

### DIVISION 3. BLIGHT VIOLATION HEARINGS

#### 22-28.01 Creation of Administrative Hearings Bureau.

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Pursuant to MCLA 117.4q, the City of Pontiac hereby establishes an Administrative Hearings Bureau to adjudicate and impose sanctions for blight violations.

(Ord. No. 2355, 8-9-18)

#### 22-28.02 Blight violations.

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For the purposes of this article, *blight violation* means a violation of any Pontiac City Code section pertaining to:

- (1) Zoning.
- (2) Building or property maintenance.
- (3) Solid waste and illegal dumping.
- (4) Disease and sanitation.
- (5) Noxious weeds.
- (6) Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.
- (7) Right-of-way signage. For purposes of this subsection *right-of-way, signage violation* means the placement of signage in a right-of-way without a proper permit from the City.
- (8) A code section that is substantially the same as sections 138 to 142 of the Housing Law of Michigan, 1917 PA 167, MCL [125.538](#) to [125.542](#).

(Ord. No. 2355, 8-9-18)

#### 22-28.03 Blight Violation Hearing Officer.

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- (a) A Blight Violation Hearing Officer shall preside over contested blight violation hearings.
- (b) The Blight Violation Hearing Officer shall be a licensed attorney and otherwise meet all the qualifications as set forth in MCLA 117.4q(11).

(c) The Blight Violation Hearing Officer will be appointed and subject to removal in a manner consistent with State law.

(d) The Blight Violation Hearing Officer shall have the following authority and duties:

- (1) Hearing testimony and accepting evidence that is relevant to the existence of the blight violation.
- (2) Issuing subpoenas directing witnesses to appear and give relevant testimony at the hearing, upon request of a party or a party's attorney.
- (3) Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing.
- (4) Issuing 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.
- (5) Imposing 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.
- (6) The Blight Violation Hearing Officer shall not impose a fine in excess of \$10,000.00, pursuant to MCL [117.4q\(3\)](#), 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, pursuant to MCL [117.4\(12\)\(e\)](#).

(Ord. No. 2355, 8-9-18)

#### **22-28.04 Initiation of proceedings.**

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(a) To initiate a proceeding for a blight violation, the City shall issue and serve upon an alleged violator a written violation notice on which an authorized local official 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 Administrative Hearings Bureau as provided in this section. 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 authorized local official signing the violation notice and if the notice contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief." An authorized local official may issue a violation notice to appear if, based upon the investigation, the official has reasonable cause to believe that the person is responsible for a blight violation and if a City Attorney approves in writing the issuance of the violation notice.

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

(Ord. No. 2355, 8-9-18)

#### **22-28.05 Response to violation notice.**

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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:

(1) If the alleged violator wishes 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 Hearings Bureau may accept the admission as though the person personally appeared. Upon acceptance of the admission, a Blight Violation Hearing Officer may order any of the sanctions permitted under this section.

(2) 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.

(3) If the alleged violator fails to appear, a decision and order of default may be entered.

(Ord. No. 2355, 8-9-18)

#### **22-28.06 Hearings.**

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(a) 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, if he or she requests, shall have at least 14 days after service of process to prepare for the hearing. For purposes of this subsection, *nonemergency situation* means any situation that does not reasonably constitute a threat to the public interest, safety, or welfare. If service is provided by first class mail, the 14-day period begins to run on the day that the notice is deposited in the mail.

(b) In an administrative hearing under this section, 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 Hearing Officer may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Effect shall be given to the rules of privilege recognized by law. 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 the 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.

(c) 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.

(Ord. No. 2355, 8-9-18)

### **22-28.07 Blight violation penalties.**

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The penalty for a blight violation shall be a civil fine of up to \$500.00. 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, the Blight Violation Hearing Officer shall impose a judicial system assessment of \$10.00 for each blight violation determination. Upon payment of the assessment, the City shall transmit the assessment to the State Treasury.

(Ord. No. 2355, 8-9-18)

### **22-28.08 Default judgments.**

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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.

(Ord. No. 2355, 8-9-18)

## 22-28.09 Appeal.

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

(b) 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. A party who has paid the fine and costs is not required to post a bond. If a party who has posted a bond fails to comply with the requirements of Supreme Court rules for an appeal to the Circuit Court, the appeal may be considered abandoned, and the Bureau may dismiss the appeal on seven days' notice to the parties. The Administrative Hearings Bureau must promptly notify the Circuit Court of a dismissal, and the Circuit Court shall dismiss the claim of appeal. If the appeal is dismissed or the decision and order are affirmed, the Administrative Hearings Bureau may apply the bond to the fine and costs. An appeal by the City must be asserted by the City's Attorney and a bond is not required.

(c) 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 and any sanctions or costs imposed. The Court, as appropriate, may affirm, reverse, or modify the decision or order, or remand the matter for further proceedings. The Court shall hold unlawful and set aside a 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:

- (1) In violation of the Constitution or a statute, Charter, or ordinance.
- (2) In excess of the authority or jurisdiction of the agency as conferred by statute, Charter, or ordinance.

- (3) Made upon unlawful procedure resulting in material prejudice to a party.
- (4) Not supported by competent, material, and substantial evidence on the whole record.
- (5) Arbitrary, capricious, or clearly an abuse or unwarranted exercise of discretion.
- (6) Affected by other substantial and material error of law.

(Ord. No. 2355, 8-9-18)

**22-29 Appearance tickets.**  

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- (a) If the Code Official determines or has reasonable grounds to believe that a violation of this Code or of any other provision of the City Code relating to property maintenance exists, they may issue an appearance ticket requiring the responsible party to appear in the Fiftieth District Court to answer the appearance ticket within the time period specified in the notice.
- (b) The appearance ticket shall contain the information and shall be in the form specified by Michigan law.
- (c) The appearance ticket shall specify, if required by law, the options available to the responsible party with respect to responding to the appearance ticket.
- (d) The appearance ticket shall be served upon the responsible party as provided by Michigan law.

(Ord. No. 2355, 8-9-18)

**22-30 District Court action; right to abate.**  

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- (a) If the Code Official determines, or has reasonable grounds to believe, that a violation of this Code or of any other provision of the City Code relating to property maintenance exists, the City may, in accordance with procedures established by the Mayor, proceed with the filing of an action in the Fiftieth District Court to compel the owner or responsible party to bring the property into compliance with the provisions of this Code and 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 under this section instead of proceeding to a hearing before the Blight Violation Hearing Officer.
- (b) The District Court action shall be brought in accordance with applicable Michigan law, and shall provide the responsible party, after notice as required by law, an opportunity to be heard prior to any corrective action or demolition taking place, unless otherwise authorized by the Court.

(Ord. No. 2355, 8-9-18)

**22-31 Eminent domain.**  

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(a) The City may institute and prosecute proceedings under its power of eminent domain to eliminate a structure which is determined to have a blighting effect upon the City. The purpose of rehabilitating blighted areas and the prevention, reduction, or elimination of blight, blighting factors, or causes of blight contemplated by this article are hereby declared to be public purposes within the meaning of the Constitution, State laws, and City Charter relative to the power of eminent domain.

(b) All condemnation action taken by the City under its eminent domain authority shall be in accordance with applicable Michigan law.

(Ord. No. 2355, 8-9-18)

**22-32 Supplementary nature of article.**  

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This article is intended to supplement other laws, ordinances and City Code provisions, and is not intended to supersede or repeal other ordinances or City Code provisions except where expressly provided.

(Ord. No. 2355, 8-9-18)

**22-33 Conflict.**  

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Where a provision adopted in this article conflicts with another provision of the City Code or any other City ordinance, the provision which establishes the higher standard for the promotion or protection of the health and safety of the public, as determined in the reasonable discretion of the Code Official, shall prevail.

(Ord. No. 2355, 8-9-18)

**22-34. Obstruction of Code Official; penalty.**  

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Any person who obstructs, hinders, or interferes with the Code Official or any agent or employee of the City when carrying out tasks contemplated in this chapter, a directive of the Code Official, or a certificate issued under the provisions of this article shall be guilty of a misdemeanor punishable by a fine of a maximum of \$500.00, or a maximum of 90 days in jail, or both.

(Ord. No. 2355, 8-9-18)

**22-35 Reserved.**

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