
PART II - CODE OF ORDINANCES

CHAPTER 22 - SOLID WASTE

Article I. - In General

Sec. 22-17. Notice to Abate Unlawful Conditions; Abatement by City.

A. If any person shall violate the provisions of this Chapter, it shall be the duty of the City Manager or designee to give notice to the owner or to any person in possession of the subject property, in accordance with section 22-18 of this Chapter, as follows:

1. That an unlawful condition exists thereupon and that the unlawful condition shall be abated by the owner and if the unlawful condition is not abated, that the owner will be subject to a civil penalty as set forth in Section 22-26; and
2. That if the property owner does not abate the unlawful condition within 10 business days:
 - a. The property owner will be charged an administrative fee in accordance with the Fee Schedule as approved by City Council regardless of who abates the unlawful condition; and
 - b. The City Manager or designee, may proceed without notice to abate the unlawful condition and charge the actual cost of abatement to the property owner; and
 - c. In addition to any other penalty imposed, the administrative fee, the actual cost of abatement or both shall be collected in the manner as provided for delinquent taxes, pursuant to G.S. [160A-193](#); and
 - d. Upon the completion of any removal and abatement by the City, in accordance with section 22-18 of this Chapter, the City Manager or designee shall give notice to the property owner of their right to appeal the City caused abatement and the appeal process thereof; and
 - e. Upon the completion of any removal and abatement by the City, the property owner may request an appeal hearing of the City caused abatement to the City administrative hearing officer. Such request for an appeal hearing shall be in writing and submitted to the City Attorney's Office within 10 business days of the receipt of the notification of the right of appeal. The request for an appeal hearing shall state the reason(s) why the property owner should not be assessed for the cost of the City caused abatement. The appeal hearing shall be held within 30 calendar days of the receipt of the request. Failure of the property owner to file a written request for an appeal hearing within the time prescribed by this Section will result in the waiver of the opportunity to file a request for an appeal

PART II - CODE OF ORDINANCES

CHAPTER 1 - GENERAL PROVISIONS

Sec. 1-9. Appeal of Civil Penalties.

- a. Whenever the recipient of a citation for a violation of [Chapter 4](#), alarm systems regulations; [Chapter 7](#), building code; [Chapter 11](#), fire protection and prevention; [Chapter 14](#), housing, dwellings and buildings; article XI of [Chapter 16](#), abandoned, junked, and nuisance vehicles; article X of [Chapter 16](#), parking; [Chapter 17](#), offenses and miscellaneous provisions; [Chapter 18](#), parks and recreations [\(except Sections. 18-11 and 18-20\)](#); [Chapter 22](#), solid waste; [Chapter 24](#), streets and sidewalks; [Chapter 26](#), taxicabs, and [Chapter 30](#), unified development ordinance, has failed to pay a civil penalty as a result of the violation, prior to the initiation of proceedings to collect the debt as authorized by law to enforce the city's remedy, the recipient of the citation shall be notified in writing that:
 1. The case may be reviewed by an independent, administrative hearing officer to determine the validity of the civil penalty provided the recipient of the citation makes a [timely](#) written request to the city attorney's office for the hearing within ten [\(10\)](#) business days of the issuance date of the citation;
 2. The written request for the hearing shall be on a form to be provided with the [citationwritten notice](#);
 3. The hearing shall be held within [1430 calendar](#) days of the receipt of the written [appeal](#) request; and
 4. The hearing officer shall be one of the independent hearing officers who is registered with the city attorney's office.
- b. If the recipient of a citation for a violation listed in Section 1-9(a) does not submit the written [appeal](#) request to [appeal](#) per Section 1-9(a)(2) and fails to pay the civil penalty within 60 days of the day of issuance, then the city will forward the outstanding citation to collections, as was unanimously approved by the Fayetteville City Council on April 28, 2003.
- c. The decision of the hearing officer if in favor of the individual receiving the citation shall be final.
- d. If the hearing officer shall determine that in his/[her](#) opinion the civil penalty is due, then the individual must pay the civil penalty within 60 days of the day of issuance, or the city will forward the outstanding citation to collections, as was unanimously approved by the Fayetteville City Council on April 28, 2003.
- e. In addition to any civil penalty, if the individual violates an offense for which an order of abatement may be sought, the city may request that a criminal summons be issued by the Magistrate's Office to bring the offender into Environmental Court to correct the unlawful

Sec. 26-133. Violations by Vehicles Operating as Taxicabs without a Certificate of Public Convenience and Necessity.

Any owner and/or operator of a for-hire vehicle who shall operate same inconsistent with or in violation of this chapter or any other provision of law shall be subject to having his/her city privilege license revoked by the taxicab review board. If the taxicab inspector is aware of violations as set forth in this section, he/she shall notify the owner and/or operator in writing of such violation and his intent to recommend revocation to the taxicab review board. The owner and/or operator shall have 10ten business days from such notification to request in writing to the city clerk a hearing before the taxicab review board. If a hearing is requested, it shall be conducted pursuant to section 26-134, et seq. If no appeal is taken, the privilege license shall be revoked subject to majority approval of the taxicab review board at their first regular meeting held no earlier than 10ten business days following notice to the owner and/or operator.

(Ord. No. S2002-010, § 1, 6-24-2002)

Sec. 26-134. Appeal to the board of appeals.

- a. Whenever any provision of this chapter shall provide for an appeal of a decision of the taxi inspector to the board of appeals, the following procedure shall be followed:
 1. The appellant shall give written notice of appeal to the city clerk within 10ten business days of receiving the notice of the action he/she is appealing.
 2. The board of appeals shall hold a hearing on the appeal within 30 calendar days of receipt of the written notice of appeal.
 3. The written notice of appeal shall state whether or not the appellant wants an open or closed hearing before the board of appeals.
- b. If the action of the board of appeals is to affirm the action of the taxi inspector, then the effective date of the action shall be the date of the hearing. Any period of actual suspension as the result of a continuance prior to the hearing shall be counted toward any period of suspension approved by the board of appeals.

(Ord. No. S2002-010, § 1, 6-24-2002; Ord. No. S2015-006, §2, 4-27-2015, changing from taxicab review board to board of appeals has an effective date of 10-1-2015)

Sec. 26-135. Action Pending Appeal; Lapse of Time; Waiver.

- a. Whenever a provision of this chapter states a specific time within which an appeal must be taken, and regardless of the level of authority from which the appeal may be taken, if the appeal is not taken within the time prescribed, then the action of the level of authority from which the appeal may have been taken is deemed to be final.
- b. The action of the taxi inspector suspending or revoking any rights granted under the authority of this chapter shall be effective upon receipt of notice by the affected party; provided, that if the affected party files a timely appeal, then any right to operate a taxi franchise or drive a taxi heretofore existing shall continue in effect during the pendency of any appeal(s) or 30 calendar days whichever is sooner.
- c. Any hearing may be continued upon 48 hour's written notice; provided, that if the new date for the hearing is more than 30 calendar days from the date of the original notice of appeal, then the rights of the appellant pursuant to subsection (b) above may only be extended upon a showing of good cause.

(Ord. No. S2002-010, § 1, 6-24-2002)