

**Title 1  
ADMINISTRATION**

**Chapter 10**

**PROCEDURES GOVERNING THE IMPOSITION OF ADMINISTRATIVE FINES**

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**1-10-1. FINDINGS AND SCOPE OF CHAPTER**

(A) Teton County (“County”) has a significant interest in encouraging compliance with its laws. To that end, County Codes often include a variety of remedies, including the right of the County to issue citations to violators and to require such persons to pay an administrative fine.

(B) Moreover, the imposition of administrative fines is not intended to be punitive in nature, but is instead intended to compensate the public for the injury and damage caused by the prohibited conduct. The fines are intended to be reasonable and not disproportionate to the damage or injury to the County and the public caused by the prohibited conduct.

(C) The Board of County Commissioners (“Board”) adopts this Chapter to provide standard procedures for the imposition, enforcement, collection, and administrative review of administrative citations and fines.

(D) The procedures set forth in this Chapter are adopted pursuant to Idaho Code § 31-714 which gives the Board the authority to enforce ordinances with such fines or penalties as the Board may deem proper.

(E) The determination by the County to impose, enforce, collect and provide administrative review of administrative fines pursuant to this Chapter is solely at the

County's discretion and is only one option available to the County to seek redress for the violation of its ordinances. By adopting this Chapter, and subsequent legislation incorporating the procedures in this Chapter, the Board does not intend to limit the ability of the County to use any other remedy, civil or criminal, which may be available in a particular case. The County may use the procedures set forth in this Chapter as an alternative to, or in conjunction with, any other available remedy.

## **1-10-2. DEFINITIONS**

The following definitions shall apply to this Chapter:

"Charging official" means a County officer or employee with authority to enforce the ordinance for which citations may issue or a person designated by the charging official to act on his or her behalf.

"Citation" means an administrative citation issued pursuant to this Chapter stating that the charging official has determined that there has been a violation of one or more provisions of a County ordinance, which ordinance incorporates this Chapter in whole or in part.

"Fine" means the dollar amount of an administrative or civil penalty that the person cited is required to pay for violation of an ordinance as set forth by the charging official in the citation.

"Person" means a natural person, firm, association, organization, partnership, business trust, company, corporation, limited liability company, joint venture, or club, or its manager, lessee, agent, servant, officer or employee.

"Serve" or "service" means either personal delivery or deposit in the United States Mail, first class, in a sealed envelope postage prepaid. Service shall include a declaration under penalty of perjury setting forth the date of personal delivery or, for service by mail, the date of deposit in the mail. Service by personal delivery shall be deemed complete on the date of the delivery. Service by mail shall be deemed complete on the date of deposit in the mail.

"Violation" means a violation of an ordinance for which the charging official has authority to issue a citation.

## **1-10-3. ISSUANCE AND SERVICE OF CITATIONS**

(A) When a charging official determines that a violation of an ordinance has occurred, the charging official may issue and serve a citation on any person responsible for the violation.

(B) Where there is a nexus between the violation and real property located in the County as set forth in Section 1-10-4, the charging official may also provide notice of the citation to the owner of the real property as provided in 1-10-4. The County may not

impose a lien on the property under Section 1-10-7(b) unless the charging official provides this notice.

(C) The citation shall contain the following information:

- (1) The name of the person to whom the citation is issued;
- (2) Identification of the provision or provisions of the ordinance violated. The charging official may issue a single citation for multiple violations of an ordinance or for violation of multiple provisions of an ordinance;
- (3) A description of the condition or circumstances constituting the violation(s), including the address or location and date of the violation;
- (4) The amount of the fine imposed for each violation;
- (5) The date by which the fine must be paid, the procedure for making payment (including to whom payment must be made and acceptable forms of payment), and the consequences of the failure to pay;
- (6) The date the citation is issued and the name and signature of the charging official.

#### **1-10-4. NOTICE TO OWNER OF REAL PROPERTY**

(A) Where there is a nexus between the violation and real property located in the County, the charging official may provide notice of the citation to the owner of the real property that unpaid fines for the citations may become a lien on the property. If the charging official gives this notice, the official shall do so within **ten (10)** County business days of service of the notice on the person cited. If notice is given to the owner of real property it shall be served as follows:

- (1) Post one copy of the citation in a conspicuous place upon the building or real property;
- (2) Mail a certified copy to the owner of record according to the County tax rolls.

(B) For purposes of this Chapter, there is a nexus between a violation and real property where an activity or condition on the real property has caused, contributed to, or been a factor in the violation.

(C) The County may not impose a lien on the property under 1-10-7(b) unless the charging official provides notice to the property owner as set forth in this Section.

#### **1-10-5. DETERMINATION OF THE AMOUNT OF THE ADMINISTRATIVE FINE WHEN THE CITATION IS ISSUED**

Unless the ordinance under which the citation is issued otherwise provides, the amount of the fine set by the charging official shall be:

(A) \$300.00 for a first violation of the ordinance (and each additional day that is part of the same incident);

(B) \$500.00 for a second violation of the same ordinance within one year of the date of the first violation; and

(C) \$1,000.00 for each additional violation of the same ordinance within one year of the date of a second or subsequent violation.

#### **1-10-6. WHEN FINES DUE; PAYMENT OF FINE; LATE PAYMENT FEE**

(A) The citation shall set forth the date by which the fine is required to be paid, which date shall allow 30 days for payment from the date that the citation is served. The fine shall be due and payable on or before the date set forth in the citation, unless the person cited has filed a timely appeal in compliance with this Chapter.

(B) Fines which remain unpaid 15 days after the due date shall be subject to a late payment penalty of 10 percent plus interest at the rate of 1 percent per month on the outstanding balance, which shall be added to the penalty amount from the date that payment is due.

(C) All fines and late payment fees shall be payable to the County and deposited in the County's general fund, unless the payment is made pursuant to an ordinance that provides otherwise.

#### **1-10-7. REMEDIES AVAILABLE TO COUNTY FOR NON-PAYMENT OF FINES; LIENS**

(A) The amount of any fine not paid within the time required under this Chapter, including the amount of any applicable late payment charges, constitutes a debt to the County. The County may file a civil action or pursue any other legal remedy to collect such money. In any civil action to obtain payment of the fine, and any late payment penalties, the County shall be entitled to obtain a judgment for the amount of the unpaid fines and penalty payments and, in addition, for the costs and attorneys' fees incurred by the County in bringing any civil action to enforce the provisions of this Section.

(B) Where there is a nexus between the violation and real property located in the County as defined in Section 1-10-4, the County may initiate proceedings to cause the payment amount due and all additional authorized costs and charges, including attorneys' fees, to be a lien on the property.

(C) If the fine is unpaid at the time a person cited for a violation applies for a license or permit, or any other registration issued by the County, the County may deny the approval of such license, permit, or registration until the fine is paid in full, unless State law provides otherwise.

#### **1-10-8. RIGHT TO APPEAL**

(A) Any person who has been served with a citation, including property owners who receive notice of the citation under Section 1-10-4, may seek administrative review of the citation by filing an appeal with the County Clerk as provided herein. The grounds for any such appeal shall be that there was no violation of the ordinance for which the citation was issued or that the person cited did not commit the violation.

(B) The County Clerk shall make available an appeal form for use by violators who wish to appeal their citation. The form shall include a description of the procedure for seeking administrative review of the citation, including the deadline for filing the appeal or reference this Chapter of the Teton County Code. The appeal form shall require the appellant to provide a mailing address, a street address, a telephone number, and any other contact information that the Clerk determines appropriate.

(C) In order to file an appeal, the appellant must pay a deposit in an amount equal to the cited fine. The deposit will be refunded in whole if the hearing officer issues a determination vacating the citation and in part if the hearing officer determines that the citation should be thus modified. No interest or late fees shall accrue during the appeal period.

#### **1-10-9. APPEAL PROCEDURE; APPOINTMENT OF HEARING OFFICER**

(A) Any person who seeks the administrative review of a citation may file an appeal no later than 20 calendar days from the date of service of the citation. An appeal shall be deemed filed on the date that the County Clerk receives the appeal along with the deposit required in Section 1-10-8 (C).

(B) The County Clerk shall take the following actions within 14 days of receiving a properly filed appeal: (1) appoint a hearing officer, (2) set a date for the hearing, which date shall be no less than 10 and no more than 60 days from the date that the appeal was filed, and (3) send written notice of the hearing date to the appellant and the charging official.

(C) The provisions of this Section 1-10-9 requiring the County Clerk or Charging Official to act by a specific date are directory. The failure of the County Clerk or Charging Official to take action within the time specified shall not deprive that person of jurisdiction over the matter or of the right to take action at a later time, unless to do so would unreasonably prejudice persons issued citations. This Subsection 1-10-9(C) shall

not apply to the requirements of this Section governing notice to the owners of real property where there is a nexus between the violation and the property.

#### **1-10-10. QUALIFICATIONS OF HEARING OFFICERS.**

A. The officers selected to hear appeals shall be impartial.

B. Disqualification of Appeals Hearing Officer. Any person designated to serve as an Appeals Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. The County Clerk shall determine in writing whether to grant the petition for disqualification and their reason therefore. If a substitute is required for a hearing officer due to disqualification or unavailability, a substitute shall be appointed by the County Clerk in accordance with these rules and regulations.

#### **1-10-11. HEARING PROCEDURES.**

(A) The hearing officer shall conduct all appeal hearings under this Chapter and shall be responsible for deciding all matters relating to the hearing procedures not otherwise specified in this Chapter or in regulations adopted by the Board of County Commissioners. The charging official shall have the burden of proof in the hearing. The hearing officer may continue the hearing at his or her own initiative or at the request of either party. The hearing officer may request additional information from the charging official or the person cited.

(B) The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence is admissible if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

(C) The following provisions shall also apply to the appeal procedure:

(1) A citation that complies with the requirements of this Chapter and any additional evidence submitted by the charging official shall be prima facie evidence of the facts contained therein;

(2) The appellant shall be given the opportunity to present evidence concerning the citation; and

(3) The hearing officer may accept testimony by declaration under penalty of perjury relating to the citation from any party if he or she determines it appropriate to do so under the circumstances of the case.

#### **1-10-12. REQUIREMENT TO EXHAUST ADMINISTRATIVE REMEDIES**

(A) The failure of the person cited to file a timely appeal shall constitute a failure to exhaust administrative remedies and shall preclude the person cited from obtaining judicial review of the validity of the citation.

(B) Where there is a nexus between the violation for which a citation issued and real property, the failure of the owner of such property to file a timely appeal shall constitute a failure to exhaust administrative remedies and shall preclude the property owner from obtaining judicial review of the validity of the citation.

### **1-10-13. DETERMINATION OF THE HEARING OFFICER**

(A) After considering all of the testimony and evidence submitted by the parties, the hearing officer shall issue a written decision upholding, modifying or vacating the citation and shall set forth the reasons for the determination. The determination of the hearing officer shall be a final administrative determination.

(B) The hearing officer shall serve the appellant and the charging official with a copy of the determination within 30 days of the appeal hearing.

(C) If the hearing officer determines that the citation is vacated or modified the County shall issue a full or partial refund of the deposit to the appellant along with a copy of the determination.

(C) If a charging official issues a single citation for multiple violations of an ordinance or for violation of multiple provisions of an ordinance, the hearing officer shall hear all appeals of a citation at the same time, unless good cause is shown that they should be heard separately.