

ORDINANCE NO.: 30-09 N.S.

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND
AMENDING SUBSECTIONS 2.62.060, 2.62.100, 2.62.105. AND 2.62.130 OF
SECTION 2.62 OF THE RICHMOND MUNICIPAL CODE RELATING TO
APPEALS OF ADMINISTRATIVE CITATIONS**

The City Council of the City of Richmond do ordain as follows:

SECTION 1: Subsections 2.62.060, 2.62.105, 2.62.100 and 2.62.130 of the Richmond Municipal Code is hereby added and/or amended to read as follows:

2.62.060 Appeal.

Any recipient of an administrative citation may appeal an administrative citation, or any order issued under Section 2.62.030(b), to contest the existence of a violation of the Code or that he or she is the responsible party. The appeal process shall be as follows:

- (a) Case Review. The recipient may request an informal case review with the Code Enforcement Supervisor within ten (10) days of the date of the citation.
- (b) Hearing Officer Appeal. Within fourteen (14) days of the date of the determination of the Code Enforcement Supervisor the recipient may file an appeal with the Administrative Hearing Officer. If the recipient wishes to forgo the case review, he or she must file the appeal with the Administrative Hearing Officer within fourteen (14) days of the date of the citation. The appeal must be made by completing a request for hearing form and returning it to the City within fourteen (14) days from the date of the administrative citation or the date of determination of the case review by the Code Enforcement Supervisor, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section 2.62.070.
- (c) The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.
- (d) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of this report also shall be served on the person requesting the hearing at least five (5) days prior to the date of the hearing.

2.62.100 Hearing Officer's Decision.

- (a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold, reduce or cancel the administrative citation and shall list in the decision the reasons for that decision.
- (b) If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the City shall be retained by the City pending final adjudication.

- (c) If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.
- (d) If the hearing officer determines that the administrative citation should be canceled or reduced and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine or the amount paid in excess of the reduced fine together with interest at the average rate earned on the City's portfolio for the period of time that the fine or excess fine amount was held by the City.
- (e) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.
- (f) The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount or number of administrative citation fines upheld by the hearing officer.

2.62.105 Appeal of Hearing Officer's Decision.

The decision of the hearing officer shall be appealable to the Public Safety Committee within fourteen (14) days of the date of the Hearing Officer's written determination in the following manner and time:

- (a) The appeal must be made by completing a request for Appeal form, including a brief and concise factual description of the issues on appeal and returning it to the City within fourteen (14) days of the date of the Hearing Officer's written findings.
- (b) The appeal shall be heard at the regularly scheduled Public Safety Commission meeting or City Council Meeting, or at any noticed special session. The appellant and City Staff shall each provide evidence supporting or refuting the violation at the appeal hearing. At the conclusion of the taking of evidence, the designated legislative body shall make its ruling on the appeal which shall be entered. The determination of the Public Safety Committee shall be final.

2.62.130 Right to Judicial Review.

Any person aggrieved by an administrative decision of the Public Safety Committee on an appeal of an administrative citation may obtain judicial review of the administrative decision by filing a petition seeking review in accordance with Government Code section 53069.4. This section shall be limited to proceedings under Chapter 2.62 of this Code only

SECTION 2. This Ordinance becomes effective 30 days after its final passage and adoption.

First read at a regular meeting of the City Council of the City of Richmond held on **June 17, 2008**, and finally passed and adopted at a regular meeting thereof held **October 6, 2009**, by the following vote:

AYES: Councilmembers Bates, Butt, Ritterman, Rogers, Viramontes,
Mayor McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: Vice Mayor Lopez

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of Ordinance No. 30-09 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting on October 6, 2009.