

PERSONNEL/ADMINISTRATIVE AFFAIRS COMMITTEE

MARCH 7, 2016

6:30 PM

Aldermanic Chamber

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ROLL CALL

PUBLIC COMMENT

INTERVIEWS

City Solicitor

Steven A. Bolton, Esquire (New Appointment)      Indefinite Term at the Pleasure of the Mayor

Cultural Connections Committee

Rafael Calderon (New Appointment)      For a Term to Expire: February 28, 2018

Sylvia E. Gale (New Appointment)      For a Term to Expire: February 28, 2018

Deepa Mangalat (New Appointment)      For a Term to Expire: February 28, 2019

Director of Public Health

Bobbie Bagley (New Appointment)      Indefinite Term at the Pleasure of the Mayor

Downtown Improvement Committee

Simon Sarris (New Appointment)      For a Term to Expire: December 13, 2016

COMMUNICATIONS

From: Sarah Marchant, Community Development Division Director

Re: O-16-003 Administrative Enforcement of Ordinances

APPLICATION TO LICENSE HAWKER'S, PEDDLER'S, ITINERANT VENDOR'S LICENSE - None

APPOINTMENTS BY THE MAYOR

City Solicitor

Steven A. Bolton, Esquire (New Appointment)      Indefinite Term at the Pleasure of the Mayor  
4 Kyle Drive  
Nashua, NH 03062

Cultural Connections Committee

Rafael Calderon (New Appointment)      For a Term to Expire: February 28, 2018  
394 Notre Dame Avenue  
Manchester, NH 03102

Sylvia E. Gale (New Appointment)      For a Term to Expire: February 28, 2018  
4 Clergy Circle  
Nashua, NH 03064

Deepa Mangalat (New Appointment)  
18 Wild Rose Drive  
Nashua, NH 03063

For a Term to Expire: February 28, 2019

Director of Public Health

Bobbie Bagley (New Appointment)  
17 Bunker Hill Drive  
Londonderry, NH 03053

Indefinite Term at the Pleasure of the Mayor

Downtown Improvement Committee

Simon Sarris (New Appointment)  
23 Auburn Street  
Nashua, NH 03064

For a Term to Expire: December 13, 2016

UNFINISHED BUSINESS – None

NEW BUSINESS – RESOLUTIONS – None

NEW BUSINESS – ORDINANCES

**O-16-003**

Endorsers: Mayor Jim Donchess  
Alderman Ken Siegel  
Alderman Don LeBrun

**ADMINISTRATIVE ENFORCEMENT OF ORDINANCES**

**O-16-004**

Endorsers: Alderman Benjamin Clemons  
Alderman-at-Large Michael B. O'Brien, Sr.  
Alderman Tom Lopez  
Alderman Richard A. Dowd  
Alderman-at-Large Brian S. McCarthy

**EXTENDING HOURS OF SALE OF ALCOHOLIC BEVERAGES BY ON-PREMISES LICENSEES**

DISCUSSION

PUBLIC COMMENT

REMARKS BY THE ALDERMEN

POSSIBLE NON-PUBLIC SESSION

ADJOURNMENT



# THE CITY OF NASHUA

*Community Development Division*

*Code Enforcement Department*

*"The Gate City"*

February 29, 2016

To: Ben Clemons, Personnel/Administrative Affairs Chair

From: Sarah Marchant, Community Development Division Director

RE: O-16-003 Administrative Enforcement of Ordinances

The proposed citation authority is a critical tool for the City to gain compliance for violations of existing ordinances. The following departments have requested to be included in the passing of such an ordinance: Building Safety, Planning and Zoning, Environmental Health, the Fire Marshal's Office, and Code Enforcement. Each department has defined a set of Nashua ordinances, some of which incorporate State statutes, they are requesting the authority to issue citations for, with an escalated fee schedule for each offense.

The citation system is designed for utilization on an as needed basis, in conjunction with other remedies and after all other avenues, with the exception of court, have been exhausted. After a written warning, with opportunities for an individual to correct any noted violations, a written citation would be issued. The amount of the citation is dependent on the ordinance that was violated as listed in proposed NRO 74-4. Once a citation is issued, the owner has ten days to correct the issue and pay the fine. After ten days, the fine is increased by \$50 and they have an additional ten days to correct the issue and pay the fine.

The citation authority has been designed to follow the same processing system used for parking violations in Nashua. Citations can be mailed into City Hall (they will be issued with an envelope attached, using the same format as the paper parking tickets) or citizens may choose to come to City Hall and pay their fine in the rotunda. The revenue from citations will go to the general fund.

If a citation is issued and an individual does not comply within the allotted timeframe, the case may be escalated to court. The individual will then be served a summons and given an arraignment date. The enabling RSA, which gives the City the authority to create

such a system (RSA 31:39c) provides a summons form to be filled out and submitted to the court house for docketing (RSA 31:39d).

The goal of this proposed citation authority is to achieve compliance for outstanding violations in the shortest timeframe possible.

CC: Jim Donchess, Mayor  
Steven Galipeau, Fire Chief  
Adam Pouliot, Fire Marshalls Office  
Bobbie Bagley, Public Health Director  
Celia Leonard, Corporation Counsel



## **ORDINANCE**

### **ADMINISTRATIVE ENFORCEMENT OF ORDINANCES**

### ***CITY OF NASHUA***

*In the Year Two Thousand and Sixteen*

*The City of Nashua ordains* that Part II “General Legislation” of the Nashua Revised Ordinances as amended, is hereby further amended by adding the following new Chapter as follows:

“Chapter 74

### **ADMINISTRATIVE ENFORCEMENT OF ORDINANCES**

#### **§ 74-1. Citation authority.**

City departments or officials charged with the responsibility for enforcing the ordinances and codes of the city are hereby authorized to issue citations for any violation of the ordinances or codes that they are responsible for enforcing. The enforcement authority provided hereby is provided for in RSA 31:39-c and is in addition to the authority for ordinance and code enforcement that currently exists.

#### **§ 74-2. Citation defined.**

A citation is a written and/or printed notice describing a specific violation of a city ordinance or code which is served on the person responsible for the violation. Each day on which a violation exists or occurs is a separate offense, and a citation may be issued for each offense. A citation shall be served in the manner described in this chapter, and shall contain the following information:

- A. A clear and concise description of the violation.
- B. The location of the violation and the date and time on which it was observed.
- C. The name and address of the person responsible for the violation.
- D. The penalty for the violation as provided for in this chapter.
- E. A statement or table describing the penalties for future occurrences of the same violation.
- F. A statement as to whether the citation is being issued for a first, second, or subsequent offense.

- G. The name and address of the office to which the payment of the penalty may be made.
- H. The time period during which a reduced penalty may be paid in full satisfaction of the citation.
- I. Notification that failure to pay the penalty may result in court action.
- J. The signature and printed name and department of the individual issuing the citation.

**§ 74-3. Service of citation.**

- A. Any citation shall be served by the official issuing it in any one of the following ways:
  - (1) In hand to the person responsible for the violation; or
  - (2) By certified, registered or U.S. Postal Service first class mail, to the last known address of the person responsible for the violation, or as listed with the NH Division of Motor Vehicles.
- B. The official serving the citation shall maintain a record of the date, time, and manner of service of the citation including the post office receipt if service was accomplished by registered or certified mail.

**§ 74-4. Citation penalties.**

- A. (1) The penalties for any offense relating to the following ordinances for which a citation has been issued shall be as follows:

Table 4-1

NRO	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	DESCRIPTION
§ 182-28	\$ 50.00	\$ 100.00	\$ 250.00	Exterior standards.
§ 182-29	\$ 50.00	\$ 100.00	\$ 250.00	Interior standards.
§ 182-30	\$ 50.00	\$ 100.00	\$ 250.00	Premises and accessory structure standards.
§ 182-31	\$ 50.00	\$ 100.00	\$ 250.00	Emergency and Code Enforcement Dept Information
§ 182-32	\$ 50.00	\$ 100.00	\$ 250.00	Standards.
§ 182-33	\$ 50.00	\$ 100.00	\$ 250.00	Sanitary facilities
§ 182-34	\$ 50.00	\$ 100.00	\$ 250.00	Mechanical requirements
§ 182-35	\$ 50.00	\$ 100.00	\$ 250.00	Electrical requirements
§ 182-36	\$ 50.00	\$ 100.00	\$ 250.00	Means of Egress Standards
§ 182-37	\$ 50.00	\$ 100.00	\$ 250.00	Lodging Units
§ 182-38	\$ 50.00	\$ 100.00	\$ 250.00	Number of exitways
§ 182-39	\$ 50.00	\$ 100.00	\$ 250.00	Egress Doors
§ 182-40	\$ 50.00	\$ 100.00	\$ 250.00	Fire Escapes and Ladders
§ 182-41	\$ 50.00	\$ 100.00	\$ 250.00	Smoke detectors/alarm devices
§ 182-42	\$ 50.00	\$ 100.00	\$ 250.00	Fire Suppression systems
§ 170-2	\$ 100.00	\$ 250.00	Court Appearance	FS License required
§ 170-5	\$ 100.00	\$ 250.00	\$ 500.00	CV 01-Food source, condition, spoilage

He-P 2303.01 + .02 (a)-(o)				
§ 170-5 He-P 2304.04-22	\$ 100.00	\$ 250.00	\$ 500.00	CV 03-Food protection-PHF meets temp requirements
§ 170-5 He-P 2304.23+24	\$ 100.00	\$ 250.00	\$ 500.00	CV 04-Food protection-facilities maintain product temps
§ 170-5 He-P 2304.29-35	\$ 100.00	\$ 250.00	\$ 500.00	CV 07-Food protection-unwrapped + PHF not re-served
§ 170-5 He-P 2305.01-05	\$ 100.00	\$ 250.00	\$ 500.00	CV 11-Personnel with infections restricted
§ 170-5 He-P 2305.06-08	\$ 100.00	\$ 250.00	\$ 500.00	CV 12-Personnel-hands washed and good hygienic practices
§ 170-5 He-P 2310.03	\$ 100.00	\$ 250.00	\$ 500.00	CV 20-Food Equip. + Utensils-sanitized, etc.
§ 170-5 He-P 2311	\$ 100.00	\$ 250.00	\$ 500.00	CV 27-Water source-hot and cold
§ 170-5 He-P 2312	\$ 100.00	\$ 250.00	\$ 500.00	CV 28-Sewage and waste water disposal
§ 170-5 He-P2313.02	\$ 100.00	\$ 250.00	\$ 500.00	CV 30-Plumbing-cross connection, backflow, etc.
§ 170-5 Plu 700 + He-P 2314.01-03	\$ 100.00	\$ 250.00	\$ 500.00	CV 31-Toilet + Hand washing Facilities
§ 170-5 He-P2316	\$ 100.00	\$ 250.00	\$ 500.00	CV 35-Insect, Rodent Animal Control
§ 170-5 He-P 2321	\$ 100.00	\$ 250.00	\$ 500.00	CV 41-Other Operations-Toxic items
Chap. 105 Art. II	\$ 50.00	\$ 100.00	\$ 200.00	Building Violation
Chap. 105 Art. III	\$ 50.00	\$ 100.00	\$ 200.00	Mechanical Violation
Chap. 105 Art. IV	\$ 50.00	\$ 100.00	\$ 200.00	Plumbing Violation
Chap. 105 Art. V	\$ 50.00	\$ 100.00	\$ 200.00	Electrical Violation
§ 190 -146	\$ 200.00	\$ 400.00	Court Appearance	Site Plan Violation
§ 190-135	\$ 200.00	\$ 400.00	Court Appearance	Subdivision Plan Violation
§ 190-15	\$ 100.00	\$ 200.00	Court Appearance	Zoning Use Violation
§ 190-16	\$ 100.00	\$ 200.00	Court Appearance	Zoning Dimensional Violation
Chap. 190, Art. X	\$ 100.00	\$ 200.00	Court Appearance	Sign Violation
Chap. 190, Art. XI	\$ 100.00	\$ 200.00	Court Appearance	Wetlands Violation
Chap. 190, Art VII	\$ 100.00	\$ 200.00	Court Appearance	Flood Plain Violation
Chap. 156 Art. IV NFPA 1	\$ 200.00	\$ 400.00	Court Appearance	Exceeding occupancy capacity of the posted Place of Assembly Permit
Chap. 156 Art. IV NFPA 17A	\$ 100.00	\$ 200.00	Court Appearance	Failure to maintain kitchen hood suppression system
Chap. 156 Art. IV NFPA 96	\$ 100.00	\$ 200.00	Court Appearance	Failure to maintain cooking hood and ventilation system
Chap. 156 Art. IV NFPA 25	\$ 150.00	\$ 300.00	Court Appearance	Failure to maintain the buildings water based fire protection system
Chap. 156 Art. IV NFPA 72	\$ 150.00	\$ 300.00	Court Appearance	Failure to maintain the buildings fire alarm system

(2) If any penalty set forth in Table 4-1 is not paid within ten days of the date the citation was issued, the penalty shall be the amount set forth in Table 4-1 of this subsection plus \$50 up to a maximum of \$1,000.

B. The penalties for any other offense for which a citation has been issued shall be as follows:

- (1) First offense - \$50 if paid within ten days; \$100 thereafter.
- (2) Second offense - \$100 if paid within ten days; \$150 thereafter.
- (3) Subsequent offense - \$200 if paid within ten days; \$250 thereafter.

- C. Second and subsequent offenses are offenses that occur within twelve months of the first offense.

**§ 74-5. Penalty.**

Whenever any person fails to pay any penalty imposed pursuant to a citation issued under the authority granted by this chapter, § 1-12, or § 1-13, such person shall be guilty of a violation and shall, upon conviction, be punished by a fine not to exceed the maximum allowed by RSA 47:17 or other applicable law for each offense. Each citation penalty, which is not paid, shall constitute a separate offense. If the administrative enforcement system established in the Code is unsuccessful at resolving alleged violations, a summons may be issued as otherwise provided by law, including use of the procedure for plea by mail set forth in RSA 31:39-d.”

All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

*It is further ordained* that the Nashua Revised Ordinances as amended, is hereby further amended as follows:

1. In Part II “General Legislation”, Chapter 182 “Housing Standards”, Article IV “Enforcement”, “Section 23, “Contents, service of notice of violation,” by deleting the struck through language as follows:
  - A. Whenever the Housing Inspector determines that there has been or is a violation, or that there are reasonable grounds to believe that there has been or is a violation of any provision of this chapter, he shall give notice of such violation or alleged violation to the person or persons responsible therefor. Such notice shall:
    - (1) Be in writing;
    - (2) Include a description of the real estate sufficient for identification;
    - (3) Specify the violation which exists and the remedial action required;
    - (4) Allow a reasonable time for the performance of any act it requires.
  - B. Notices of violation, complaints, or orders shall be deemed to be properly served upon the person responsible for an alleged violation if a copy thereof is delivered to him personally, or left at his usual place of abode or business with a person of suitable age and discretion who shall be informed of the contents thereof, or sent by first-class mail to his last known address, or posted in a conspicuous place on or about the premises affected, or served, delivered or published in any other way reasonably calculated to provide actual notice.
  - ~~C. Notice of violation under this section includes warnings and citations issued pursuant to § 182-24 of this chapter.~~
2. In Part II “General Legislation”, Chapter 182 “Housing Standards”, Article IV “Enforcement”, “Section 24, “Warnings and citations,” by deleting the section in its entirety.

~~A. Generally. The head of the Code Enforcement Department and his designee may issue warnings or citations to any person, natural or otherwise, including but not limited to any owner, landlord, agent, tenant, lessee or sublessee, who shall violate a provision of this chapter or permit, allow or suffer any violation of this chapter, or who fails to comply with an order or orders issued in accordance with the provisions of this chapter. Such warnings or citations may be employed as either substitution for or preliminary to and without limitation to other remedies available to the City. Such warnings and citations shall be in accordance with the procedures established by the head of the Code Enforcement Department.~~

~~B. Action on warnings. Warnings shall be written upon standard forms authorized by the head of the Code Enforcement Department. Warnings shall specify the reason for the warning and shall direct abatement of such condition which caused the issuance of such warnings within a reasonable and certain period of time. Where warnings elicit compliance as directed, the Code Official may cause such warnings to be filed without further action.~~

~~C. Action on citations. Citations shall be written upon standard forms authorized by the head of the Code Enforcement Department. Citations shall specify the reason for the citation and shall direct abatement of such conditions which cause the issuance of such citations within a reasonable and certain period of time. Where citations elicit compliance as directed, the Code Official may cause such citations to be filed without further action after applicable fees, as provided by this chapter, have been paid.~~

~~D. Fees for citations.~~

~~(1) The following fees for citations are generally intended to defray administrative costs incurred by the City in obtaining abatement of conditions which cause the issuance of such citations:~~

~~(a) For each citation issued and one reinspection to subject property: \$15.~~

~~(b) For each additional reinspection or attempted reinspection: \$25.~~

~~(2) Payment of fees provided herein shall be deemed to be an administrative fee, freely paid without future recovery or other action against the City, its official, employees or agents.~~

3. In Part II "General Legislation", Chapter 182 "Housing Standards", Article IV "Enforcement", "Section 26, "Violations and penalties," by deleting the struck-through language and adding the new underlined language as follows:

Any person who shall violate any provision of this chapter shall, upon conviction thereof, be punished as provided in § 1-12 of the City Code ~~subject to a fine of not less than \$25 nor more than \$100 at the discretion of the court.~~ Every day a violation continues after due notice has been served in accordance with the terms and provisions of this chapter shall be deemed a separate offense.

This legislation shall take effect following its passage.