

ORDINANCE NO. 18-27

AN ORDINANCE AMENDING SECTION 106 (NOTICE AND ORDER APPEAL HEARINGS), 107 (APPEAL HEARING DECISION), AND REPEALLING SECTION 108 (APPEAL TO CITY COUNCIL; NOTICE AND ORDER APPEAL HEARING) ALL OF ARTICLE 5 (MUNICIPAL COURT REFEREE) OF CHAPTER 11 (MUNICIPAL COURT) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO MUNICIPAL COURT APPEAL HEARINGS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Section 106 (Notice and Order Appeal Hearings) of Article 5 (Municipal Court Referee) of Chapter 11 (Municipal Court) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

11.5.106: NOTICE AND ORDER / **REINSPECTION FEE ASSESSMENT** APPEAL HEARINGS:

A. Any owner or occupant of property aggrieved by the issuance of a notice and order **or the assessment of reinspection fees** by the Code Enforcement Administrator may appeal the notice and order **or the assessment of reinspectoin fees** by filing a notice of appeal with the Code Enforcement Administrator within ten (10) days of the date of mailing, posting or personal service of the notice and order **or the assessment of reinspection fees**. The written notice of appeal shall specify the grounds for the appeal and must include the following:

1. \* \* \*

2. An explanation of how the notice and order **or the assessment of reinspection fees** was improperly issued due to one or more of the following:

\* \* \*

B. Any person pursuing an appeal of the issuance of a notice and order shall be responsible for the payment of all fees and for the completion of all forms

that may be prescribed. Failure to pay any required fee or to properly complete any required form shall be deemed a waiver of the right to appeal.

C. The hearing date before the Referee shall be at least twenty two (22) days after the date of filing of the notice of appeal. **The Referee shall notify the Code Enforcement Administrator of the hearing date, time and location and the Code Enforcement Administrator shall post public notice of the hearing date, time and location conspicuously upon the affected premises. The Code Enforcement Administrator or designee may appear at the hearing but is not required to do so.**

D. \* \* \*

E. A verbatim record of the public hearing shall be kept and the Referee shall preserve the findings of fact and conclusions of law in the record for each item or matter heard for at least sixty (60) days after final agency action by the Referee., ~~or if appealed to City Council pursuant to section 11.5.108 of this article, at least sixty (60) days after City Council's decision.~~

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Section 2. Section 107 (Appeal Hearing Decision) of Article 5 (Municipal Court Referee) of Chapter 11 (Municipal Court) of the Code of the City of Colorado Springs 2001, as amended, is amended as follows:

11.5.107: APPEAL HEARING DECISION:

A. The Referee shall make a decision on each appeal after considering the evidence presented at the hearing. The Referee shall determine whether: 1) the notice and order **or the assessment of reinspection fees** was properly issued in accord with the provisions of the City Code, and 2) there are grounds for the ordered abatement **or assessment of reinspection fees**, and shall render the decision by making findings of fact and conclusions of law that support the decision. Whenever particular review criteria are set forth in the City Code, the Referee shall apply the findings of fact to the criteria.

B. The Referee's decision shall be final agency action. ~~under the applicable state statutes unless appealed to City Council pursuant to section 11.5.108 of this article. Failure to appeal the Referee's decision within ten (10) days of the date of the decision shall be deemed a waiver of the appellant's right to appeal to the courts under Rule 106 of the Colorado Rules of Civil Procedure for failure to exhaust administrative remedies.~~

Section 3. Section 108 (Appeal to City Council; Notice and Order Appeal Hearing) of Article 5 (Municipal Court Referee) of Chapter 11 (Municipal Court) of the Code of the City of Colorado Springs 2001, as amended, is hereby repealed and omitted.

Section 4. This ordinance shall be in full force and effect after its final adoption and publication as provided by Charter.

Section 5. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

— Introduced, read, passed on first reading and ordered published this 27<sup>th</sup> day of March, 2018.

**Finally passed:** April 10<sup>th</sup>, 2018

  
\_\_\_\_\_  
Council President

**Mayor's Action:**


- Approved on April 12, 2018.
- Disapproved on \_\_\_\_\_, based on the following objections:

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\_\_\_\_\_  
Mayor

**Council Action After Disapproval:**

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
Council President

ATTEST:

  
\_\_\_\_\_  
Sarah B. Johnson, City Clerk



I HEREBY CERTIFY, that the foregoing ordinance entitled “AN ORDINANCE AMENDING SECTION 106 (NOTICE AND ORDER APPEAL HEARINGS), 107 (APPEAL HEARING DECISION), AND REPEALLING SECTION 108 (APPEAL TO CITY COUNCIL; NOTICE AND ORDER APPEAL HEARING) ALL OF ARTICLE 5 (MUNICIPAL COURT REFEREE) OF CHAPTER 11 (MUNICIPAL COURT) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO MUNICIPAL COURT APPEAL HEARINGS” was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on March 27<sup>th</sup>, 2018; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 10<sup>th</sup> day of April, 2018, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 12<sup>th</sup> day of April, 2018.

  
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Sarah B. Johnson, City Clerk

1<sup>st</sup> Publication Date: March 30<sup>th</sup>, 2018

2<sup>nd</sup> Publication Date: April 18<sup>th</sup>, 2018

Effective Date: April 23<sup>rd</sup>, 2018

Initial:   
\_\_\_\_\_  
City Clerk