and Cost Schedule

The Penalty for a blight violation shall be a civil fine of up to \$500.00 dollars. The Blight Violation Hearing Officer may also order action with which the violator must comply. However, the Blight Violation Hearing

Officer may waive a fine for a blight violation at an owner-occupied dwelling for a first-time offender if the offender has corrected the circumstances for the violation. But in all cases impose a judicial system assessment of \$10.00 for each blight violation determination and City will transmit the assessment to the State Treasury.

Fines

Violation Category	1 st Offence	2 nd Offence	3 rd Offence
Building (general)	\$ 100	\$ 300	\$ 500
Environment	\$ 100	\$ 300	\$ 500
Solid Waste	\$ 100	\$ 300	\$ 500
Streets & Sidewalks	\$ 100	\$ 300	\$ 500
Vegetation	\$ 100	\$ 300	\$ 500
Zoning	\$ 100	\$ 300	\$ 500
Occupancy	\$ 100	\$ 300	\$ 500
Snow Removal	\$ 100	\$ 300	\$ 500

Fees and Costs Schedule

Required Costs	
Administrative Hearings Bureau Costs	\$ 250
Building Costs	\$ 75
Prosecution Costs	\$ 75
State Justice System Assessment (required by State Statue)	\$ 10
Additional Costs if determined	
Continuance/Adjournment	\$ 50
Default	\$ 50
Show Cause	\$ 50
Motion to Set Aside Default	\$ 50

Fines, costs and fees paid to the Administrative Hearing Bureau DO NOT include any additional charges incurred for inspections or abatements and related administrative fees charges by Pontiac Building and Safety Department and Code Enforcement Division.

Administrative Hearing Bureau Schedule

The City of Pontiac Administrative Hearing Bureau schedule for 2019 will be held on the Second and Fourth Thursday of each month, unless otherwise indicated.

Hearing will start at 9:00AM and 6:00PM in the City Hall Council Chambers [second floor] at 47450 Woodward, Pontiac, MI 48342.

Public notice of meetings shall be given in accordance with the Open Meetings Act. All regular meeting dates shall be set for the following year no later than the month of December.

All Administrative Hearings Bureau notices must be prepared at least 14 days in advance. Written notice of the Administrative Hearings Bureau will be sent by first class, certified mail, or by personal service to the responsible party, which shall be based upon name and address of Oakland County Assessing records.

Administrative Hearings Bureau Order of Business {agenda as posted and adopted]

- Call meeting to order
- Recognition of Docket
- Old Business [postponed cases]
- Adjournment

3/7/2019	10/3/2019
3/28/2019	10/31/2019
4/5/2019	11/7/2019
4/25/2019	11/28/2019
5/2/2019	12/5/2019
5/30/2019	12/26/2019
6/6/2019	
6/27/2019	
7/4/2019	
7/25/2019	
8/1/2019	
8/29/2019	
9/5/2019	
9/26/2019	

Administrative Hearing Bureau Proceedings

Hearings shall be recorded with the proceedings of each meeting showing the date, time, location, cases heard and decisions made at an open meeting

Proceedings shall be public records available from the City Clerk's office. A reasonable charge for copying minutes in accordance with established City policies may be imposed.

Proposed proceedings shall be available for inspection within eight (8) days after the meeting to which they pertain.

Corrections in the proceedings shall be made at the next Administrative Hearing Bureau meeting after the meeting to which they pertain and shall include both the original entry and correction(s).

Initiation of Proceedings

To initiate a proceeding for a blight violation, the City shall issue and serve upon an alleged violator a written notice on which an authorized Code Enforcement Officer records the occurrence or existence of one or more blight violations by the person cited and which directs the named person to pay a civil fine for the violation or appear at the Administration Hearing Bureau.

A violation notice to appear at an Administrative Hearings Bureau shall be treated as made under oath if the violation alleged in the notice occurred in the presence of the Code Enforcement Officer signing the violation notice. Also, a Code Enforcement Officer may issue a violation notice to appear if, based upon the investigation, the Officer has reasonable cause to believe that the person is responsible for a blight violation.

Any person authorized to issue a blight violation is also authorized to order the towing of abandoned vehicles.

Response to Violation Notice

The person named in the violation notice shall appear on or before the time specified in the violation notice and may respond to the allegations in the notice, as follows:

- If the alleged violator wished to admit responsibility for the blight violation, the person may do so by appearing in person, by representation or by mail. If appearance is made by representation or mail, the Administrative Hearing Bureau may accept the admission as though the person personally appeared. The Blight Violation Hearing Officer may order any sanctions permitted.
- If the alleged violator wishes to deny responsibility for the blight violation, or admit responsibility with an explanation, the person may

do so by appearing in person on the date scheduled for the administrative hearing for the purpose of adjudicating the alleged violation.

- If the alleged violator fails to appear, a decision or order of default may be entered.

Hearings

A party shall be provided with the opportunity for a hearing during which they may be represented by counsel, present witnesses, and cross-examine witnesses. A party may request the Blight Violation Hearing Officer to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents. Hearings shall be scheduled with reasonable promptness, except that for hearings scheduled in all nonemergency situations the alleged violator requests, shall have at least 14 days after service of process to prepare for the hearing. Nonemergency situation means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare.

In an administrative hearing, the rules of evidence as applied in a nonjury civil case in Circuit Court shall be followed as far as practicable, but the Blight Violation Officer may admit and give probative effect to evidence of a type commonly relied upon by reasonable prudent persons in the conduct of their affairs. Objections to offers of evidence may be made and shall be noted in the record. Subject to these requirements, the Blight Violation Hearing Officer, for purpose of expediting hearings and when the interests of the parties will not be substantially prejudiced thereby, may provide in an administrative hearing or by rule for submission of all or part of the evidence in written form.

Any final decision by a Blight Violation Hearing Officer that a blight violation does or does not exist constitutes a final decision and order for purposes of judicial review and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

Default Judgment

An alleged violator may seek to set aside the entry of a decision and order of default within 14 days after the Bureau sends notice of the decision and order to the violator. The request must be written, must explain the reason for the nonappearance of the violator, and must state a defense to or an explanation

of the alleged violation. For good cause, the Bureau may set aside the default and direct that a hearing on the violation take place.

Appeals

A party may file an appeal within 28 days after entry of the decision or order by the Blight Violation Hearing Officer. An appeal of a final decision and order of the Administrative Hearing Officer is to the Circuit Court.

An alleged violator who appeals a final decision and order to Circuit Court shall post with the Administrative Hearings Bureau, at the time the appeal is taken, a bond equal to the fine and costs imposed.

An appeal to Circuit Court shall be a review by the Court of the certified record provided by the Administrative Hearings Bureau. Pending appeal, and subject to the bond requirement, the hearing Officer may stay the order and any sanctions or costs imposed. Once an appeal is filed, and subject to the bond requirement, the Court may stay the order any sanctions or costs imposed. The Court, as appropriate, may affirm, reverse, or modify the decision or order of the Hearing Officer if substantial rights of an alleged violator have been prejudiced because the decision or order is any of the following:

- In violation of the Constitution or a statute, Charter, or Ordinance.
- In excess of the authority or jurisdiction of the agency as conferred by statute, charter, or Ordinance.
- Made upon unlawful procedure resulting in material prejudice to a party.
- Not supported by competent, material, and substantial evidence on the whole record.
- Affected by other substantial and material error of law.

Appearance Tickets

If the Code Enforcement officer determines, or has reasonable grounds to believe that a violation of City Code relating to property maintenance exists, they may issue an appearance ticket requiring the reasonable party to appear in the 50th District Court to answer the appearance ticket within the time period specified in the notice.

- The appearance ticket shall contain the information and shall be in the form specified by Michigan law.
- The appearance ticket shall specify, if required by law, the options available to the responsible party with respect to responding to the appearance ticket.
- The appearance ticket shall be served upon the responsible party as provided by Michigan law.

District Court Action: Right to Abate

If the Code Official determines or has reasonable grounds to believe that a violation of the City Code relating to property maintenance exists, the City may, in accordance with procedures by the Mayor, proceed with the filing of an action in the 50th District Court to compel the owner or responsible party to bring the property into compliance with the provisions of the City Code by taking corrective action with respect to the property, building or structure or by demolishing the building or structure. The City may exercise its lawful discretion to proceed instead of proceeding to a hearing before the Blight Violation Hearing Officer.

The District Court action shall be brought in accordance with applicable Michigan law and shall provide the responsible party, after notice an opportunity to be heard prior to any corrective action or demolition taking place, unless otherwise authorized by the Court.

ANNUAL REPORT

By the end of January, the Code Enforcement Manager prepare and submit to the Mayor and City Council q written report of its activities covering the previous calendar year. This report is to cover the following:

- Number of cases heard broken down by type of offense;
- Pending items;
- Total amount of fines collected and number of fines levied;;
- Number of cases dismissed due to compliance, and;
- Number of cases appealed to District Court.

City Contact Numbers:

PHONE and EMAIL ADDRESSES 9/12/2018 (All City Phone Numbers Start With 248-758:)					
<u>DEPARTMENT</u>	<u>EXT.</u>	<u>EMAIL ADDRESS</u>	<u>DEPARTMENT</u>	<u>EXT.</u>	<u>EMAIL</u>
<u>ADMINISTRATION</u>			<u>PLANNING</u>		
Fax	3292		Vernon Gustafsson (Manger)	2816	vgustafsson@pontiac.mi.us
Mayor Deirdre Waterman	3181	dwaterman@pontiac.mi.us	Donovan Smith	2815	dsmith@pontiac.mi.us
Dep. Mayor Jane Bais-Disessa	3322	jbais-disessa@pontiac.mi.us	Charles (Chip) Smith	2816	csmith@pontiac.mi.us
Sharryll Alford	3326	salford@pontiac.mi.us	<u>CODE ENFORCEMENT</u>		
Tamura Veasy	3323	tveasy@pontiac.mi.us	Patrick Brzozowski (Code En. Manger)	2820	pbrzozowski@pontiac.mi.us
Miriam Cox (Customer Service)	3324	mcox@pontiac.mi.us	Tami Cooper	2826	tcooper@pontiac.mi.us
<u>HUMAN RESOURCES</u>			Daniel Vergun	2812	dvergun@pontiac.mi.us
Ester Jimenez (HR Clerk)	3142	ejimenez@pontiac.mi.us	Florin Mindra	2831	fmindru@pontiac.mi.us
<u>CITY COUNCIL</u>			Dessir Burroughs	2809	dburroughs@pontiac.mi.us
Kermit Williams (President)	3210	kwilliams@pontiac.mi.us	<u>BUILDING and SAFETY</u>		
Randy Carter (Pres. Pro-Tem)	3017	rcarter@pontiac.mi.us	Mike Wilson	2800	mwilson@pontiac.mi.us
Don Woodward	3014	dwoodward@pontiac.mi.us			
Gloria Miller	3015	gwilliams@pontiac.mi.us			
Patrice Waterman	3016	gmiller@pontiac.mi.us			
Mary Pietila	3018	pwaterman@pontiac.mi.us			
Doris Taylor Burks	3019	mpietila@pontiac.mi.us			
<u>Monique Sharpe (Policy Advisor)</u>	3027	dtaylorburks@pontiac.mi.us			
	3022	msharpe@pontiac.mi.us			
<u>COURT (50th DISTRICT)</u>			<u>OTHER NUMBERS</u>		
70 N Saginaw St.	3800			<u>Number</u>	
Awa sarr	3814	asarr@pontiac.mi.us	Oakland County Equal.	248-858-0776	
Lynette Ward	3822	lward@pontiac.mi.us	Waterford Regional Fire	248-673-0405	(Emergency) 911
Monica Nelson	3815	mnelson@pontiac.mi.us	Oakland County Sheriff	248-409-7100	(Emergency) 911
Amber Best	3842	abest@pontiac.mi.us			
Traffic	3823				
Traffic	3778				
Civil	3831				
Civil	3880				
Criminal	3835				
Criminal	3820				
Probation	3711				
Probation	3802				
Judge Cynthia Thomas Walker	3881	cwalker@pontiac.mi.us			
Judge Ronda Gross	3877	rgross@pontiac.mi.us			
Judge Michael Martinez	3870	mmartinez@pontiac.mi.us			
Judge Preston Thomas	3896	pthomas@pontiac.mi.us			