

TITLE I: GENERAL PROVISIONS

Chapter

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## CHAPTER 10: GENERAL PROVISIONS

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### **§ 10.01 TITLE OF CODE.**

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the city code, for which designation code of ordinances, codified ordinances, or code may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

## General Provisions

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the Traffic Code. Sections may be referred to and cited by the designation “§” followed by the number, such as § 10.01. Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

### **§ 10.02 RULES OF INTERPRETATION.**

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance.

(1) **AND** or **OR.** Either conjunction shall include the other as if written and/or, whenever the context requires.

(2) *Acts by assistants.* When a statute, code provision, or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

### **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

#### **§ 10.04 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

#### **§ 10.05 DEFINITIONS.**

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The area within the corporate boundaries of the City of Pine River, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term CITY when used in this code may also be used to refer to the City Council and its authorized representatives.

**CODE, THIS CODE, or THIS CODE OF ORDINANCES.** This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY.** Cass County, Minnesota, in which the city is located.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation,

copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING** or **FOLLOWING**. Next before or next after, respectively.

**SHALL**. The act referred to is mandatory.

**SIGNATURE** or **SUBSCRIPTION**. Includes a mark when the person cannot write.

**STATE**. The State of Minnesota.

**SUBCHAPTER**. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have **SUBCHAPTERS**.

**WRITTEN**. Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR**. A calendar year, unless otherwise expressed.

#### **§ 10.06 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

#### **§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in 1 section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered, unless the subject matter is changed or materially altered by the amendment or revision.

#### **§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

### **§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

### **§ 10.10 OFFICIAL TIME.**

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

### **§ 10.11 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

### **§ 10.12 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

### **§ 10.13 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

**§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

**§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force, unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

**§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

**§ 10.17 PRESERVATION OF PENALTIES, OFFENSES, RIGHTS, AND LIABILITIES.**

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. In particular, any agreement granting permission to utilize highway rights-of-way, contracts entered into or franchises granted, the acceptance, establishment, or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not

been enacted.

### **§ 10.18 COPIES OF CODE.**

The official copy of this code shall be kept in the office of the City Clerk-Treasurer for public inspection. The Clerk-Treasurer shall provide a copy for sale for a reasonable charge.

### **§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

It is the intention of the City Council that, when adopting this code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced as if they had been in existence at the time this code was adopted, unless there is clear intention expressed in the code to the contrary.

### **§ 10.99 GENERAL PENALTY.**

(A) *Generally.* Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.

(B) *Petty misdemeanor.* Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.

(C) *Costs of prosecution.* In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(D) *Failure to perform duty.* The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

(E) *Additional remedies.* In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.



(F) *Administrative penalties.*

(1) *Purpose.* The City Council determines that there is a need for alternative methods of enforcing the city code. Administrative offense procedures established pursuant to this chapter are intended to provide the public and city with an informal cost effect, and expeditious alternative to traditional criminal charges for violations of certain ordinance provisions. The City Council therefore finds the use of administrative citation and imposition of civil penalties is a legitimate and necessary alternative enforcement method, which will be in addition to any other legal remedy that may be pursued for code violation.

(2) *Administrative offense.* An administrative offense is a violation for any division in divisions (A) through (E), above, when one performs an act prohibited or fails to act when the failure is prohibited, and is subject to the penalties set forth in divisions (A) through (E), above, and the city's penalty schedule.

(3) *Notice.* Any police officer, in criminal and traffic matters; the city Building Inspector, or any other person employed by the city with the authority to enforce the code shall, upon determining that there has been a violation, the person responsible for the violation, or in the case of an unoccupied vehicular violation, attach notice of the violation to the vehicle. The notice shall state the nature, date, and time of the violation, the name of the official issuing the notice, the amount of the scheduled penalty and applicable charges.

(4) *Payment.* Once notice is given, the person responsible for the violation may, within 7 days after the notice is given or attached, pay the penalty amount set forth on the schedule of penalties for the violation in the notice. The penalty may be paid in person or by mail, postmarked the day before the end of the 7-day period set forth in this division at division (5), below, and mailed to the office of the City Clerk-Treasurer.

(5) *Hearing.* Any person contesting an administrative offense pursuant to this chapter, or any person failing to pay the penalty amount set forth in the schedule of penalties within 7 days of the date of being given the notice, shall receive a petty misdemeanor or misdemeanor citation under Minnesota state law. The city ordinance citation shall thereafter be dismissed.

(6) *Failure to pay.* If a violator fails to pay a penalty imposed by this division (F) within 7 days of the violation notice the city may seek criminal sentencing by bringing a misdemeanor or petty misdemeanor charge against the alleged violator according to this code and applicable law. If the violator pays the penalty or if the District Court finds the individual not to have committed the administrative offense, the city shall not bring a criminal charge for the same violation.

(7) *Disposition of penalties.* All penalties collected under this division shall be paid over to the office of the City Clerk-Treasurer, who shall issue a receipt.

General Provisions

(8) *Offenses and penalties.* Offenses which may be charged as administrative offenses and the penalties for such offenses may be established by a resolution of the City Council from time to time. Copies of such resolutions shall be maintained in the Office of the City Clerk-Treasurer.

(9) *Appeal.* An aggrieved party may obtain judicial review of any administrative citation according to state law.

(10) *Option to withdraw.* The procedures are intended to be voluntary on the part of those who have been charged with the administrative offenses instead of criminal misdemeanors and petty misdemeanors. The individual charged with an administrative violation may fail to pay the penalty within 7 days of the date of violation notice, or, may withdraw from participation in the procedures by oral or written notice to the city within the 7-day period, whereupon the city, at any time before paying the administrative penalty as is provided in this division, may bring criminal charges according to this code and state law. Likewise, nothing in this division shall prohibit the city, in its discretion, to initiate criminal charges under state law in lieu of the administrative offense.  
(Ord. 98.01, passed - -2003)

(11) *Penalty schedule.* The administrative offense penalties applicable to this division are on file in the office of the City Clerk-Treasurer.

CHAPTER 11: BACKGROUND CHECKS

ORDINANCE NO. 2013-2  
ORDINANCE RELATING TO CRIMINAL HISTORY BACKGROUND  
FOR APPLICANTS FOR CITY EMPLOYMENT AND CITY LICENSES

BE IT ORDAINED by the Mayor and Council of the City of Pine River in Cass County, Minnesota, as follows:

Section 1. That the Pine River City Code shall be amended by adding a new Chapter , as follows:

CHAPTER 11  
EMPLOYMENT BACKGROUND CHECKS

SECTION:

1. APPLICANTS FOR CITY EMPLOYMENT

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of employment background checks for the positions described in Section 2.

2. CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS: The Pine River Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following positions within the city, unless the city's hiring authority concludes that a background investigation is not needed:

Employment positions:

All regular full-time and part-time employees of the City

In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the hiring authority, including the City Council, the City Clerk, other Department Heads involved in the hiring process including the Fire Chief.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for employment on the basis of the applicant's prior conviction unless the crime was directly related to the position of employment sought and the conviction was for a felony, gross misdemeanor, or misdemeanor and a jail sentence was included as part of the penalty. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reasons for the denial.
- B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- C. The earliest date the applicant may reapply for employment.
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 3 That the Pine River City Code shall be amended by adding a new Chapter ,  
as follows:

CHAPTER  
LICENSE BACKGROUND CHECKS

SECTION:

1 APPLICANT'S FOR CITY LICENSES

PURPOSE: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks.

2 CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS: The Pine River Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on the applicants for the following licenses within the city:

CITY LICENSES:

Owners and Managers of alcohol selling establishments  
All employees who sell alcohol at these establishments  
Any person requesting a peddler's license

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions Computerized Criminal History information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the chief law enforcement official or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Police Department to the licensing authority, including the City Council, the City Clerk, other Department Heads involved in the hiring process including the Fire Chief.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chap. 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 364.09, the city will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime was directly related to the license sought and the conviction was for a felony, gross misdemeanor, or misdemeanor and a jail sentence was included as part of the penalty. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reasons for the denial.
- B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- C. The earliest date the applicant may reapply for the license.
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

Section 2 That this ordinance shall take effect upon its passage and publication.

Passed by the City Council of the City of Pine River this 12<sup>th</sup> day of March, 2013.

#### ORDINANCE NO. 98.2

### AN ORDINANCE AUTHORIZING ISSUANCE OF ADMINISTRATIVE CITATIONS AND CREATING AN ADMINISTRATIVE ENFORCEMENT PROGRAM; ADDING CHAPTER 12, ADMINISTRATIVE HEARINGS TO TITLE 1, GENERAL PROVISIONS TO THE PINE RIVER ORDINANCES

The City Council of Pine River Minnesota, ordains:

#### CHAPTER 12

#### SECTION 1.

General Provisions of the Pine River City Ordinances is hereby amended to add this ordinance as herein set forth as Chapter 12 Administrative Hearings;

A. Purpose. The city council finds that there is a need for alternative methods of enforcing the city code. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the city and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard city code violations as being important. Accordingly, the city council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement is in addition to any other legal remedy that may be pursued for city code violations.

B. General provisions.

1. Administrative offense. A violation of any provision of the city code is an administrative offense that may be subject to an administrative citation and civil penalties. Each day a violation exists constitutes a separate offense.

2. Exemption. Alcohol and tobacco license violations are not subject to administrative citation under this ordinance.

3. Civil penalty. An administrative offense may be subject to a civil penalty not to exceed the maximum penalty for a misdemeanor violation under state law.

4. Schedule of fines and fees. The city council has a schedule of fines for offenses initiated by administrative citation. The city council is not bound by that schedule when a matter is appealed to it for administrative review under section F. The city council may adopt a schedule of fees to be paid to administrative hearing officers.

C. Administrative citation procedures.

1. Administrative Citation. If the violator fails to correct the violation within the time period provided in the Administrative Notice, the city may issue an administrative citation. The city must issue the citation to the violator in person or by certified and regular mail. In the case of a vehicular offense, the citation may be attached to the motor vehicle. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation

2. Payment. The violator must either pay the scheduled fine or request a hearing within 7 days after issuance of the citation. Penalties for failure to correct the violation or late payment of the fine may be imposed as set forth in section G, subd. 4. The city may issue a second citation or take other legal action to achieve compliance with the ordinances.

D. Administrative hearing.

1. Hearing officers. The city council will periodically approve a list of qualified individuals, from which the city clerk will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer will be a public officer as defined by Minn. Stat., § 609.415. The hearing officer must not be a city employee. The city clerk must establish a procedure for evaluating the competency of the hearing officers, including comments from accused violators and city staff. These reports must be provided to the city council.

2. Removal of hearing officer. No later than five days before the date of the hearing, the violator may make a written request that the assigned hearing officer be removed from the case. The city clerk will automatically grant one request for removal.

A subsequent request must be directed to the assigned hearing officer who will decide whether they can fairly and objectively review the case. If the hearing officer determines they cannot fairly and objectively review the case, the hearing officer shall notify the city clerk in writing at least one day before the scheduled hearing date. The city clerk will then assign another hearing officer.

3. Notice of hearing. Within 30 days of the request for a hearing, the city clerk will schedule the hearing and will notify the violator and involved city staff of the date, time and place for the hearing. Parties are expected to be available for two hours. Notice of the hearing must be mailed to the violator and the hearing officer at least ten days in advance of the scheduled hearing, unless a shorter time is accepted by all parties. The notice must contain the names of the parties, the identity of the hearing officer, the location of the alleged violation and the type of violation alleged.

4. Continuance. A request for a continuance must be made to the city clerk at least five days prior to the scheduled hearing date. The city clerk may grant a continuance at the request of the violator or the city staff member only for good cause shown and for no more than ten days from the originally assigned date.

5. File transmittal.

- a. Upon receipt of any request for a hearing the city clerk's office will compile a summary report detailing the facts in support of any determination that the offense constitutes a violation. The summary report will include:
  1. copy of the citation issued;
  2. copy of the Administrative Notice, which preceded the citation;
  3. copy of any case history in the issuing employee's department;
  4. photographs and/or videotape of property where available;
  5. proof of mailing and/or posting of notice on the property if the citation was not personally served on the violator.
- b. The file must be ready for the hearing officer to pick up on the business day preceding the scheduled hearing.

6. Presentation of case. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence will not apply. The hearing officer must tape record the hearing and receive testimony and exhibits. The hearing officer must receive and give weight to evidence, including hearsay evidence, that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.

7. Decision.

a. The hearing officer must issue a written decision containing findings of fact, conclusions of law and an order. The decision will be mailed to the parties within ten days after the hearing. The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay, or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing officer may consider any or all of the following factors:

1. the duration of the violation;
2. the frequency of reoccurrence of the violation;
3. the seriousness of the violation;
4. the history of the violation;
5. the violator's conduct after issuance of the Administrative Notice and citation;
6. the violator's conduct after issuance of the notice of hearing;
7. the good faith effort by the violator to comply;
8. the impact of the violation upon the community;
9. prior record of city code violations; and
10. any other factors appropriate to a just result.

b. The hearing officer may not impose a fine greater than the established fine, except that the hearing officer may impose a fine for each week that the violation continues if: (i) the violation caused or is causing a serious threat of harm to the public health, safety, or welfare or (ii) the violator intentionally and unreasonably refused or refuses to comply with the code requirement.

8. Decision. Except as provided in sections E and F, the decision of the hearing officer is final without any further right of appeal.

9. Failure to appear. The failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death in the immediate family or documented incapacitating illness of the violator; a court order requiring the violator to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" does not include: forgetfulness; lack of transportation or child care; and intentional delay.



E. Judicial review.

1. An aggrieved party may obtain judicial review of the decision of the hearing officer as provided in state law.

2. Option to Withdraw. These procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. The individual may withdraw from participation in this administrative process by submitting a written request for withdrawal to the City Clerk within 7 days of the issuance of the Administrative Citation. Upon receiving this written request, the City may bring criminal or other civil charges according to this Code and State law. Likewise, nothing in this Ordinance shall prohibit the City, in its discretion, to initiate criminal charges or any other remedy in lieu of the administrative procedures herein set forth.

F. Administrative review.

1. Appeal. A violator may appeal the hearing officer's decision in any of the following matters to the city council for administrative review:

- a. an alleged failure to obtain a permit, license or other approval from the city council as required by an ordinance;
- b. an alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, that was granted by the city council; or
- c. an alleged violation of regulations governing a person or entity who has received a license granted by the city council.

2. Notice. The appeal under this section will be heard by the city council. Notice of the hearing must be delivered to the alleged violator or property owner and involved city staff, in person or by mail at least ten (10) days in advance of the hearing. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.

3. Decisions. The city council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The council is not bound by the hearing officer's decision, but may adopt all or part of the officer's decision. The council's decision must be in writing.

4. Suspension or Revocation. In addition to imposing a civil penalty, the council may suspend or revoke a city-issued license, permit, or other approvals associated with the violation.

G. Recovery of civil penalties.

1. Non-payment. If a civil penalty is not paid within the time specified, it will constitute:

- a. a lien on the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for that violation; or
- b. a personal obligation of the violator in all other situations.

2. Lien. A lien may be assessed against the property and collected in the same manner as taxes.

3. Personal obligation. A personal obligation may be collected by appropriate legal means.

4. Late Fees/Charges.

- a. If after seven days the fine has not been paid or a hearing requested, the fine will increase by 10% for each seven days thereafter for one month. After four weeks and four late fee charges have been added to the original fine, the total bill will be assessed to the property taxes and all City licenses will be revoked. For continued violations, the City will correct the violation and assess the charges for doing so onto the property taxes or criminal charges may be filed.
- b. If the same property and property owner are charged with a subsequent violation within a 12-month period for the same, or substantially similar offense, the fine will be increased by 25%. After a third infraction in a 12-month period the fine will increase by 50%, and after a fourth infraction by 100%.

5. License revocation or suspension. Failure to pay a fine is grounds for suspending or revoking a license related to the violation.

H. Criminal penalties.

a. The following are misdemeanors, punishable in accordance with state law:

1. Failure, without good cause, to pay a fine or request a hearing within 30 days after issuance of an administrative citation;
2. Failure, without good cause, to appear at a hearing that was scheduled under section F;
3. Failure to pay a fine imposed by a hearing officer within 30 days after it was imposed, or such other time as may be established by the hearing officer.

b. If the final adjudication in the administrative penalty procedure is a finding of no violation, then the city may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the city from pursuing a criminal conviction for a violation of the same provisions based on a different set of facts. A different date of violation will constitute a different set of facts.

SECTION 2. This ordinance shall be in full force and effect upon its passage and publication according to law.

Passed by the Pine River City Council on 7-14-2015

CITY OF PINE RIVER, MINNESOTA

By: \_\_\_\_\_  
Its Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Published in the newspaper on: 7/23/15

Recorded with the Cass County Recorder's Office on 8/10/15

This instrument was drafted by:  
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Attorney at Law  
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218-587-2350

RESOLUTION ADOPTING ADMINISTRATIVE OFFENSE PENALTIES

WHEREAS, the City Code of the City of Pine River authorized the City Council to establish fees by resolution; and

WHEREAS, the City Council of the City of Pine River has adopted an ordinance establishing a procedure for citing traffic and criminal matters as administrative offenses and providing for a schedule of offenses and administrative penalties; and

WHEREAS, said Ordinance 98.01 authorizes the City Council of the City of Pine River from time to time, to identify administrative offenses and establish penalties for such offenses.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Pine River that the following administrative offenses and penalties are hereby adopted:

<b>OFFENSE</b>	<b>PENALTY</b>
Peddlers and Hawkers	\$25.00
Illegal U-Turn	\$30.00
Trash	\$30.00
2 <sup>nd</sup> offense in 12 months	\$45.00
3 <sup>rd</sup> offense in 12 months	\$60.00
Parking Violations	
Fire Hydrant	\$60.00
Handicapped	\$60.00
Yellow Zone	\$60.00
Double Parking	\$60.00
Bicycle Violations (All)	\$10.00
Expired Plates	\$60.00
Fail to Register	\$60.00
Speed	\$60.00
Passing on Right where Prohibited	\$60.00
Unsafe Passing	\$60.00
Improper Turning, Starting Signaling	\$60.00
Fail to Yield Right of Way	\$60.00
Fail to Yield at Yield Sign	\$60.00
Fail to Yield to Pedestrian	\$60.00
Disobey Stop Sign	\$60.00
Stop, Stand or Park in Traffic Lane	\$60.00
Fail to Provide Required Lights	\$40.00
Vehicle Registration (current, clean, unobstructed, securely fastened)	\$60.00
Driving without license expired less than 1 year	\$60.00
Violation Restricted License	\$60.00
Illegal Driver's License	\$60.00
Improper Name, Address	\$30.00
Unreasonable Acceleration (this is also a misdemeanor)	\$60.00
Disorderly Conduct (this is also a misdemeanor)	\$100.00
Park and Beach Rule	\$30.00

Consume Alcohol in Public	\$60.00
Parking: Off Curbs and Alleys	\$30.00
Dog Running Loose	\$35.00
2 <sup>nd</sup> offense in 12 months	\$45.00
3 <sup>rd</sup> offense in 12 months	\$55.00
Unlicensed Dog	\$25.00
2 <sup>nd</sup> offense in 12 months	\$35.00
3 <sup>rd</sup> offense in 12 months	\$45.00
Blocking sidewalks	\$30.00
Seat Belt Violation	\$60.00
Using cell phone while driving (either talking or texting)	\$60.00
Juvenile curfew violation	\$60.00
Inattentive driving	\$60.00
(Resolution Adopting Administrative Offense Penalties Updated 2021)	