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## **Chapter 908 CIVIL CITATION AND EMERGENCIES ENFORCEMENT**

### **908.00 Authority to Enforce.**

The authority to investigate and issue civil citations for violating provisions of Chapters 902, 903, 905, and 906 of this Title shall be vested in enforcement personnel designated by the Director. The Director may promulgate reasonable rules and regulations to carry out the provisions of this chapter.

### **908.01 Civil Citation and Order to Correct.**

A. Issuance of Civil Citation. Whenever the Director determines there exists a condition that violates any provisions or requirements set forth in Chapters 902, 903, 905, or 906, the Director, or designated enforcement personnel, may issue a written civil citation setting forth the alleged violation(s), the assessment of any civil penalties as provided for in section 908.02 (A), or other actions that may be taken by the Director, and ordering the person to whom the civil citation is issued to correct such violation(s).

B. Civil Citation shall contain the following information:

1. The section(s) of the relevant chapter(s) to which the order applies.
2. A description of the premises where the violations are alleged to exist or to have been committed and a description of the violations. If applicable, a permit number shall be included.
3. Payment due date of civil penalties. Payment due date must occur after the right to appeal has expired as provided for in section 908.04.
4. The right to appeal the assessment of any civil penalties in accordance with section 908.04.
5. The assessment of any civil penalties as provided for in section 908.02 (A) and/or other actions that may be taken by the Director pursuant to section 908.03.
6. A statement that failure to appeal the civil citation in accordance with section 908.04, or a failure to pay the civil penalties imposed on or before the due date, shall constitute a waiver of the right to contest the civil citation, shall constitute an admission of violation, and a default finding of civil liability shall be imposed for the civil penalties imposed pursuant to section 908.02 (A).
7. A statement of late penalties as provided for in section 908.02 (B).

The Civil Citation shall be completed and signed by duly designated and authorized enforcement personnel. A copy of the completed civil citation shall be filed and maintained with the Department.

C. Service of Civil Citation. A Civil Citation shall be served upon the person responsible for the alleged listed violation(s). Such citation shall be served by any one (1) of the following methods:

1. Personal service;
2. Certified mail;
3. Posting the civil citation on the site or premises, except that if the site or premises is vacant, then the Civil Citation shall be posted on the site or premises and one (1) of the above methods of service shall also be used.

D. Written or oral acknowledgment by the person of receipt of a Civil Citation shall be evidence that the person received the civil citation. A written appeal by the person also shall be evidence that the person received the Civil Citation.

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**908.02 Civil Penalties.**

A. In lieu of pursuing any criminal violation provided for in Chapters 900-906 and in addition to any other means of enforcement provided for by law, the Director may issue a Civil Citation and assess a civil penalty for a violation of any of the code sections listed below. The fines established by this subsection are imposed as civil penalties for the enforcement and remediation of violations within chapters 902, 903, 905, and 906.

<u>Section</u>	<u>Civil Penalty</u>
<u>Subsection 902.01 (a) &amp; (c)</u>	<u>\$500.00</u>
<u>Subsection 902.02</u>	<u>\$500.00</u>
<u>Subsection 902.03 (b), (c), (d)(1) &amp; (d)(2)</u>	<u>\$1,000.00</u>
<u>Subsection 902.04</u>	<u>\$1,000.00</u>
<u>Subsection 903.01</u>	<u>\$1,000.00</u>
<u>Subsection 903.04</u>	<u>\$1,000.00</u>
<u>Subsection 903.05</u>	<u>\$1,000.00</u>
<u>Subsection 903.06</u>	<u>\$1,000.00</u>
<u>Subsection 904.02</u>	<u>\$1,000.00</u>
<u>Subsection 905.05</u>	<u>\$1,000.00</u>
<u>Subsection 905.06 (b) &amp; (d)</u>	<u>\$1,000.00</u>
<u>Subsection 905.07</u>	<u>\$1,000.00</u>
<u>Subsection 905.08</u>	<u>\$1,000.00</u>
<u>Subsection 905.09</u>	<u>\$1,000.00</u>
<u>Subsection 905.10</u>	<u>\$1,000.00</u>
<u>Subsection 906.02</u>	<u>\$1,000.00</u>
<u>Subsection 906.07</u>	<u>\$250.00</u>

The civil penalties imposed by this section may be enforced and collected by means of a civil action or any other means provided for in these city codes or the Ohio Revised Code.

Each day that any such person continues to violate any of the provisions as provided for in this section shall constitute a separate offense.

B. Late Penalties. Late penalties shall be assessed in accordance with the following schedule:

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1. If the fines established in subsection 908.02 (A) are after the payment due date listed on the Civil Citation an additional twenty dollars (\$20.00) shall be assessed; and
  2. If the fines established in subsection 908.02 (A) remain unpaid forty (40) days after the payment due date listed on the Civil Citation an additional forty dollars (\$40.00) shall be added to the twenty dollars (\$20.00) assessed under subsection 908.02 (B)(1) for a total additional penalty of sixty dollars (\$60.00).
- C. The fines established by this Chapter are noncriminal. The imposition of civil liability upon the person under this section shall not be deemed a conviction for any purpose. The penalties imposed herein are in addition to other penalties permitted by law.
- C. Strict liability is intended for the violations listed in the table in 908.02 (A).
- D. Nothing in this Chapter shall be construed as altering or limiting the effects of any other section of the city codes, including but not limited to, the impoundment of a vehicle parked, stopped, or standing on public right-of-ways, the criminal penalties imposed by such other code sections, or the ability of a law enforcement officer to enforce those sections.
- G. Notwithstanding any other provision of Chapters 902, 903, 905, or 906, whenever there is a violation of any provision of Chapters 902, 903, 905, or 906, the Director may immediately file a complaint for injunctive relief in an appropriate court of competent jurisdiction.

#### **908.03 Right to Abate Violation.**

Upon inspection, whenever the Director determines there are reasonable grounds to believe there is a violation of any of the code sections listed in 908.02 (A), and a Civil Citation has been properly served on the person, the Director may:

- A. Cause litter, waste, or obstruction(s) to be removed from any right-of-way, sidewalk, street or shared use path and may employ the necessary labor to perform the task; and/or
- B. Cause the correction or abatement of any condition which violates any relevant section listed in 908.02 (A) and may employ the necessary labor to perform the task; and/or
- C. Cause appropriate legal action to recover costs against the responsible party where labor was required pursuant to division (A) and (B); and/or
- D. Cause to be filed a civil complaint for injunctive relief seeking abatement of the public nuisance in a court of competent jurisdiction; and/or
- E. Cause to be filed a criminal complaint in a court of competent jurisdiction.

Upon completion of any work to correct or abate any violation listed in 908.02 (A), the Director shall provide City Council with a statement of the charges for the labor and materials used and the fees of the officers who made the service of the Civil Citation and return. Upon receipt of the statement and approval of City Council, the City Clerk shall make a return in writing to the auditor of the applicable county of such statement that shall be entered upon the tax duplicate of the county for the purpose of assessing these costs.

#### **908.04 Appeal to the Director.**

Any person receiving a Civil Citation may appeal such citation by filing a notice of appeal with the Department, in writing, on a form and in the manner provided for by the rules and regulations of the Director. The written Notice of Appeal must be received by the Department within fifteen (15) calendar days from the date of service of the Civil Citation. Failure to either pay the assessed civil penalty by the

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due date listed on the Civil Citation or submit a Notice of Appeal within fifteen (15) calendar days from the date of service of the Civil Citation shall constitute a waiver of the right to appeal and shall be considered an admission of violation and a default finding of civil liability shall be imposed upon the person for the amount of civil penalties assessed.

A written Notice of Appeal shall include the name, address and telephone number of the appellant, the date of the written notice of appeal, and a statement of intent to appeal. The Director shall convene a hearing on the matter within thirty (30) calendar days of receipt of the Notice of Appeal, except as otherwise provided by this chapter. The Director may grant continuances as deemed necessary.

A. The Director shall designate a hearing examiner. No person shall be employed as a hearing examiner unless the person is an attorney admitted to the practice of law in this state or formerly was employed as a law enforcement officer. The hearing examiner shall not be a city employee.

B. The Director shall maintain a record of the hearing consistent with the Department's records retention schedule. The record may be made by stenographic means or by the use of an audio electronic recording device.

C. Each hearing shall be conducted in such manner as the hearing examiner considers appropriate. Rules regarding the admissibility of evidence shall not be strictly applied in the hearing but all testimony shall be under oath. The hearing examiner is authorized to administer oaths. The hearing examiner shall pass upon the admissibility of evidence, but a party may at the time make objections to the ruling of the hearing examiner and if the hearing examiner refuses to admit evidence, the party offering the same shall make a proffer thereof, and such proffer shall be made a part of the record of such hearing.

D. All parties shall have the right to:

1. Offer and examine witnesses and present evidence in support of their case;

2. Cross-examine adverse witnesses;

3. Proffer evidence into the record if its admission has been denied.

The original civil citation issued pursuant to this Chapter or any true copy of it shall be considered a record kept in the ordinary course of business of the City of Columbus and the Department and shall be prima-facie evidence of the facts contained within.

E. All hearings shall proceed as in a trial of a civil action with the City having the burden of proving, by a preponderance of the evidence, that the person for whom the hearing is being conducted committed the violation(s). Upon agreement of the parties and approval by the hearing examiner, hearings may be conducted based on stipulated facts and briefs of the parties. Each party shall provide the hearing examiner and any other parties a proposed list of witnesses and exhibits to be used by that party at the hearing at least five (5) business days prior to the scheduled hearing, if required by the hearing examiner.

F. All parties shall have the right to appear and be heard in person, or have legal counsel, to present their case.

G. The hearing examiner shall issue a written report within ten (10) calendar days of the hearing. The report shall contain a finding of facts, conclusions of law, and recommendation(s) related to the matter. The report shall be forwarded to the both parties. The Director may adopt or reject the recommendation(s) of the hearing examiner.

H. The decision of the Director shall be considered a final appealable order.

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**908.05 Emergencies.**

In enforcing the provisions of and as related to Chapter 902, 903, 905, and 906:

- A. Whenever the Director finds an emergency exists related to an actual or imminent threat to public health and safety and requires immediate action, the Director may issue an oral or written order. The order shall state the existence of such emergency and require such action as the Director deems necessary to meet the emergency. Notwithstanding the other provisions of this code, such order shall be effective immediately and complied with immediately.
- B. Whenever the Director finds an emergency exists related to an actual or imminent threat to public health and safety that implicates the right way and requires immediate action, the Director may order said right of way to be vacated and/or closed forthwith and that it shall not be reoccupied and/or reopened until the conditions causing the emergency have been abated and the Director has given approval to do so.
- C. Whenever the Director finds an emergency exists related to an actual or imminent threat to public health and safety and requires immediate action, and if after reasonable attempts to notify the person it appears that the person will not or cannot immediately correct the condition, the Director may initiate whatever reasonable actions are necessary to cause the immediate abatement of such emergency condition. The Director shall further cause the cost of such abatement to be billed as a municipal lien or to be recovered in a civil action against the person.