

1 9. A statement that the citation represents a determination that a violation has
2 been committed by the person named in the citation and that the determination shall be final
3 unless contested as provided in this chapter; and

4 10. A certified statement of the inspector issuing the citation, authorized by RCW
5 9A72.085, setting forth facts supporting issuance of the citation.
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7 B. Service. The citation may be served by personal service in the manner set forth in
8 RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known
9 address of such person(s). Service shall be complete at the time of personal service, or if mailed,
10 on the date of mailing. If a citation sent by first class mail is returned as undeliverable, service
11 may be made by posting the citation at a conspicuous place on the property.
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13 Section 2. A new section 10.52.032 is added to the Seattle Municipal Code as follows:

14 **10.52.032 - Response to citations.**

15 A. A person must respond to a citation in one (1) of the following ways:

16 1. Paying the amount of the monetary penalty specified in the citation, in which
17 case the record shall show a finding that the person cited committed the violation; or
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19 2. Requesting in writing a mitigation hearing to explain the circumstances
20 surrounding the commission of the violation and providing a mailing address to which notice of
21 such hearing maybe sent; or
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23 3. Requesting a contested hearing in writing specifying the reason why the cited
24 violation did not occur or why the person cited is not responsible for the violation, and providing
25 a mailing address to which notice of such hearing may be sent.
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1 B. A response to a citation must be received by the Office of the Hearing Examiner no
2 later than fifteen (15) days after the date the citation is served. When the last day of the appeal
3 period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until
4 five p.m. on the next business day.

5 Section 3. A new section 10.52.033 is added to the Seattle Municipal Code as follows:

6 **10.52.033 - Failure to respond.**
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8 If a person fails to respond to a citation within fifteen (15) days of service, an order shall
9 be entered by the Hearing Examiner finding that the person cited committed the violation stated
10 in the citation, and assessing the penalty specified in the citation.

11 Section 4. A new section 10.52.034 is added to the Seattle Municipal Code as follows:

12 **10.52.034 Mitigation hearings.**
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14 A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing
15 shall be held within thirty (30) days after written response to the citation requesting such hearing
16 is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be
17 sent by first class mail to the address provided in the request for hearing not less than ten (10)
18 days prior to the date of the hearing.
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20 B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing, which
21 shall not be governed by the Rules of Evidence. The person cited may present witnesses, but
22 witnesses may not be compelled to attend. A representative from DPD may also be present and
23 may present additional information, but attendance by a representative from DPD is not required.
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25 C. Disposition. The Hearing Examiner shall determine whether the person's explanation
26 justifies reduction of the monetary penalty; however, the monetary penalty may not be reduced
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1 unless DPD affirms or certifies that the violation has been corrected prior to the mitigation
2 hearing. Factors that may be considered in whether to reduce the penalty include whether the
3 violation was caused by the act or neglect of another; or whether correction of the violation was
4 commenced promptly prior to citation but that full compliance was prevented by a condition or
5 circumstance beyond the control of the person cited.
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7 D. Entry of Order. After hearing the explanation of the person cited and any other
8 information presented at the hearing, the Hearing Examiner shall enter an order finding that the
9 person cited committed the violation and assessing a monetary penalty in an amount determined
10 pursuant to this section. The Hearing Examiner's decision is the final decision of the City on this
11 matter.
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13 Section 5. A new section 10.52.035 is added to the Seattle Municipal Code as follows:

14 **10.52.035 - Contested case hearing.**

15 A. Date and Notice. If a person requests a contested case hearing, the hearing shall be
16 held within sixty (60) days after the written response to the citation requesting such hearing is
17 received.
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19 B. Hearing. Contested case hearings shall be conducted pursuant to the procedures for
20 hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing
21 Examiner for hearing contested cases, except as modified by this section. The issues heard at the
22 hearing shall be limited to those raised in writing in the response to the citation and that are
23 within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for
24 the attendance of witnesses and the production of documents.
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1 C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed
2 statement of the facts constituting the specific violation which the person cited is alleged to have
3 committed or by reason of defects or imperfections, provided such lack of detail, or defects or
4 imperfections do not prejudice substantial rights of the person cited.

5 D. Amendment of Citation. A citation may be amended prior to the conclusion of the
6 hearing to conform to the evidence presented if substantial rights of the person cited are not
7 thereby prejudiced.

8 E. Evidence at Hearing. The certified statement or declaration authorized by RCW
9 9A.72.085 to be submitted by an inspector shall be prima facie evidence that a violation occurred
10 and that the person cited is responsible. The certified statement or declaration of the inspector
11 authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be
12 admissible without further evidentiary foundation. Any certifications or declarations authorized
13 under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The
14 person cited may rebut the DPD evidence and establish that the cited violation(s) did not occur
15 or that the person contesting the citation is not responsible for the violation.
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19 F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall
20 enter an order finding that the person cited committed the violation. If the violation remains
21 uncorrected, the Hearing Examiner shall impose the applicable penalty. The Hearing Examiner
22 may reduce the monetary penalty in accordance with the mitigation provisions in Section
23 10.52.034 if the violation has been corrected. If the Hearing Examiner determines that the
24 violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.
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1 G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any
2 judicial review must be commenced within twenty-one (21) days of issuance of the Hearing
3 Examiner's decision in accordance with RCW 36.70C.040.

4 Section 6. A new section 10.52.036 is added to the Seattle Municipal Code as follows:

5 **10.52.036 - Failure to appear for hearing.**
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7 Failure to appear for a requested hearing will result in an order being entered finding that
8 the person cited committed the violation stated in the citation and assessing the penalty specified
9 in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the
10 Hearing Examiner may set aside an order entered upon a failure to appear.

11 Section 7. A new section 10.52.037 is added to the Seattle Municipal Code as follows:

12 **10.52.037 Penalties.**
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14 A. First Violation. The first time that a person or entity is found to have violated one of
15 the provisions referenced in SMC 10.52.030 after the effective date of the ordinance codified in
16 this chapter, the person or entity shall be subject to a penalty of One Hundred Fifty Dollars
17 (\$150).
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19 B. Second and Subsequent Violations. Any subsequent time that a person or entity is
20 found to have violated one (1) of the provisions referenced in Section 10.52.030 within a five
21 (5)year period after the first violation, the person or entity shall be subject to a penalty of Five
22 Hundred Dollars (\$500) for each such violation.

23 Section 8. A new section 10.52.038 is added to the Seattle Municipal Code as follows:

24 **10.52.038 - Each day a separate violation.**
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1 Each day a person or entity violates or fails to comply with a provision of this Chapter
2 may be considered a separate violation for which a citation may be issued.

3 Section 9. A new section 10.52.041 is added to the Seattle Municipal Code as follows:

4 **10.52.041 - Abatement.**

5 Any property on which there continues to be a violation of any of the provisions
6 referenced in Section 10.52.030 after enforcement action taken pursuant to this chapter is hereby
7 declared a nuisance. The Director is hereby authorized to summarily abate such violation. The
8 costs of such abatement shall be collected from the owner in a manner authorized by law.
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10 Section 10. A new section 10.52.042 is added to the Seattle Municipal Code as follows:

11 **10.52.042 - Additional relief.**

12 The Director may seek legal or equitable relief at any time to enjoin any acts or practices
13 or abate any condition that violates the provisions referenced in this Chapter.
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15 Section 12. A new Section 10.52.051 of the Seattle Municipal Code is adopted as
16 follows:

17 **10.52.051 Collection of penalties.**

18 If the person cited fails to pay a penalty imposed pursuant to this chapter, the penalty
19 may be referred to a collection agency. The cost to the City for the collection services will be
20 assessed as costs, at the rate agreed to between the City and the collection agency, and added to
21 the judgment. Alternatively, the City may pursue collection in any other manner allowed by law.
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1 Section 13. Sections 10.52.050, 10.52.080, and 10.52.090 of the Seattle Municipal
2 Code, which sections were adopted by Ordinance 114355, are hereby repealed.

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4 Section 14. This ordinance shall take effect and be in force thirty (30) days from and
5 after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
6 days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.
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9 Passed by the City Council the ____ day of _____, 2006, and signed by me in
10 open session in authentication of its passage this ____ day of _____, 2006.

11
12 _____
13 President _____ of the City Council

14 Approved by me this ____ day of _____, 2006.

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16 _____
17 Gregory J. Nickels, Mayor

18 Filed by me this ____ day of _____, 2006.

19 _____
20 City Clerk

21 (Seal)