

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE AMENDING SECTION 1-9, APPEAL OF CIVIL PENALTIES, OF THE CODE OF ORDINANCES OF THE CITY OF FAYETTEVILLE, NORTH CAROLINA**

BE IT ORDAINED, by the City Council of the City of Fayetteville, North Carolina, that:

Section 1. Section 1-9, Appeal of Civil Penalties, is amended by deleting the same in its entirety and substituting the following therefor:

**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; 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 written request to the city attorney's office for the hearing within ten 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 written notice;
  3. The hearing shall be held within 14 days of the receipt of the written 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 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 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 condition or pursue other legal action as provided by state law. Any decision of the hearing officer shall not be admissible by the city in the prosecution of such an action.

Section 2. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code or Ordinances, City of Fayetteville, North Carolina, and the section of this ordinance may be renumbered to accomplish such intention.

Adopted this the \_\_\_\_\_ day of May, 2018.

CITY OF FAYETTEVILLE

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MITCH COLVIN, Mayor

ATTEST:

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PAMELA J. MEGILL, City Clerk