



Your Rights in a Civil Fine Citation Appeal

A Handbook for Pro Se Appellants

City and Borough of Juneau

Law Department

What is a Civil Fine Citation Appeal?

The civil fine citation appeal procedure gives people the opportunity to challenge civil violations and fines – like parking tickets – that they believe were wrongfully issued to them. Civil violation appeals are decided by the presiding hearing officer and are less formal than trials or courtroom hearings.

Legal requirements for the civil fine citation appeal process are in CBJ Code Sections 03.30.075 - 03.30.085.

Right to Counsel

You have the right to be represented by counsel throughout the appeals process at your own expense.

Standard of Review

If you appeal your civil violation, the CBJ will have to prove your violation to a hearing officer by clear and convincing evidence. The CBJ will most likely be represented by the police officer who issued the violation in your case, but other CBJ officials, including attorneys, could appear to defend the violation.

Filing an Appeal

You must file a completed “Civil Violation Appeal Form” (“appeal form”) with the CBJ Citation Hearing Officer within thirty (30) days of the date the violation was issued. The appeal form can be found at the CBJ Cash Office or online at www.Juneau.Org.

Failing to file your appeal within thirty (30) days of issuance of the citation will mean you waived your right to challenge the violation as well as any penalties, fees, and costs imposed for the violation.

With your written appeal form, you may attach evidence supporting your argument. Examples of the types of evidence that might help your case include signed statements by witnesses, photographs, and receipts for parking or dock payments. It will help the hearing officer make a fair determination in your case if you attach your evidence to the hearing form.

The appeal form asks whether you would like an oral hearing. If you choose to have an oral hearing, you will have the opportunity to present your arguments in a trial-like format. You will have the right to present personal testimony, testimony from witnesses using subpoenas issued by the CBJ, and other types of physical evidence, as well as to cross-examine the police officer who issued the violation. The hearing officer will also consider evidence filed in your appeal form.

If you request an oral hearing, be advised **you must appear at the hearing or your appeal will be dismissed and you will lose your opportunity to challenge the violation.**

If you do not request an oral hearing, then you have waived your right to such a hearing. The hearing officer will base the decision upon your written appeal form, written statements by you, written statements by the issuing officer, any statements by witnesses, and upon the hearing officer’s own observations.

Oral Hearing Procedures

At your oral hearing, the CBJ will have to prove you committed the civil violation by clear and convincing evidence in a trial-like format. You will then be able to present evidence and arguments to defend yourself.

The oral hearing will be conducted in the following stages with the CBJ speaking first during opening and closing statements:

- 1) Start of the hearing: The hearing officer will start the hearing by providing identifying information regarding the appeal on the record, including the parties, the rights of the parties, and explaining the hearing procedures.
- 2) Opening statements: Both sides may make brief statements previewing their expected evidence and arguments.
- 3) CBJ's Case: The CBJ will present its evidence showing that you committed a civil violation. Typically, this will mostly be testimony by the police officer who issued the violation. You will then have the opportunity to cross-examine the police officer.
- 4) Appellant's Case: You will then present your evidence and defenses through personal testimony, the testimony of witnesses, and physical evidence. Neither you nor your witnesses will be cross-examined, but the hearing officer may ask questions as necessary to ensure a complete and clear record of the case.
- 5) Rebuttal: At the hearing officer's discretion, both sides may make short rebuttal arguments. Rebuttal arguments are only to respond to the other side – not to introduce new arguments or to repeat arguments from your case.
- 6) Closing statements: Both sides may make a short closing argument to the hearing officer that will not be cross-examined.

Behavior in the Oral Hearing

While oral hearings are not as formal as courtroom proceedings, you will be expected to conduct yourself appropriately. Appellants should avoid making personal attacks on police officers or the hearing officer, cursing, and speaking out of turn.

Introducing Evidence in the Oral Hearing

Under the code, the formal Rules of Evidence do not apply at these hearings. The hearing officer has the discretion to decide what evidence will be admitted.

In determining what evidence should be admitted, the hearing officer will consider whether the evidence is relevant and material. Hearsay will be admitted if the hearing officer finds the evidence trustworthy.

Unreliable, untrustworthy, and irrelevant evidence will not be admitted.

The hearing officer may also stop you from presenting evidence that is repetitive, not related to the violation, argumentative, offensive, or otherwise inappropriate.

Again, the hearing officer has the discretion as to the admissibility of evidence.

Conducting Cross-Examination

Appellants have a right to cross-examine the City's representative at the oral hearing. Usually that will be the police officer who issued the civil violation.

When cross-examining the City, you should remain respectful and only ask questions that pertain to issues at hand in the hearing. You should only ask a question once and should avoid becoming argumentative or accusatory.

The Hearing Officer's Decision

The hearing officer can issue a written decision or an oral decision. The hearing officer, after hearing the evidence, will promptly present the decision.

Challenging the Decision – Reconsideration or Superior Court Appeal

Reconsideration and Rehearing

Up to fifteen (15) days from the decision, you have a right to request reconsideration of the decision, but only if you can show:

- 1) a substantial procedural error occurred;
- 2) the hearing officer was without jurisdiction; or
- 3) the decision was based on fraud or misrepresentation.

You must explain your grounds when you file the request. **Your reconsideration will be denied if one of the three reasons provided above are not addressed in your motion.** If you file a motion for reconsideration, you can also request a re-hearing.

The hearing officer will first review your motion to reconsider and rule upon it. If the hearing officer grants reconsideration, then a rehearing will be held if it has been requested. The rules at the rehearing will mirror the rules already outlined earlier. If you did not request a hearing, the hearing officer will rule based upon the written reconsideration provided. If the hearing officer denies the motion for reconsideration, then the citation amount and other fees are then due.

Superior Court Appeal

Alternatively, you can appeal the hearing officer's administrative decision to the Superior Court. See CBJ 03.30.085(h) and the Alaska Rules of Appellate Procedure, Rules 601 – 612 for more information