

OFFICE OF ADMINISTRATIVE HEARINGS
RESOURCE CENTER

UNDERSTANDING A
DEPARTMENT OF
PUBLIC WORKS
NOTICE OF VIOLATION



OAH'S Mission

The District of Columbia Office of Administrative Hearings (OAH) is an administrative court with 33 Administrative Law Judges that decide contested cases from more than 40 District agencies, boards, and commissions. The independent Court is a neutral, impartial tribunal that holds hearings and decides appeals from various agency decisions. OAH's docket includes cases involving unemployment compensation, Medicaid and other public benefits, public space, rent control, professional and business licenses, and building, health, and fire code violations. OAH enhances the quality of life in our city by providing residents with a fair, efficient, and effective system to manage and resolve administrative litigation arising under District of Columbia law.

Disclaimer

This information is provided as a service to assist parties in learning more about the hearings process in OAH, and is not intended to serve as legal advice. Only a lawyer can give legal advice.

The OAH Resource Center makes every effort to keep informational materials, such as this guide, up-to-date, but laws and procedures change frequently. Therefore OAH does not guarantee the accuracy of this information.

Anyone seeking the full text procedures applicable at OAH should consult 1 DCMR Chapters 28 and 29, available online at <http://oah.dc.gov> and in print at OAH.

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Introduction

What is a Notice of Violation?

A Notice of Violation (NOV) is a ticket that imposes a fine for violating regulations issued under the Litter Control Administration Act. NOV's are issued in DC by the Department of Public Works.

What is the Department of Public Works?

The Department of Public Works (DPW) is the government agency tasked with ensuring that DC stays clean and free of litter through a combination of direct services, education, and enforcement.

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Washington, DC 20009
dpw@dc.gov

Phone: (202) 673-6833

Fax: (202) 671-0642

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What is a DPW inspector?

The Inspectors of the Solid Waste Education and Enforcement Program (SWEEP) conduct both community outreach and ticketing for violations of the litter control laws.

Inspectors write NOV's – often referred to as a “ticket” – after observing a violation. Inspectors will photograph the violation – often waste of some kind – and the surroundings. They will also try to get more evidence to identify the owner of the waste and the owner of the property. Inspectors are responsible for issuing the NOV to the person getting fined. If necessary, the inspector will also represent DPW and defend the NOV in a hearing before the Office of Administrative Hearings (OAH).

What is in a Notice of Violation?

What is in the NOV?

The NOV is a multi-page, two-sided notice. The person receiving the NOV typically gets a yellow copy of the notice. The first side contains the facts and observations that led to the Inspector issuing the NOV and provides a space to answer.

GOVERNMENT OF THE DISTRICT OF COLUMBIA NOTICE OF VIOLATION		NOTICE NO: <u>L 100406</u> DATE OF SERVICE: <u>12 / 15 / 2012</u>
<input checked="" type="checkbox"/> DEPARTMENT OF PUBLIC WORKS <input type="checkbox"/> DEPARTMENT OF TRANSPORTATION		Date of Service
RESPONDENT'S NAME: <u>John Q. Citizen</u>		
ADDRESS: <u>1234 North Capital St N.E.</u> CITY: <u>Washington</u> STATE: <u>D.C.</u> ZIP CODE: <u>20000</u>		Date and Violation
RESPONDENT IS: <input checked="" type="checkbox"/> OWNER <input type="checkbox"/> AGENT <input type="checkbox"/> PERMIT HOLDER <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> SUB-CONTRACTOR <input type="checkbox"/> VEHICLE OPERATOR <input type="checkbox"/> OCCUPANT <input type="checkbox"/> VEHICLE OWNER <input type="checkbox"/> VIOLATOR		
VIOLATION LOCATION: <u>1234 North Capital St. N.E.</u> <input type="checkbox"/> OPPOSITE <input type="checkbox"/> REAR <input type="checkbox"/> ALLEY <input checked="" type="checkbox"/> FRONT <input type="checkbox"/> RIGHT <input type="checkbox"/> LEFT <input type="checkbox"/> SIDE <input type="checkbox"/> AT PARCEL <u>123</u> SQUARE <u>21</u> LOT <u>5</u> WARD <u>1</u>		Description of the Violation
VIOLATION: <input checked="" type="checkbox"/> RESIDENTIAL <input type="checkbox"/> COMMERCIAL <input type="checkbox"/> GENERAL <input type="checkbox"/> RECYCLING <input type="checkbox"/> RIGHT OF WAY NATURE OF VIOLATION: <u>A description of the violation would be placed here</u>		
SAME VIOLATION WITHIN 60 DAYS/3 YEARS (circle) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Additional explanatory documentation is attached: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		Fine Amount
FINE: <input type="checkbox"/> \$75 <input type="checkbox"/> \$150 <input type="checkbox"/> \$300 <input type="checkbox"/> \$600 <input type="checkbox"/> \$900 <input type="checkbox"/> \$1,000 <input type="checkbox"/> \$2,000 OTHER: \$ _____		
ABATEMENT REQUIRED? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> WITHIN <input checked="" type="checkbox"/> 14 DAYS <input type="checkbox"/> 172 HOURS IF ABATEMENT IS REQUIRED, YOU MUST, IN ADDITION TO PAYING APPLICABLE FINES AND PENALTIES: <u>A description on how to fix the violation would be provided here.</u>		Inspector
FOR QUESTIONS REGARDING ABATEMENT OR TO ARRANGE FOR REINSPECTION PLEASE CALL: (202) 645-7050 FOR DEPARTMENT OF TRANSPORTATION OR (202) 645-7190 FOR DEPARTMENT OF PUBLIC WORKS.		
I personally observed and/or determined that the violation charged above has been committed. I further certify, under penalty of perjury that (CHECK ONE): <input type="checkbox"/> the Respondent is not in the military service of the United States; <input type="checkbox"/> the Respondent is in the military service of the United States; <input checked="" type="checkbox"/> I am unable to determine whether the respondent is in the military service of the United States.		
Inspector Signature: <u>Malcolm Inspector</u>	Print Name: <u>Malcolm Inspector</u>	Date: <u>12/10/2012</u> Badge/ID: <u>5153</u>

The Department of Public Works (DPW) will usually attach one or more photographs of the conditions claimed in the NOV.

The back side of the NOV contains the rules for how to respond. The instructions in this booklet gives general guidance on how to respond to an NOV, but **the instructions in the NOV itself are the ones you should follow if there is ever a conflict:**

WARNING: If you do not answer this Notice within 14 calendar days of the date of service, you will be subject to the entry of a default order, without additional notice, and you will be assessed an additional penalty equal to the fine amount. You may also be subject to other penalties and actions allowed by law, including an assessment of up to three times the costs of abating the nuisance, suspension and non-renewal of your license or permit, the sealing of your business, and a lien being placed on your property.

YOUR ANSWER MUST BE RECEIVED BY THE 14th DAY AFTER THE DATE OF SERVICE. YOU MAY ANSWER THE VIOLATION IN ONE OF THE FOLLOWING WAYS:

TO ADMIT THE VIOLATION AND PAY THE FINE:

On this Notice and within 14 days of the date of service:

- **CHECK** the "ADMIT" box at the bottom on the reverse side of this Notice and sign your name on the SIGNATURE line.
- Make a personal check, cashier's check, or money order payable to the D.C. TREASURER (no cash accepted by mail) for the total amount due for the fine, and any applicable penalty for the violation you are admitting. Note that there will be a fee for all returned checks. Write the NOTICE NUMBER (upper right corner of reverse side of this Notice) on the front of your check or money order. Make a photocopy of this Notice for your records.
- After completing all required information, enclose full payment with this Notice in an envelope with required postage and mail to the address at the bottom.

TO ADMIT THE VIOLATION WITH EXPLANATION AND REQUEST A HEARING BY MAIL:

On this Notice and within 14 days of the date of service:

- **CHECK** the "ADMIT WITH EXPLANATION" box at the bottom on the reverse side of this Notice and sign your name on the SIGNATURE line.
- Although a plea of Admit with Explanation is an admission of liability, you may prepare and submit any written explanation, affidavits, or other evidence explaining the circumstances surrounding the violation that you believe justifies a reduction of the fine. An Administrative Law Judge will review the evidence in your case and issue a ruling in writing. Failure to submit sufficient relevant evidence of mitigating circumstances may result in a failure to obtain any reduction or suspension of the fine. Write the NOTICE NUMBER on the front of any document submitted. Make a photocopy of this Notice for your records.
- After providing all required information, enclose this Notice together with any explanation, affidavits, or other evidence you wish to submit in an envelope with required postage and mail to the address at the bottom.

Alternatively, you may appear in person to submit this Notice with the required information at the address at the bottom on weekdays, 9:00 A.M.-5:00 P.M. At the same time, you must also submit any explanation, affidavits, or other evidence you wish to have considered by the Administrative Law Judge.

TO DENY THE VIOLATION AND REQUEST TO APPEAR IN PERSON FOR A HEARING:

On this Notice and within 14 days of the date of service:

- **CHECK** the "DENY" box at the bottom on the reverse side of this Notice and sign your name on the SIGNATURE line.
- You will be notified by mail of the hearing date and time by separate order of the Office of Administrative Hearings. If you fail to appear at this date and time after you have requested a hearing in person, you will be subject to the imposition of a penalty equal to twice the amount of the original civil fine and the hearing may proceed to a final judgment in your absence. Bring all evidence with you to the hearing. Make a photocopy of this Notice for your records. The inspector or investigator will be required to attend the hearing.
- After providing all required information, enclose this Notice in an envelope with required postage and mail to the address at the bottom. Alternatively, you may appear in person to submit this Notice with the required information at the address at the bottom on weekdays, 9:00 A.M.-5:00 P.M.

What can I do if I receive an NOV?

You must decide how to answer the NOV. You can choose from three answer options and you must mark that answer on the NOV itself before returning it.

How can I answer?

You are given three possible answers to choose from at the bottom of the NOV form:

<small>You are charged with violating the District of Columbia law or regulation stated above. You MUST SIGN and RETURN this form WITHIN 14 DAYS of the date of service NOTED ABOVE. You must also indicate below whether you ADMIT, ADMIT WITH EXPLANATION or DENY. For additional instructions, please see reverse side.</small>		
<p>If you DENY this violation, you must appear for a hearing. You will receive a separate order from the Office of Administrative Hearings advising you where and when to appear for your hearing.</p>		
<p>ANSWER: <input type="checkbox"/> ADMIT (Pay Fine) <input type="checkbox"/> DENY (Appear for a Hearing) <input type="checkbox"/> ADMIT WITH EXPLANATION (Hearing by Mail)</p>		
<p>If abatement of the nuisance is required, I: <input type="checkbox"/> HAVE <input type="checkbox"/> HAVE NOT completed the required abatement action</p>		
_____ Respondent's Signature	_____ Print Name	_____ Date

You can **ADMIT**, **DENY** or **ADMIT WITH EXPLANATION**.

How much time do I have to respond?

Timing is important when responding to an NOV. Once DPW issues the NOV, you have **14 calendar days** to file a response with OAH. If DPW **mails** the NOV, you have an additional 5 calendar days (for a total of 19 calendar days) to file a response with OAH.

What if I don't answer in time?

If you answer after the time allotted, you can be charged an **additional penalty equal to the amount of the fine** (in other words, double the fine). If you never answer and DPW proves it delivered the NOV to you, OAH will enter a “default judgment” against you. You will be ordered to pay the fine plus the additional penalty amount. At DPW’s request, OAH can also order you to pay up to **three times DPW’s cost** if it cleaned up the violation.

Answer Options

An answer to an NOV is called a plea. There are three plea options for responding to the NOV.

Admit

Selecting “Admit” means that you agree the violation happened, and that you are taking responsibility for it. By answering in this way, you are agreeing to pay the fine listed on the NOV. You must include that payment when you return the NOV form to OAH. This will end the issue, and nothing further must be done.

Admit with Explanation (AWE)

Selecting “ADMIT WITH EXPLANATION” means you agree the violation occurred but you have an explanation – or excuse – that may convince the administrative law judge to reduce or waive the fine. When you answer this way, OAH will forward your explanation to DPW to allow them a chance to respond. Sometimes, DPW will file a written response to your explanation. Once both sides have been given the opportunity to explain their side of the story **in writing**, the judge will then make a final decision based on the papers in the file. This is called a “Hearing by Mail.”

Deny

Selecting “Deny” means you do not agree you are responsible for any violation the NOV describes. By answering this way, you are asking to come to OAH for a hearing before an administrative law judge.

The Hearing

If you respond to your NOV with a plea of DENY, OAH will mail you a Scheduling Order. This Scheduling Order will identify the date and time of your hearing and include other information important to the hearing process. Read it carefully or have someone read and explain it to you. Be sure to follow its instructions.

At the hearing, the judge will give you an opportunity to present your side of the case. You can expect a DPW Inspector to come to the hearing and present evidence. Before your hearing you should prepare and practice what you are going to say.

If you need witnesses or documents to prove your case you should collect these in advance. All testimony, documents, and other evidence must be introduced during the hearing for the judge to consider them.

Please visit the OAH Resource Center or the OAH website (www.oah.dc.gov) to find helpful materials that explain the process of a hearing and how to prepare your case.

Final Order and Appeal Process

If you answer AWE or DENY, your case will end with a Final Order. In a Final Order, the judge provides a written decision to give the parties a clear explanation of the result and a permanent record of that result.

Each Final Order contains the following:

1. A statement of the facts the judge has found;
2. A discussion of the law and rules the judge used to make the decision;
3. The “Order” telling the parties what they must do; and
4. An explanation of what you can do if you disagree with the Final Order.

Please visit the OAH Resource Center or the OAH website (www.oah.dc.gov) to find helpful materials that will explain how to understand your Final Order – and your appeal rights if you disagree with the result.

The OAH Resource Center has other guidebooks and materials available that discuss the hearing process, submitting evidence, and other topics.



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