



ADM-9.01 - Code Enforcement Hearings

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

Policy category: [Hearings Officer](#)

Policy number: ADM-9.01

Search Code, Charter, Policy

Keywords

Search

A. Purpose and Authority

The Hearings Office is responsible for conducting Code enforcement proceedings in accordance with [Chapter 22.03](#) of the Portland City Code. This rule sets forth guidance for implementing [Code Chapter 22.03](#) and for conducting prompt, efficient, fair, and impartial adjudications of alleged Code violations.

[Code Section 22.03.010](#) authorizes the Hearings Officer to adopt rules and procedures for Code enforcement hearings.

B. Applicability

These rules apply solely to Code enforcement cases filed with the Hearings Office under [Code Chapter 22.03](#).

C. Modification or Waiver; Conflicts

1. The Hearings Officer may modify or waive any of these rules, in the interest of fairness or justice and for good cause shown, consistent with [Code Chapter 22.03](#).
2. In the event of any conflict between these rules and applicable requirements set forth in the Portland City Code, the Code provisions will prevail.

D. Definitions

For purposes of these rules:

1. "Continue" means to adjourn a hearing that is in progress and order that the hearing be completed on another date and time. For example, the Hearings Officer may "continue" a hearing that is taking longer than scheduled or expected to another date and time to give the parties enough time to present all of their evidence. The Hearings Officer has the sole discretion to continue a hearing.

2. "Day" means calendar day.
3. "Disruptive Conduct" means conduct that interferes with the normal hearing process, as determined by the Hearings Officer.
4. "Ex parte communication" means a direct or indirect communication about a code enforcement case pending before a Hearings Officer, between the Hearings Officer and a party to the case or their representative, which occurs outside of a public hearing. Ex parte communications do not include communications between:
 - a. The Hearings Officer and any person employed by the Hearings Office.
 - b. The Hearings Officer and the Hearings Office's legal counsel.
 - c. Hearings Office staff (excluding the Hearings Officer) and City staff or other participants regarding procedures or for verification of evidence in record.
5. "Initiating bureau" means the bureau filing the complaint in the proceeding.
6. "Interpreter" means a person with sufficient fluency to communicate with a party or witness who does not speak English. An interpreter is responsible for accurately translating the party or witness' statements into English during the hearing, and for translating what is said during the hearing into the language used by the party or witness. "Interpreter" also refers to a person who assists or aides another person due to a disability.
7. "Limited party" means a person or entity that is not a party to a Code enforcement proceeding but has been granted limited party status by the Hearings Officer because of their limited interest in the proceeding or interest in one or more issues to be addressed in the proceeding.
8. "Mail" means electronic mail (email) or first-class United States Post Office mail delivery service.
9. "Party" means a person or entity that is entitled to notice of and full participation in a

Code enforcement proceeding, unless such rights are waived. Parties include the

Respondent(s), the City of Portland (through the initiating bureau), and any person who has been granted party status by the Hearings Officer.

10. "Postpone" means to reschedule a hearing for another date and time.
11. "Received" means the date and time a document is time-stamped as received in the Hearings Office; except that a document delivered to the Hearings Office after regularly scheduled business hours or on a Saturday, Sunday, or official City holiday or closure will be deemed to have been received on the next business day at the start of business hours.

12. "Respondent" means the person or entity that is the subject of a Code enforcement proceeding.

Initiating a Code Enforcement Proceeding

E. Complaints

1. The initiating bureau may initiate a Code enforcement proceeding by filing a complaint with the Hearings Office, in accordance with [Code Section 22.03.020](#).
2. The Respondent is not required to file a written response to the complaint, unless the Hearings Office directs an answer. Except as may be stipulated or admitted in an answer or at hearing, all allegations of the complaint will be deemed to be denied.

F. Scheduling and Notice of Code Enforcement Hearings

1. Upon receipt of a complaint, the Hearings Office will schedule a Code enforcement hearing in accordance with [Code Section 22.03.025 B](#).
2. A [calendar of scheduled hearings](#) is available on the Hearings Office website. The calendar is subject to change. A person may contact the Hearings Office to obtain the most up-to-date information.
3. The initiating bureau will serve a Notice of Hearing and a copy of the complaint in accordance with [Code Section 22.03.030](#). The Hearings Officer authorizes initiating bureaus to serve a Notice of Hearing electronically (via email) to any party that has agreed to receive electronic notices.
4. If the complaint did not request the vacation, closure, or demolition of a building, property, or structure, but the Hearings Officer determines that such vacation, closure, or demolition is a reasonably possible outcome:
 - a. The Hearings Officer will continue the hearing and order the initiating bureau to give the tenants, residents, and lessees of the affected property notice of the hearing and of the fact that vacation, closure, or demolition is a reasonably possible outcome.
 - b. Such notice must be given in as specified in [Code Section 22.03.030](#), and must also be posted at or near the principal entrance to the structure involved or at any other conspicuous location on the real property.

G. Return of Service; Lack of Proper Notice

1. Before the hearing, the initiating bureau must file with the Hearings Office a Return of Service, which certifies that the Notice of Hearing was served in accordance with [Code Section 22.03.030](#).

2. If the Hearings Officer finds that the Notice of Hearing was not provided to any person who is entitled to notice under [Code Section 22.03.030](#), and that such person did not have actual notice of the hearing, the Hearings Officer will postpone the hearing and order the initiating bureau to provide proper notice, unless the alleged violation poses an immediate and serious hazard to the public health, safety, or welfare or the life, health, safety, welfare, or property of any person.

H. Requests to Reschedule; Continuances

1. Upon receipt of the Notice of Hearing or as soon as possible thereafter, a party may request to reschedule a hearing by submitting a written request to the Hearings Officer that explains the reason for the request.

2. The Hearings Office must receive the request to reschedule no later than 48 hours before the scheduled hearing (not including Saturday, Sunday, or official City holidays or closures), unless good cause to waive the deadline is established by the party requesting the reschedule.

3. The Hearings Officer may reschedule a hearing with the consent of all parties, or for good cause shown.

a. The Hearings Officer may find good cause to reschedule if:

i. It does not appear that the public safety, health, or welfare, or the interests of a party would be prejudiced or endangered by such the rescheduling; and

ii. The party seeking to reschedule the hearing has exercised reasonable diligence in trying to avoid the need to postpone the hearing or wishes to postpone the hearing because of circumstances beyond the party's control.

b. The Hearings Officer may reschedule a hearing upon such terms and conditions as the Hearings Officer finds necessary or appropriate to protect the public health, safety, or welfare, or to avoid serious detriment to any party.

4. The Hearings Officer may adjourn a hearing and continue it to a later date, on the motion of any party or upon the Hearings Officer's own motion, if it appears that further testimony, evidence, or argument should be received. The time and date of such continued hearing may be fixed at the time of hearing or by later written notice to the parties.

5. A request to reschedule or continue is not valid until ordered by the Hearings Officer.

I. Amending a Complaint

1. The initiating bureau may amend a complaint, at any time prior to the hearing, by filing an amended complaint with the Hearings Office and giving a copy to the Respondent(s) and all other parties and persons entitled to notice. Depending on the nature of the amendments, the Hearings Officer may postpone, continue, or reschedule the Hearing in the interest of fairness or to provide adequate time for parties to respond to the amendments.
2. A complaint may be amended after the hearing only with the consent of all parties or by order of the Hearings Officer. If the Hearings Officer allows a complaint to be amended, the Hearings Officer may do so upon any terms and conditions needed to prevent undue prejudice to the interests of any party, including postponing or continuing the hearing.
3. If an issue that was not raised in the complaint (or answer) is raised at the hearing, without objection, the Hearings Officer will treat the issue as if it was raised in the pleadings. Any party may ask the Hearings Officer for permission to amend its pleadings to conform to the evidence and reflect the issues so raised.
4. If evidence is objected to at the hearing on that grounds that it is not within the issues raised in the pleadings, the Hearings Officer will allow the pleadings to be amended if the merits of the action or defense will be served thereby and the objecting party fails to satisfy the Hearings Officer that the admission of such evidence would unduly prejudice them. The Hearings Officer may grant a continuance to enable the objecting party to gather such evidence.

J. Motions

Motions may be made in writing at any time, or may be made orally on the record at a hearing or conference. A copy of any written motions must be mailed or otherwise delivered to all other parties.

K. Request to Participate as Party or Limited Party

After a proceeding is initiated, any person who has a personal or public interest in the outcome of the hearing may ask to participate as a party or a limited party.

1. The tenants, residents, and lessees of a building, property, or structure subject to a Code enforcement proceeding are entitled to notice of the hearing, but the right to notice does not confer party status. Any tenant, resident, or lessee wishing to participate in a Code enforcement hearing, other than as a witness called by a party, must request and be granted party or limited party status.
2. A person may request party or limited party status by:

- a. Appearing at the time set for the hearing or any continuance thereof and requesting party or limited party status on the record; or
 - b. Filing a petition with the Hearings Office, before the time set for the hearing, requesting party or limited party status.
3. A person requesting party or limited party status must provide their name and address, the name and address of their attorney, if any, and the name and address of any organization they represent. The person must also explain:
 - a. Their personal or public interest in the proceeding.
 - i. If seeking party or limited party status to protect an alleged personal interest, economic or otherwise: The person must show how the outcome of the hearing may affect such interest.
 - ii. If seeking party or limited party status to represent an alleged public interest: The person must establish the nature of the public interest, how such interest may be affected by the outcome of the hearing, and their qualifications to represent such interest.
 - b. Why the existing parties, including the City, may not adequately represent the interest identified in Section K(3)(a).
4. The Hearing Officer's ruling on a petition for party or limited party status will be on the record at or immediately prior to the hearing.
5. The Hearings Officer will grant a request for party or limited party status if the Hearings Officer determines that the petitioner:
 - a. Has demonstrated a personal or public interest that reasonably could be affected by the outcome of the hearing.
 - b. Is qualified to represent the public interest, if the petitioner is seeking to represent an alleged public interest.
 - c. Has an interest(s) in the proceeding that is not, in the Hearings Officer's opinion, adequately represented by existing parties.
6. If the Hearings Officer grants limited party status:
 - a. The Hearings Officer will set forth the area(s) and/or manner of participation.
 - b. The Hearings Officer may continue the hearing to a later date if it appears that proceeding with the hearing at the scheduled time would jeopardize or unduly burden any party.

Code Enforcement Hearings

L. Appearances

1. A party may appear for a Code enforcement hearing:
 - a. Personally or through an attorney, at the time and place set for the Code enforcement hearing and/or any continuance thereof.
 - b. Remotely, such as by telephone or an electronic remote participation platform, at the time and place set for the Code enforcement hearing and/or any continuance thereof, if the request to appear remotely is approved by the Hearing Officer for good cause shown.
 - c. By filing a written appearance with the Hearings Office. Such written appearances need to contain only a statement that such party appears, together with the name and address of the party and the name and address of the party's attorney, if any.
2. All Code enforcement hearings are scheduled within the hours of 8:00 a.m. to 5:00 p.m. on Monday through Friday (not including official City holidays and closures).
3. The Hearings Officer will begin hearings promptly at the scheduled time.
 - a. Code enforcement hearings will not be rescheduled for late arrivals. Persons arriving late may lose the opportunity to present their case or to hear other parties' testimony.
 - b. The parties or their authorized representatives must be prepared to present their cases to the Hearings Officer, including any witnesses and documentary evidence, at the scheduled hearing time. Hearings will not be continued because a party or their representative is not prepared for the hearing.
4. If a party or witness fails to appear at a scheduled Code enforcement hearing, the Hearings Officer will proceed with the hearing in their absence.
 - a. A party who fails to appear at a scheduled hearing is not entitled to have the hearing continued to a later date, unless the Hearings Officer determines, for good cause shown, that continuing the hearing or holding the record open for a reasonable period of time is appropriate
 - b. Once the hearing record is closed, no additional testimony or exhibits will be considered.
5. A party who fails to appear at the scheduled Code enforcement hearing will be deemed to have waived all right of further notice concerning the proceeding.

M. Pre-Hearing Conferences; Recesses

1. The Hearings Officer may, at the Hearings Officer's discretion, call the parties together for a conference before the hearing to ascertain what is disputed, hear arguments upon motions, and/or resolve procedural matters.
2. At any time during a hearing, the Hearings Officer may recess the hearing to conduct a conference. All such conferences will be open to the public and the Hearings Officer will summarize the results of the conference on the record.

N. Standard of Proof

The initiating bureau has the burden of proving a Code violation by reliable, probative, and substantial evidence. The burden of presenting evidence to support a fact or proposition rests on the proponent of that fact or proposition.

O. Code Enforcement Hearing Procedures

Code enforcement hearings are subject to the Hearings Officer's sole direction, control, and discretion. The Hearings Officer will conduct Code enforcement hearings in accordance with [Code Chapter 22.03](#) and the following rules:

1. The Hearings Officer may allow a party or witness to appear by telephone or an electronic remote participation platform, for good cause shown, using procedures established by the Hearings Office.
2. A Respondent has the right to be represented by an attorney, at the Respondent's own expense. The Hearings Office encourages attorneys to notify the Hearings Office (directly or through the case management system) that they are representing a party, so that the Hearings Office / case management system can issue hearings notices directly to the attorney.
3. All Code enforcement hearings are audio recorded.
 - a. Unless a Respondent requests, at the beginning of the Code enforcement hearing, that the recording not be posted, a copy of the recording will be publicly available online within three business days following the hearing date.
 - b. The Hearings Office will provide a copy of a hearing recording, upon request by a Respondent, as staff time permits. A request for a hearing recording must include the case number and the Respondent's name.
4. Before commencing the hearing, the Hearings Officer will give all notices required under [Code Section 22.03.040](#).

5. The Hearings Officer may open the hearing with a brief introduction of the parties, issues, and procedures. At the discretion of the Hearings Officer, each party may be given an opportunity to make an opening statement.

6. The Hearings Officer will give each party an opportunity to present evidence, as follows:

- a. The initiating bureau will present evidence in support of the allegations contained in the complaint and in support of the relief requested.
- b. The Respondent(s) will present evidence in support of their positions.
- c. Other parties, including those with limited party status, may present evidence in support of their respective positions.
- d. Each party will have the right to cross examine adverse witnesses.
- e. Each party may present rebuttal evidence, if any.

7. The Hearings Officer may set reasonable time limits for oral presentation and testimony and exclude or limit cumulative, repetitious, or immaterial matter.

8. The Hearings Officer will give each party an opportunity to make a closing statement.

P. Rules of Evidence, Generally

Evidence of a type commonly relied upon by reasonable, prudent persons in conducting their important affairs is admissible in Code enforcement cases. The Hearings Officer may order the exclusion of irrelevant, immaterial, redundant, or unduly repetitious evidence.

Q. Witnesses

1. A Respondent may testify at the Code enforcement hearing, and may have one or more witnesses testify on their behalf.
2. The initiating bureau may offer witness testimony at the Code enforcement hearing.
3. All testimony given at the hearing must be under oath or affirmation administered by the Hearings Officer.
4. The Hearings Officer may question the witnesses to develop the record or seek clarification.

R. Exhibits

1. Exhibits consisting of written or printed evidence (including photographs) may be submitted before or during the Code enforcement hearing as follows:
 - a. The parties are strongly encouraged to upload all evidence to the case management system. Evidence that is uploaded to the case management system can be viewed by the Hearings Office and all parties.
 - b. The Hearings Officer will ensure that all parties receive copies of and an opportunity to respond to all exhibits. To ensure this opportunity, all parties must submit their exhibits and evidence no later than 10 business days prior to the Code enforcement hearing.
2. All evidence submitted to the Hearings Office becomes a public record.
 - a. The parties must redact (black out) all confidential information (e.g., social security numbers, driver's license or passport numbers, financial account numbers, health information, etc.) from exhibits prior to submission to the Hearings Office.
 - b. The Hearings Office may edit a document or recording to redact confidential content before publicly posting or distributing the document or recording. The Hearings Office will retain the unedited record with restricted access.
3. The Hearings Office will ensure that exhibits are numbered upon receipt, the party offering the exhibit is noted, and all exhibits are preserved as a part of the record.
 - a. The Hearings Office affixes an exhibit label to the bottom righthand corner of each page of each document. Parties should therefore leave a sufficient margin or border at the bottom righthand corner of each exhibit so that important information is not obscured by the exhibit label.
 - b. All evidence submitted into the evidentiary record becomes the property of the Hearings Office and will not be returned.

S. Other Types of Evidence

Evidence other than oral testimony or in writing may be offered and admitted subject to the following limitations:

1. If equipment, technology, or computer programs are required to access or present the evidence, the person offering such evidence is responsible for providing and setting up the equipment, technology, or programs. The Hearings Office does not supply equipment, technology or programs (including, but not limited to projectors and computers).
 - a. A copy of the evidence presented must be provided to the Hearings Office to keep with the record for archiving and appeal purposes.

- b. Set up must be done before the scheduled start of the hearing and must not disrupt the hearing process. The equipment, technology, or programs must be removed immediately after the hearing concludes.
 - c. The Hearings Officer will not attempt to open any computer flashdrive/DVD/CD/phone or program. The Hearings Office will not click on a link unless the Bureau of Technology first reviews the link for security purposes related to malware.
2. If a party has questions or concerns about how to submit a particular item of evidence, they should contact the Hearings Office clerks at least two business days prior to the scheduled Hearing to coordinate submission of evidence.

T. Stipulations

The parties to a Code enforcement proceeding may agree upon (stipulate to) some or all of the facts relevant to the proceeding.

1. The stipulation may be in writing and signed by the parties, or may be made on the record at the hearing. The stipulation will be binding upon the parties who agree to it and may be regarded as evidence.
2. If a stipulated agreement is reached on some or all of the issues prior to the hearing, the parties must notify the Hearings Office, as soon as possible, that an agreement has been reached.

U. Hearings Officer's Right to Eject and Exclude Persons from a Hearing

The Hearings Officer may eject any person from the Hearing Room if the person engages in disruptive conduct or otherwise violates the rules of conduct at City property ([Code Chapter 3.18](#)).

1. An ejected person may not re-enter the Hearing Room for the remainder of the day.
2. If a party is ejected, they are deemed, by their behavior, to have waived their right to offer additional in-person testimony or arguments related to the Code enforcement proceeding. The ejected person may only submit additional written evidence, before the hearing closes, through an agent or representative.
3. If the Hearings Office determines that a person should be ordered to leave City property to protect health, welfare, or safety or to prevent future disruptions, the Hearings Office will immediately contact a Person-in-Charge or follow other applicable Hearings Office procedures.

V. Ex Parte Communications

A Hearings Officer may not initiate, permit, or consider ex parte communications, except that when circumstances require it, an ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, if:

1. The Hearings Officer reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and
2. The Hearings Officer promptly notifies all other parties of the substance of the ex parte communication and gives the parties an opportunity to respond.

W. Interpreters

1. Respondents needing interpretation assistance are encouraged to provide their own interpreter for the Code enforcement hearing.
2. The Hearings Office will make reasonable accommodations for individuals needing an interpreter. Upon request, the City will endeavor to provide, at the City's expense, a qualified language interpreter for those needing such assistance.
 - a. To ensure availability, a Respondent should contact the Hearings Office to request an interpreter as soon as possible, and no later than 48 hours before the scheduled hearing (not including Saturdays, Sundays, or official City holidays or closures). If shorter notice is given, the Hearings Office will make a good faith effort to provide an interpreter.
 - b. The request for an interpreter should be in writing, and should include the name and language (including any regional dialect) of the person needing an interpreter.
 - c. If interpreter services are not available, the Hearings Officer may proceed with or continue the hearing, at the Hearings Officer's sole discretion.
3. The Hearings Officer will ask the person providing interpretation assistance to state their name and mailing address for the record and swear to or affirm the following:

"Do you swear or affirm that you are qualified to provide translation assistance from English to [Language] and will make a true and impartial translation of the proceedings using your best skills and judgment?"

Hearings Officer's Findings and Orders; Appeals

X. Proposed and Final Orders

The Hearings Officer will issue proposed and final orders in accordance with [Code Sections 22.03.100 and 22.03.110](#).

1. Proposed and final orders must be in writing. In addition to the findings of fact and conclusions of law required under [Code Section 22.03.110 B.](#), orders will include:

- a. Rulings on the admissibility of evidence that were not made on the record during the hearing.
- b. At the discretion of the Hearings Officer, an opinion explaining the rationale for the findings of fact or conclusions of law.
- c. An order, which sets forth the actions to be taken as a result of the findings of fact and conclusions of law.
- d. A notice indicating when the proposed order will become final.
- e. A notice explaining the grounds and instructions for petitioning for reconsideration and rehearing, as set forth in [Code Section 22.03.115](#).

2. Rulings on evidence, findings of fact, and conclusions of law made in prior written orders or on the record at the hearing may be incorporated into proposed and final orders by reference.

3. The Hearings Office will serve a copy of the proposed order on all parties who have not waived their right to notice. Parties may file written exceptions to the proposed and final order, which exceptions must be filed within ten days of the date of service of such order.

4. A proposed order will become a final order ten days after the date of service of the proposed order, unless the proposed order otherwise provides.

- a. The proposed order may not provide a period less than ten days unless the Hearings Officer determines that the health, safety, or welfare of the public or any person requires a shorter period.
- b. The Hearings Officer may withdraw a proposed order at any time before it becomes a final order.

5. All final orders issued by the Hearings Office must include a statement that the Order is appealable.

Y. Continuing Orders

1. If the Hearings Officer determines that a Respondent(s) violated any provision of the Code and that the violation(s) is continuing, the Hearings Officer may enter a continuing order and continue the proceeding to a later date to review the matter.

- a. The continuing order must be in writing and must conform in all particulars to a final order.
 - b. The continuing order may order any of the remedies authorized by [Code Section 22.05.010](#), as necessary or appropriate to correct the violation.
 - c. The continuing order must state that if a party found in violation corrects, remedies, or eliminates the violation(s) in the manner and within the timeframe specified in the continuing order, the Hearings Officer may dismiss the proceeding and/or suspend, reduce, or eliminate any civil penalty imposed.
2. At the time set for the continuance, the Hearings Officer may hold a hearing to determine whether the terms of the continuing order have been or are being substantially complied with.
- a. If the Hearings Officer determines that the continuing order has been or is being substantially complied with: The Hearings Officer may enter a final order dismissing the proceeding and/or suspending, reducing, or eliminating the civil penalty, as specified in the continuing order.
 - b. If the Hearings Officer determines that the continuing order has not been or is not being substantially complied with: The Hearings Officer may, in the Hearings Officer's discretion:
 - i. Modify the continuing order and continue the matter to a later date;
 - ii. Vacate the continuing order, enter a new continuing order, or continue the matter to a later date; or
 - iii. Enter a final order.
3. The Hearings Officer may amend a continuing order at any time prior to entry of a final order, upon the motion of a party and for good cause shown. Good cause includes but is not limited to a showing that a party found in violation is unable to correct the violation and comply with the terms of the continuing order, despite all reasonable diligence, for reasons beyond such party's reasonable control.

Z. Civil Penalties

1. In establishing the amount of a civil penalty assessed for a Code violation(s), the Hearings Officer may consider the following factors, and must cite those found applicable:
 - a. Whether the Respondent has committed any prior Code violations, regardless of whether any administrative, civil, or criminal proceeding was commenced.
 - b. The Respondent's cooperativeness and efforts to correct the violation, including any history of taking all feasible steps or procedures necessary or appropriate to correct the violation.

- c. The gravity and magnitude of the violation(s) and whether the violation(s) was repeated or continuous.
- d. Whether the violation was due to an intentional act of Respondent, the Respondent's negligence, or an unavoidable accident or other conditions or circumstances beyond the Respondent's reasonable control.
- e. The opportunity to and degree of difficulty involving in correcting the violation.
- f. The economic or financial benefit accrued or likely to accrue to the Respondent because of the violation.
- g. The cost to the City to investigate and correct or attempt to correct the violation.
- h. The economic and financial conditions of the Respondent.
- i. The Respondent(s) bears the burden of proof and the burden of coming forward with evidence regarding the Respondent's economic and financial condition.
 - ii. Unless a Respondent proves otherwise, the Hearings Officer may presume that the Respondent's economic and financial condition would support the imposition of any civil penalty permitted by law.
- i. Any other relevant factors.

2. The Hearings Officer may suspend all or any portion of a civil penalty upon such terms and conditions as the Hearings Officer may determine, including but not limited to requirements that:

- a. The Respondent(s) complies with all orders of the Hearings Officer, including payment of any unsuspended portion of the civil penalty(s); and/or
- b. The Respondent(s) not commit, suffer, or permit any additional Code violations for a designated period of time, up to one year.

3. Civil penalties for violations occurring prior to filing the complaint may not exceed the amount requested in the complaint or amended complaint. This requirement does not limit the Hearings Officer's authority to assess greater or additional civil penalties for continuing violations in conjunction with a corrective or continuing order, if such order provides that if the violation or violations are corrected or cease, as required by the order, and the Respondent otherwise complies with the order, such additional or greater penalty will be suspended or eliminated.

4. Civil penalties are due and payable by the party(s) against whom the penalties are assessed, at such time as specified in the order.

5. Whenever a civil penalty may be made a lien upon real property unless paid by the specified deadline, the Hearings Officer will certify the amount to the Revenue Division.

AA. Assessments of Costs Incurred

Whenever costs incurred by the City may be made a lien upon real property pursuant to [Code Section 22.06.010](#):

1. The Bureau incurring such costs must:

- a. Prepare a statement of costs, which must be served upon the owner(s) of the real property involved, personally or by registered or certified mail, return receipt requested. If the statement is served by mail, it will be deemed served three days after mailing.
- b. The statement of costs must include a notice that the party has the right to object to the costs and request a hearing. The notice must appear in the statement of costs in a substantially similar manner to the following:

Your Right To Appeal

You have the right to request a hearing before the Code Hearings Officer to appeal these costs.

To appeal, you must file the following with the City's Hearings Office within 10 business days of the date of this notice:

- A. A completed APPEAL HEARING REQUEST FORM (enclosed). APPEAL HEARING REQUEST FORMS are also available at: <https://www.portlandoregon.gov/hearings/article/747356>.
- B. A copy of this statement of costs.
- C. A statement explaining why you believe the costs are invalid, unauthorized, or otherwise improper.
- D. Any supporting documentation you intend to rely on at the appeal hearing. See [Portland City Code Section 22.10.030 B](#); [Hearings Office Rule ARB-ADM- 9.05\(3\)\(c\)\(ii\)](#).

No filing fee is required. The effect of the proposed action [will / will not] be stayed pending resolution of the appeal.

If you have any questions regarding how to request an appeal, please contact the Hearings Office at (503) 823-7307.

Appeals are conducted in accordance with Code Chapter 22.10 (available at <https://www.portland.gov/code/22/10>) and City Administrative Rule ADM-9.05 (available at <https://www.portland.gov/policies/administrative/hearings-officer/adm-905-appeals-city-code-hearings-officer>).

The Hearings Office is located at: 1900 SW 4th Avenue, Suite 3100 (third floor), Portland, Oregon 97201. More information about the Hearings Office is available at: <https://www.portlandoregon.gov/hearings/26645>.

c. File a copy of the statement of costs, with proof of service attached, with the Hearings Office.

2. The property owner may object to the statement of costs by filing a written objection, which must be received by the Hearings Office within 15 days after the statement of costs was served or mailed.

a. If no objection is received before the deadline, the Hearings Office will certify the statement of costs and forward it to the Revenue Division.

b. If a timely objection is received, the Hearings Office will schedule a hearing on the objection. If, after the hearing, the Hearings Officer determines that such statement, or any portion of it, is correct and proper, the Hearings Officer will certify the statement, or a portion found correct and proper, and forward it to the Revenue Division.

BB. Preparation and Certification of the Record

Any party desiring the record of a Code enforcement proceeding or any portion thereof for the purposes of an appeal or review must file with the Hearings Office a written

statement requesting preparation and certification of the record and designating those portions of the record requested.

1. Unless otherwise provided pursuant to [Code Section 22.03.050 G.](#), a statement requesting preparation and certification of the record must be accompanied by a cash deposit in the amount of the estimated cost of preparing the record or those portions requested, including the cost of transcribing the record of testimony, if necessary.

2. Upon receipt of the statement and cash deposit, the Hearings Office will prepare the record or the designated portions thereof.

a. If the cash deposit exceeds the actual cost of preparing the record, the Hearings Office will certify the record and refund the excess deposit.

b. If the actual cost of preparing the record exceeds the amount of the cash deposit, the Hearings Office will notify the party requesting preparation of the record of the deficiency and, upon payment, will certify the record.

CC. Closing a Hearings Office Case

The Hearings Office will close all Code enforcement cases three calendar years from the date of the initial order, unless jurisdiction is extended by order of the Hearings Officer for good cause shown. After a Code enforcement case has been closed, the initiating bureau must file a new

case in order to seek further enforcement action from the Hearings Officer.

Questions about these rules may be directed to the [Hearings Office](#) at 503-823-7307

History

Filed for inclusion in PPD September 22, 2004.

The City Auditor repealed Hearings Office rules on July 1, 2020 because the Hearings Office transferred out of the Auditor's Office.

Revised rules adopted by the Chief Hearings Officer on July 1, 2020.

Related documents

 [ADM-9.01 - Code Enforcement Hearings](#) 216.81 KB



Hearings Office

City of Portland

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RULES OF THE CITY OF PORTLAND HEARINGS OFFICE

ADM-9.01 – CODE ENFORCEMENT HEARINGS

Adopted by the Chief Hearings Officer Pursuant to Rulemaking Authority

ARB-ADM-9.01

A. Purpose and Authority

The Hearings Office is responsible for conducting Code enforcement proceedings in accordance with [Chapter 22.03](#) of the Portland City Code. This rule sets forth guidance for implementing [Code Chapter 22.03](#) and for conducting prompt, efficient, fair, and impartial adjudications of alleged Code violations.

[Code Section 22.03.010](#) authorizes the Hearings Officer to adopt rules and procedures for Code enforcement hearings.

B. Applicability

These rules apply solely to Code enforcement cases filed with the Hearings Office under [Code Chapter 22.03](#).

C. Modification or Waiver; Conflicts

1. The Hearings Officer may modify or waive any of these rules, in the interest of fairness or justice and for good cause shown, consistent with [Code Chapter 22.03](#).
2. In the event of any conflict between these rules and applicable requirements set forth in the Portland City Code, the Code provisions will prevail.

D. Definitions

For purposes of these rules:

1. “Continue” means to adjourn a hearing that is in progress and order that the hearing be completed on another date and time. For example, the Hearings Officer may “continue”

a hearing that is taking longer than scheduled or expected to another date and time to give the parties enough time to present all of their evidence. The Hearings Officer has the sole discretion to continue a hearing.

2. “Day” means calendar day.
3. “Disruptive Conduct” means conduct that interferes with the normal hearing process, as determined by the Hearings Officer.
4. “*Ex parte* communication” means a direct or indirect communication about a code enforcement case pending before a Hearings Officer, between the Hearings Officer and a party to the case or their representative, which occurs outside of a public hearing. *Ex parte* communications do not include communications between:
 - a. The Hearings Officer and any person employed by the Hearings Office.
 - b. The Hearings Officer and the Hearings Office’s legal counsel.
 - c. Hearings Office staff (excluding the Hearings Officer) and City staff or other participants regarding procedures or for verification of evidence in record.
5. “Initiating bureau” means the bureau filing the complaint in the proceeding.
6. “Interpreter” means a person with sufficient fluency to communicate with a party or witness who does not speak English. An interpreter is responsible for accurately translating the party or witness’ statements into English during the hearing, and for translating what is said during the hearing into the language used by the party or witness. “Interpreter” also refers to a person who assists or aides another person due to a disability.
7. “Limited party” means a person or entity that is not a party to a Code enforcement proceeding but has been granted limited party status by the Hearings Officer because of their limited interest in the proceeding or interest in one or more issues to be addressed in the proceeding.
8. “Mail” means electronic mail (email) or first-class United States Post Office mail delivery service.
9. “Party” means a person or entity that is entitled to notice of and full participation in a Code enforcement proceeding, unless such rights are waived. Parties include the

Respondent(s), the City of Portland (through the initiating bureau), and any person who has been granted party status by the Hearings Officer.

10. “Postpone” means to reschedule a hearing for another date and time.
11. “Received” means the date and time a document is time-stamped as received in the Hearings Office; except that a document delivered to the Hearings Office after regularly scheduled business hours or on a Saturday, Sunday, or official City holiday or closure will be deemed to have been received on the next business day at the start of business hours.
12. “Respondent” means the person or entity that is the subject of a Code enforcement proceeding.

INITIATING A CODE ENFORCEMENT PROCEEDING

E. Complaints

1. The initiating bureau may initiate a Code enforcement proceeding by filing a complaint with the Hearings Office, in accordance with [Code Section 22.03.020](#).
2. The Respondent is not required to file a written response to the complaint, unless the Hearings Office directs an answer. Except as may be stipulated or admitted in an answer or at hearing, all allegations of the complaint will be deemed to be denied.

F. Scheduling and Notice of Code Enforcement Hearings

1. Upon receipt of a complaint, the Hearings Office will schedule a Code enforcement hearing in accordance with [Code Section 22.03.025 B](#).
2. A [calendar of scheduled hearings](#) is available on the Hearings Office website. The calendar is subject to change. A person may contact the Hearings Office to obtain the most up-to-date information.
3. The initiating bureau will serve a Notice of Hearing and a copy of the complaint in accordance with [Code Section 22.03.030](#). The Hearings Officer authorizes initiating bureaus to serve a Notice of Hearing electronically (via email) to any party that has agreed to receive electronic notices.

4. If the complaint did not request the vacation, closure, or demolition of a building, property, or structure, but the Hearings Officer determines that such vacation, closure, or demolition is a reasonably possible outcome:
 - a. The Hearings Officer will continue the hearing and order the initiating bureau to give the tenants, residents, and lessees of the affected property notice of the hearing and of the fact that vacation, closure, or demolition is a reasonably possible outcome.
 - b. Such notice must be given in as specified in [Code Section 22.03.030](#), and must also be posted at or near the principal entrance to the structure involved or at any other conspicuous location on the real property.

G. Return of Service; Lack of Proper Notice

1. Before the hearing, the initiating bureau must file with the Hearings Office a Return of Service, which certifies that the Notice of Hearing was served in accordance with [Code Section 22.03.030](#).
2. If the Hearings Officer finds that the Notice of Hearing was not provided to any person who is entitled to notice under [Code Section 22.03.030](#), and that such person did not have actual notice of the hearing, the Hearings Officer will postpone the hearing and order the initiating bureau to provide proper notice, unless the alleged violation poses an immediate and serious hazard to the public health, safety, or welfare or the life, health, safety, welfare, or property of any person.

H. Requests to Reschedule; Continuances

1. Upon receipt of the Notice of Hearing or as soon as possible thereafter, a party may request to reschedule a hearing by submitting a written request to the Hearings Officer that explains the reason for the request.
2. The Hearings Office must receive the request to reschedule no later than 48 hours before the scheduled hearing (not including Saturday, Sunday, or official City holidays or closures), unless good cause to waive the deadline is established by the party requesting the reschedule.
3. The Hearings Officer may reschedule a hearing with the consent of all parties, or for good cause shown.
 - a. The Hearings Officer may find good cause to reschedule if:

- i. It does not appear that the public safety, health, or welfare, or the interests of a party would be prejudiced or endangered by such the rescheduling; and
 - ii. The party seeking to reschedule the hearing has exercised reasonable diligence in trying to avoid the need to postpone the hearing or wishes to postpone the hearing because of circumstances beyond the party's control.
 - b. The Hearings Officer may reschedule a hearing upon such terms and conditions as the Hearings Officer finds necessary or appropriate to protect the public health, safety, or welfare, or to avoid serious detriment to any party.
4. The Hearings Officer may adjourn a hearing and continue it to a later date, on the motion of any party or upon the Hearings Officer's own motion, if it appears that further testimony, evidence, or argument should be received. The time and date of such continued hearing may be fixed at the time of hearing or by later written notice to the parties.
 5. A request to reschedule or continue is not valid until ordered by the Hearings Officer.

I. Amending a Complaint

1. The initiating bureau may amend a complaint, at any time prior to the hearing, by filing an amended complaint with the Hearings Office and giving a copy to the Respondent(s) and all other parties and persons entitled to notice. Depending on the nature of the amendments, the Hearings Officer may postpone, continue, or reschedule the Hearing in the interest of fairness or to provide adequate time for parties to respond to the amendments.
2. A complaint may be amended after the hearing only with the consent of all parties or by order of the Hearings Officer. If the Hearings Officer allows a complaint to be amended, the Hearings Officer may do so upon any terms and conditions needed to prevent undue prejudice to the interests of any party, including postponing or continuing the hearing.
3. If an issue that was not raised in the complaint (or answer) is raised at the hearing, without objection, the Hearings Officer will treat the issue as if it was raised in the pleadings. Any party may ask the Hearings Officer for permission to amend its pleadings to conform to the evidence and reflect the issues so raised.

4. If evidence is objected to at the hearing on that grounds that it is not within the issues raised in the pleadings, the Hearings Officer will allow the pleadings to be amended if the merits of the action or defense will be served thereby and the objecting party fails to satisfy the Hearings Officer that the admission of such evidence would unduly prejudice them. The Hearings Officer may grant a continuance to enable the objecting party to gather such evidence.

J. Motions

Motions may be made in writing at any time, or may be made orally on the record at a hearing or conference. A copy of any written motions must be mailed or otherwise delivered to all other parties.

K. Request to Participate as Party or Limited Party

After a proceeding is initiated, any person who has a personal or public interest in the outcome of the hearing may ask to participate as a party or a limited party.

1. The tenants, residents, and lessees of a building, property, or structure subject to a Code enforcement proceeding are entitled to notice of the hearing, but the right to notice does not confer party status. Any tenant, resident, or lessee wishing to participate in a Code enforcement hearing, other than as a witness called by a party, must request and be granted party or limited party status.
2. A person may request party or limited party status by:
 - a. Appearing at the time set for the hearing or any continuance thereof and requesting party or limited party status on the record; or
 - b. Filing a petition with the Hearings Office, before the time set for the hearing, requesting party or limited party status.
3. A person requesting party or limited party status must provide their name and address, the name and address of their attorney, if any, and the name and address of any organization they represent. The person must also explain:
 - a. Their personal or public interest in the proceeding.

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- i. *If seeking party or limited party status to protect an alleged personal interest, economic or otherwise:* The person must show how the outcome of the hearing may affect such interest.
 - ii. *If seeking party or limited party status to represent an alleged public interest:* The person must establish the nature of the public interest, how such interest may be affected by the outcome of the hearing, and their qualifications to represent such interest.
- b. Why the existing parties, including the City, may not adequately represent the interest identified in Section K(3)(a).
4. The Hearing Officer's ruling on a petition for party or limited party status will be on the record at or immediately prior to the hearing.
5. The Hearings Officer will grant a request for party or limited party status if the Hearings Officer determines that the petitioner:
 - a. Has demonstrated a personal or public interest that reasonably could be affected by the outcome of the hearing.
 - b. Is qualified to represent the public interest, if the petitioner is seeking to represent an alleged public interest.
 - c. Has an interest(s) in the proceeding that is not, in the Hearings Officer's opinion, adequately represented by existing parties.
6. If the Hearings Officer grants limited party status:
 - a. The Hearings Officer will set forth the area(s) and/or manner of participation.
 - b. The Hearings Officer may continue the hearing to a later date if it appears that proceeding with the hearing at the scheduled time would jeopardize or unduly burden any party.

CODE ENFORCEMENT HEARINGS

L. Appearances

- I. A party may appear for a Code enforcement hearing:

- a. Personally or through an attorney, at the time and place set for the Code enforcement hearing and/or any continuance thereof.
 - b. Remotely, such as by telephone or an electronic remote participation platform, at the time and place set for the Code enforcement hearing and/or any continuance thereof, if the request to appear remotely is approved by the Hearing Officer for good cause shown.
 - c. By filing a written appearance with the Hearings Office. Such written appearances need to contain only a statement that such party appears, together with the name and address of the party and the name and address of the party's attorney, if any.
2. All Code enforcement hearings are scheduled within the hours of 8:00 a.m. to 5:00 p.m. on Monday through Friday (not including official City holidays and closures).
3. The Hearings Officer will begin hearings promptly at the scheduled time.
 - a. ***Code enforcement hearings will not be rescheduled for late arrivals.*** Persons arriving late may lose the opportunity to present their case or to hear other parties' testimony.
 - b. The parties or their authorized representatives must be prepared to present their cases to the Hearings Officer, including any witnesses and documentary evidence, at the scheduled hearing time. Hearings will not be continued because a party or their representative is not prepared for the hearing.
4. If a party or witness fails to appear at a scheduled Code enforcement hearing, the Hearings Officer will proceed with the hearing in their absence.
 - a. A party who fails to appear at a scheduled hearing is not entitled to have the hearing continued to a later date, unless the Hearings Officer determines, for good cause shown, that continuing the hearing or holding the record open for a reasonable period of time is appropriate
 - b. Once the hearing record is closed, no additional testimony or exhibits will be considered.
5. A party who fails to appear at the scheduled Code enforcement hearing will be deemed to have waived all right of further notice concerning the proceeding.

M. Pre-Hearing Conferences; Recesses

1. The Hearings Officer may, at the Hearings Officer's discretion, call the parties together for a conference before the hearing to ascertain what is disputed, hear arguments upon motions, and/or resolve procedural matters.
2. At any time during a hearing, the Hearings Officer may recess the hearing to conduct a conference. All such conferences will be open to the public and the Hearings Officer will summarize the results of the conference on the record.

N. Standard of Proof

The initiating bureau has the burden of proving a Code violation by reliable, probative, and substantial evidence. The burden of presenting evidence to support a fact or proposition rests on the proponent of that fact or proposition.

O. Code Enforcement Hearing Procedures

Code enforcement hearings are subject to the Hearings Officer's sole direction, control, and discretion. The Hearings Officer will conduct Code enforcement hearings in accordance with [Code Chapter 22.03](#) and the following rules:

1. The Hearings Officer may allow a party or witness to appear by telephone or an electronic remote participation platform, for good cause shown, using procedures established by the Hearings Office.
2. A Respondent has the right to be represented by an attorney, at the Respondent's own expense. The Hearings Office encourages attorneys to notify the Hearings Office (directly or through the case management system) that they are representing a party, so that the Hearings Office / case management system can issue hearings notices directly to the attorney.
3. All Code enforcement hearings are audio recorded.
 - a. Unless a Respondent requests, at the beginning of the Code enforcement hearing, that the recording not be posted, a copy of the recording will be publicly available online within three business days following the hearing date.

- b. The Hearings Office will provide a copy of a hearing recording, upon request by a Respondent, as staff time permits. A request for a hearing recording must include the case number and the Respondent's name.
4. Before commencing the hearing, the Hearings Officer will give all notices required under [Code Section 22.03.040](#).
5. The Hearings Officer may open the hearing with a brief introduction of the parties, issues, and procedures. At the discretion of the Hearings Officer, each party may be given an opportunity to make an opening statement.
6. The Hearings Officer will give each party an opportunity to present evidence, as follows:
 - a. The initiating bureau will present evidence in support of the allegations contained in the complaint and in support of the relief requested.
 - b. The Respondent(s) will present evidence in support of their positions.
 - c. Other parties, including those with limited party status, may present evidence in support of their respective positions.
 - d. Each party will have the right to cross examine adverse witnesses.
 - e. Each party may present rebuttal evidence, if any.
7. The Hearings Officer may set reasonable time limits for oral presentation and testimony and exclude or limit cumulative, repetitious, or immaterial matter.
8. The Hearings Officer will give each party an opportunity to make a closing statement.

P. Rules of Evidence, Generally

Evidence of a type commonly relied upon by reasonable, prudent persons in conducting their important affairs is admissible in Code enforcement cases. The Hearings Officer may order the exclusion of irrelevant, immaterial, redundant, or unduly repetitious evidence.

Q. Witnesses

- I. A Respondent may testify at the Code enforcement hearing, and may have one or more witnesses testify on their behalf.

2. The initiating bureau may offer witness testimony at the Code enforcement hearing.
3. All testimony given at the hearing must be under oath or affirmation administered by the Hearings Officer.
4. The Hearings Officer may question the witnesses to develop the record or seek clarification.

R. Exhibits

1. Exhibits consisting of written or printed evidence (including photographs) may be submitted before or during the Code enforcement hearing as follows:
 - a. The parties are strongly encouraged to upload all evidence to the case management system. Evidence that is uploaded to the case management system can be viewed by the Hearings Office and all parties.
 - b. The Hearings Officer will ensure that all parties receive copies of and an opportunity to respond to all exhibits. To ensure this opportunity, all parties must submit their exhibits and evidence no later than 10 business days prior to the Code enforcement hearing.
2. All evidence submitted to the Hearings Office becomes a public record.
 - a. The parties must redact (black out) all confidential information (e.g., social security numbers, driver's license or passport numbers, financial account numbers, health information, etc.) from exhibits prior to submission to the Hearings Office.
 - b. The Hearings Office may edit a document or recording to redact confidential content before publicly posting or distributing the document or recording. The Hearings Office will retain the unedited record with restricted access.
3. The Hearings Office will ensure that exhibits are numbered upon receipt, the party offering the exhibit is noted, and all exhibits are preserved as a part of the record.
 - a. The Hearings Office affixes an exhibit label to the bottom righthand corner of each page of each document. Parties should therefore leave a sufficient margin or border at the bottom righthand corner of each exhibit so that important information is not obscured by the exhibit label.

- b. All evidence submitted into the evidentiary record becomes the property of the Hearings Office and will not be returned.

S. Other Types of Evidence

Evidence other than oral testimony or in writing may be offered and admitted subject to the following limitations:

- 1. If equipment, technology, or computer programs are required to access or present the evidence, the person offering such evidence is responsible for providing and setting up the equipment, technology, or programs. The Hearings Office does not supply equipment, technology or programs (including, but not limited to projectors and computers).
 - a. A copy of is the evidence presented must be provided to the Hearings Office to keep with the record for archiving and appeal purposes.
 - b. Set up must be done before the scheduled start of the hearing and must not disrupt the hearing process. The equipment, technology, or programs must be removed immediately after the hearing concludes.
 - c. The Hearings Officer will not attempt to open any computer flashdrive/DVD/CD/phone or program. The Hearings Office will not click on a link unless the Bureau of Technology first reviews the link for security purposes related to malware.
- 2. If a party has questions or concerns about how to submit a particular item of evidence, they should contact the Hearings Office clerks at least two business days prior to the scheduled Hearing to coordinate submission of evidence.

T. Stipulations

The parties to a Code enforcement proceeding may agree upon (stipulate to) some or all of the facts relevant to the proceeding.

- 1. The stipulation may be in writing and signed by the parties, or may be made on the record at the hearing. The stipulation will be binding upon the parties who agree to it and may be regarded as evidence.

2. If a stipulated agreement is reached on some or all of the issues prior to the hearing, the parties must notify the Hearings Office, as soon as possible, that an agreement has been reached.

U. Hearings Officer's Right to Eject and Exclude Persons from a Hearing

The Hearings Officer may eject any person from the Hearing Room if the person engages in disruptive conduct or otherwise violates [the rules of conduct at City property \(Code Chapter 3.18\)](#).

1. An ejected person may not re-enter the Hearing Room for the remainder of the day.
2. If a party is ejected, they are deemed, by their behavior, to have waived their right to offer additional in-person testimony or arguments related to the Code enforcement proceeding. The ejected person may only submit additional written evidence, before the hearing closes, through an agent or representative.
3. If the Hearings Office determines that a person should be ordered to leave City property to protect health, welfare, or safety or to prevent future disruptions, the Hearings Office will immediately contact a Person-in-Charge or follow other applicable Hearings Office procedures.

V. Ex Parte Communications

A Hearings Officer may not initiate, permit, or consider *ex parte* communications, except that when circumstances require it, an *ex parte* communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, if:

1. The Hearings Officer reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the *ex parte* communication; and
2. The Hearings Officer promptly notifies all other parties of the substance of the *ex parte* communication and gives the parties an opportunity to respond.

W. Interpreters

1. Respondents needing interpretation assistance are encouraged to provide their own interpreter for the Code enforcement hearing.

2. The Hearings Office will make reasonable accommodations for individuals needing an interpreter. Upon request, the City will endeavor to provide, at the City's expense, a qualified language interpreter for those needing such assistance.
 - a. To ensure availability, a Respondent should contact the Hearings Office to request an interpreter as soon as possible, and no later than 48 hours before the scheduled hearing (not including Saturdays, Sundays, or official City holidays or closures). If shorter notice is given, the Hearings Office will make a good faith effort to provide an interpreter.
 - b. The request for an interpreter should be in writing, and should include the name and language (including any regional dialect) of the person needing an interpreter.
 - c. If interpreter services are not available, the Hearings Officer may proceed with or continue the hearing, at the Hearings Officer's sole discretion.
3. The Hearings Officer will ask the person providing interpretation assistance to state their name and mailing address for the record and swear to or affirm the following:

"Do you swear or affirm that you are qualified to provide translation assistance from English to [Language] and will make a true and impartial translation of the proceedings using your best skills and judgment?"

HEARINGS OFFICER'S FINDINGS AND ORDERS; APPEALS

X. Proposed and Final Orders

The Hearings Officer will issue proposed and final orders in accordance with [Code Sections 22.03.100 and 22.03.110](#).

- I. Proposed and final orders must be in writing. In addition to the findings of fact and conclusions of law required under [Code Section 22.03.110 B.](#), orders will include:
 - a. Rulings on the admissibility of evidence that were not made on the record during the hearing.
 - b. At the discretion of the Hearings Officer, an opinion explaining the rationale for the findings of fact or conclusions of law.
 - c. An order, which sets forth the actions to be taken as a result of the findings of fact and conclusions of law.

- d. A notice indicating when the proposed order will become final.
 - e. A notice explaining the grounds and instructions for petitioning for reconsideration and rehearing, as set forth in [Code Section 22.03.115](#).
- 2. Rulings on evidence, findings of fact, and conclusions of law made in prior written orders or on the record at the hearing may be incorporated into proposed and final orders by reference.
 - 3. The Hearings Office will serve a copy of the proposed order on all parties who have not waived their right to notice. Parties may file written exceptions to the proposed and final order, which exceptions must be filed within ten days of the date of service of such order.
 - 4. A proposed order will become a final order ten days after the date of service of the proposed order, unless the proposed order otherwise provides.
 - a. The proposed order may not provide a period less than ten days unless the Hearings Officer determines that the health, safety, or welfare of the public or any person requires a shorter period.
 - b. The Hearings Officer may withdraw a proposed order at any time before it becomes a final order.
 - 5. All final orders issued by the Hearings Office must include a statement that the Order is appealable.

Y. Continuing Orders

- 1. If the Hearings Officer determines that a Respondent(s) violated any provision of the Code and that the violation(s) is continuing, the Hearings Officer may enter a continuing order and continue the proceeding to a later date to review the matter.
 - a. The continuing order must be in writing and must conform in all particulars to a final order.
 - b. The continuing order may order any of the remedies authorized by [Code Section 22.05.010](#), as necessary or appropriate to correct the violation.

- c. The continuing order must state that if a party found in violation corrects, remedies, or eliminates the violation(s) in the manner and within the timeframe specified in the continuing order, the Hearings Officer may dismiss the proceeding and/or suspend, reduce, or eliminate any civil penalty imposed.
2. At the time set for the continuance, the Hearings Officer may hold a hearing to determine whether the terms of the continuing order have been or are being substantially complied with.
 - a. *If the Hearings Officer determines that the continuing order has been or is being substantially complied with:* The Hearings Officer may enter a final order dismissing the proceeding and/or suspending, reducing, or eliminating the civil penalty, as specified in the continuing order.
 - b. *If the Hearings Officer determines that the continuing order has not been or is not being substantially complied with:* The Hearings Officer may, in the Hearings Officer's discretion:
 - i. Modify the continuing order and continue the matter to a later date;
 - ii. Vacate the continuing order, enter a new continuing order, or continue the matter to a later date; or
 - iii. Enter a final order.
3. The Hearings Officer may amend a continuing order at any time prior to entry of a final order, upon the motion of a party and for good cause shown. Good cause includes but is not limited to a showing that a party found in violation is unable to correct the violation and comply with the terms of the continuing order, despite all reasonable diligence, for reasons beyond such party's reasonable control.

Z. Civil Penalties

- I. In establishing the amount of a civil penalty assessed for a Code violation(s), the Hearings Officer may consider the following factors, and must cite those found applicable:
 - a. Whether the Respondent has committed any prior Code violations, regardless of whether any administrative, civil, or criminal proceeding was commenced.

- b. The Respondent's cooperativeness and efforts to correct the violation, including any history of taking all feasible steps or procedures necessary or appropriate to correct the violation.
 - c. The gravity and magnitude of the violation(s) and whether the violation(s) was repeated or continuous.
 - d. Whether the violation was due to an intentional act of Respondent, the Respondent's negligence, or an unavoidable accident or other conditions or circumstances beyond the Respondent's reasonable control.
 - e. The opportunity to and degree of difficulty involving in correcting the violation.
 - f. The economic or financial benefit accrued or likely to accrue to the Respondent because of the violation.
 - g. The cost to the City to investigate and correct or attempt to correct the violation.
 - h. The economic and financial conditions of the Respondent.
 - i. The Respondent(s) bears the burden of proof and the burden of coming forward with evidence regarding the Respondent's economic and financial condition.
 - ii. Unless a Respondent proves otherwise, the Hearings Officer may presume that the Respondent's economic and financial condition would support the imposition of any civil penalty permitted by law.
 - i. Any other relevant factors.
2. The Hearings Officer may suspend all or any portion of a civil penalty upon such terms and conditions as the Hearings Officer may determine, including but not limited to requirements that:
- a. The Respondent(s) complies with all orders of the Hearings Officer, including payment of any unsuspended portion of the civil penalty(s); and/or
 - b. The Respondent(s) not commit, suffer, or permit any additional Code violations for a designated period of time, up to one year.

3. Civil penalties for violations occurring prior to filing the complaint may not exceed the amount requested in the complaint or amended complaint. This requirement does not limit the Hearings Officer's authority to assess greater or additional civil penalties for continuing violations in conjunction with a corrective or continuing order, if such order provides that if the violation or violations are corrected or cease, as required by the order, and the Respondent otherwise complies with the order, such additional or greater penalty will be suspended or eliminated.
4. Civil penalties are due and payable by the party(s) against whom the penalties are assessed, at such time as specified in the order.
5. Whenever a civil penalty may be made a lien upon real property unless paid by the specified deadline, the Hearings Officer will certify the amount to the Revenue Division.

AA. Assessments of Costs Incurred

Whenever costs incurred by the City may be made a lien upon real property pursuant to [Code Section 22.06.010](#):

- I. The Bureau incurring such costs must:
 - a. Prepare a statement of costs, which must be served upon the owner(s) of the real property involved, personally or by registered or certified mail, return receipt requested. If the statement is served by mail, it will be deemed served three days after mailing.
 - b. The statement of costs must include a notice that the party has the right to object to the costs and request a hearing. The notice must appear in the statement of costs in a substantially similar manner to the following:

YOUR RIGHT TO APPEAL:

You have the right to request a hearing before the Code Hearings Officer to appeal these costs.

To appeal, you must file the following with the City's Hearings Office ***within 10 business days of the date of this notice***:

- A. A completed APPEAL HEARING REQUEST FORM (enclosed). APPEAL HEARING REQUEST FORMS are also available at:
<https://www.portlandoregon.gov/hearings/article/747356>.

- B. A copy of this statement of costs.
- C. A statement explaining why you believe the costs are invalid, unauthorized, or otherwise improper.
- D. Any supporting documentation you intend to rely on at the appeal hearing. See [Portland City Code Section 22.10.030 B.](#); [Hearings Office Rule ARB-ADM-9.05\(3\)\(c\)\(ii\).](#)

No filing fee is required. The effect of the proposed action [will / will not] be stayed pending resolution of the appeal.

If you have any questions regarding how to request an appeal, please contact the Hearings Office at (503) 823-7307.

Appeals are conducted in accordance with Code Chapter 22.10 (available at <https://www.portlandoregon.gov/citycode/28576>) and City Administrative Rule ADM-9.05 (available at <https://www.portlandoregon.gov/citycode/article/545438>).

The Hearings Office is located at: 1900 SW 4th Avenue, Suite 3100 (third floor), Portland, Oregon 97201. More information about the Hearings Office is available at: <https://www.portlandoregon.gov/hearings/26645>.

- c. File a copy of the statement of costs, with proof of service attached, with the Hearings Office.
2. The property owner may object to the statement of costs by filing a written objection, which must be received by the Hearings Office within 15 days after the statement of costs was served or mailed.
- a. If no objection is received before the deadline, the Hearings Office will certify the statement of costs and forward it to the Revenue Division.
 - b. If a timely objection is received, the Hearings Office will schedule a hearing on the objection. If, after the hearing, the Hearings Officer determines that such statement, or any portion of it, is correct and proper, the Hearings Officer will certify the statement, or a portion found correct and proper, and forward it to the Revenue Division.

BB. Preparation and Certification of the Record

Any party desiring the record of a Code enforcement proceeding or any portion thereof for the purposes of an appeal or review must file with the Hearings Office a written

statement requesting preparation and certification of the record and designating those portions of the record requested.

1. Unless otherwise provided pursuant to [Code Section 22.03.050 G.](#), a statement requesting preparation and certification of the record must be accompanied by a cash deposit in the amount of the estimated cost of preparing the record or those portions requested, including the cost of transcribing the record of testimony, if necessary.
2. Upon receipt of the statement and cash deposit, the Hearings Office will prepare the record or the designated portions thereof.
 - a. If the cash deposit exceeds the actual cost of preparing the record, the Hearings Office will certify the record and refund the excess deposit.
 - b. If the actual cost of preparing the record exceeds the amount of the cash deposit, the Hearings Office will notify the party requesting preparation of the record of the deficiency and, upon payment, will certify the record.

CC. Closing a Hearings Office Case

The Hearings Office will close all Code enforcement cases three calendar years from the date of the initial order, unless jurisdiction is extended by order of the Hearings Officer for good cause shown. After a Code enforcement case has been closed, the initiating bureau must file a new case in order to seek further enforcement action from the Hearings Officer.

Rule Information and History

Questions about these rules may be directed to the [Hearings Office](#) at 503-823-7307.

Filed for inclusion in the PPD on September 22, 2004.

Revised rules adopted by the Chief Hearings Officer on July 1, 2020.