

Part 15 – Administrative Citations

Purpose

The procedures outlined in this Part 15 are adopted by the Chief Executive Officer of the Department of Aviation (“CEO”), pursuant to the authority conferred by Article II, Part 11 of the Charter of the City and County of Denver, Chapters 2 and 5 of the Denver Revised Municipal Code, and Title 41, Art. 4, Colorado Revised Statutes, in support of applicable Parts of the Denver Municipal Airport System Rules and Regulations. This part provides procedures for assessment of civil administrative citations for violations of the Denver Municipal Airport System’s Rules and Regulations. In accordance with D.R.M.C. § 1-13 (e) administrative citations assessed hereunder are intended to be cumulative in nature with including civil, criminal, and administrative actions, fines, sentences, penalties, judgements, and other remedies provided at law or in equity. The City may pursue any or all of the above remedies simultaneously or in succession.

Delegation of Authority

The CEO shall have the authority to delegate any authority or discretion granted in Chapter 2 , Section 2-281 *et seq.* of the Denver Revised Municipal Code. The CEO has designated as her representative and delegated her authority and discretion under Chapter 2, Section 2-281 *et seq.* of the Denver Revised Municipal Code, to the Department of Aviation’s Executive Vice President, Chief Operational Officer (“EVP”). Only the CEO and/or EVP may exercise authority and discretion granted under this Part.

15.01 Authority

15.01-1 Applicability

Any Responsible Party suspected of violating any provision of DEN Rules may be issued an administrative citation by an Enforcement Official.

15.01-2 Notice and Exhaustion Requirement

Administrative Citations are issued only after the Responsible Party has received a notice of the underlying violation of DEN Rules and appeal rights in the underlying provision of DEN Rules are exhausted, unless because of the nature of the offense immediate compliance is warranted.

Exhaustion of appeal rights include situations where the limitation period for appeal has run. Exhaustion of appeal rights do not include appeal pursuant to C.R.C.P 106 (a) (4). Appeals of Administrative Citations issued hereunder are limited to whether the processes for issuance of the citation were properly followed and shall not consider the merits of the underlying violation.

15.01-3 Continuing Violations

Each day a violation exists and/or continues constitutes a separate and distinct violation for purposes of issuance of Administrative Citations. However, after issuance of an Administrative Citation(s) no additional citation(s) may issued for the same violation(s) for ten (10) calendar days

or, if the responsible party appeals, until after the appeals rights have been exhausted for the violation(s) and the responsible party has failed to comply with the final determination within ten (10) calendar days of such determination.

The foregoing notwithstanding, if the CEO determines continued violations could cause immediate peril to life or property or due to the nature of the violation it requires immediate compliance, an additional citation may be issued each day the violation continues.

15.01-4 Payment

Civil penalties assessed by Administrative Citation issued by the enforcement officials at DEN shall be payable directly to the Airport Revenue Fund.

15.01-5 Cumulative Remedies

Administrative Citation are intended to be cumulative in nature. Issuance of an Administrative Citation shall not affect City's right to, simultaneously or in succession, pursue any other civil, criminal, and administrative actions, fees, fines, sentences, penalties, judgements, and/or other remedies at law or in equity.

15.02 Procedures

15.02-1 Issuance

After discovery of a violation of DEN Rules and compliance with Rule 15.1-2 above, an enforcement official may issue an Administrative Citation to a Responsible Party on a form as specified by this Part.

15.02-2 Service of Citation

The Enforcement Official will attempt to issue the Administrative Citation to the Responsible Party at the site of any violation (where appropriate) or at the Responsible Party's personal or business address.

15.02-3 Signature

The Enforcement Official will attempt to obtain the signature of the Responsible Party receiving the Administrative Citation. Where the Responsible Party refuses or fails to sign the Administrative Citation, such failure or refusal does not affect the validity of the Administrative Citation.

15.02-4 Alternative Service

If the Enforcement Official is unable to issue the Administrative Citation directly to the Responsible Party, the Administrative Citation will be sent via first class mail and/or e-mail transmission to the Responsible Party. The Administrative Citation will be sent to the most recent mailing or e-mail address of the Responsible Party contained in the records of any municipal, state, or federal agency.

15.02-5 Effective Date

The Administrative Citation is served on the date of receipt by the Responsible Party, if personally served, or on the fifth (5th) day after transmission by U.S. mail or e-mail transmission.

15.3 Contents of Notice

15.03-1 Date and Location Requirement

The Administrative Citation will state the date and location of the violation and the approximate time the violation was observed.

15.03-2 Violation Identified

The Administrative Citation will refer to the provision of DEN Rules violated and describe the nature of the violation.

15.03-3 Corrective Action

Where applicable, the Administrative Citation will describe the corrective action necessary and time to correct the violation. Alternatively, the Administrative citation will require the Responsible Party to immediately correct the violation.

15.03-4 Proposed Civil Penalty

Where applicable, the Administrative Citation will identify the proposed civil penalty for the violation. The Administrative Citation will explain the process for payment and appeal of the Administrative Citation. how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty.

15.03-5 Signature Requirement

The Administrative Citation will contain the signature of the Enforcement Official and the signature of the responsible party if it can be obtained.

15.04 Response

No later than ten (10) days after receipt of the Administrative Citation, the Responsible Party may exercise one of the following options:

- (1) Submit a certified check or money order in the amount of the proposed civil penalty made payable to the Airport Revenue Fund, at the address specified in the Administrative Citation;
- (2) Submit a written request to reduce the proposed civil penalty, the amount of requested reduction, together with any documents supporting a reduction of the proposed civil penalty, which reflect a current financial inability to pay or records showing that payment of the proposed civil penalty would prevent the Responsible Party from continuing in business.
- (3) Submit a written request for an administrative hearing pursuant to D.R.M.C. § 5-17, and the procedures outline in D.R.M.C. §§ 2-288 – 2-291.

15.06 Failure to Comply

15.06-1 Compliance Requirement

Failure to comply with a final determination after appeal of an Administrative Citation may be criminally prosecuted under subsection 1-13(a) of the Denver Revised Municipal Code.

15.06-2 Assessment of Civil Penalty

If a Responsible Party fails to comply with the final determination of an Administrative Citation the City may: (1) assess civil penalties pursuant to Rule 15.07, or (2) correct the violation and assess the entire cost of correcting the violation plus a fifteen percent (15%) administrative fee.

15.06-3 Failure to Pay

The failure of any Responsible Party to pay the civil penalties assessed by an Administrative Citation within the time specified on the citation or final determination, if an administrative hearing was held, may result in the imposition of a late fee of up to twenty-five dollars (\$25) and an administrative fee of ten percent (10%) interest. If not all penalties and charges are paid within thirty (30) days, the CEO may refer the matter for collection by any action or other process provided at law or in equity.

15.06-4 Licenses and Permits

Until all penalties and charges are paid in full, city shall not issue or renew any license or permit to the Responsible Party. Additionally, failure to pay outstanding penalties and charges civil penalties, at the sole discretion of the CEO, may be grounds for suspension and/or revocation of any licenses or permits issued to the Responsible Party until fully paid.

15.07 Penalties Assessed

15.07-1 Authorized Penalties

The penalties assessed for each administrative citation issued for violations of the same part or parts shall not exceed the following amounts regardless of the number of violations per citation:

- (a) First Administrative Citation: One Hundred Fifty Dollars (\$150.00);
- (b) Second Administrative Citation: Five Hundred Dollars (\$500.00);
- (c) Third and Subsequent Administrative Citation(s): Nine Hundred Ninety-Nine Dollars (\$999.00)

15.07-2 Correction of Violation

Payment shall not excuse failure to correct violations of DEN Rules or bar further enforcement action.