

SPECIAL ORDER



DISTRICT OF COLUMBIA

Title
Littering Enforcement Pilot Program Phase II
Number
SO-12-19
Effective Date
July 25, 2012
Rescinds: SO-11-07 (Littering Enforcement Pilot Program), Effective Date May 01, 2011
Related to: TT-05-047-09 (The Anti-Littering Amendment Act of 2008), Effective Date May 12, 2009

I.	Background	Page 1
II.	Definitions	Page 2
III.	Regulations	Page 2
IV.	Procedures	Page 3
IV.A	Issuing an NOV for Non-Traffic Littering	Page 3
IV.B	Non-Traffic Littering: Violator Refusals to Provide Name and Address	Page 3
IV.C	Submission of NOVs	Page 4
IV.D	Hearings for Contested NOVs	Page 5
V.	Roles and Responsibilities	Page 6
VI.	Cross References	Page 7
VII.	Attachment	Page 7

I. BACKGROUND

The purpose of this Special Order is to inform Metropolitan Police Department (MPD) members assigned to the Fourth and Sixth Police Districts of the procedures for enforcing littering violations pursuant to the provisions of the Anti-Littering Amendment Act of 2008 (D.C. Official Code § 8-801), effective March 20, 2009, and to advise members assigned to the Fourth and Sixth Police Districts of the Littering Enforcement Pilot Program. Phase I of the program began on May 1, 2011, in the Fourth Police District and Phase II will begin August 1, 2012, in the Sixth Police District. The Anti-Littering Amendment Act of 2008 establishes a specific violation for littering from a vehicle, which the Department began enforcing in April 2009. The Act also amended the existing littering statute to establish: (1) an affirmative requirement that a person stopped for a non-traffic littering violation provide the member with his or her accurate name and address for the Notice of Violation (NOV); and (2) a criminal charge for refusing to comply with this requirement. The Council recently enacted legislation to exempt non-traffic civil violations from juvenile confidentiality laws, which allows MPD to move forward with enforcing the Act.

With this new requirement and a new ticket book and process established for non-traffic civil tickets (or NOVs), MPD began enforcing the non-traffic civil littering law with a pilot program in the Fourth District and will now begin enforcing the non-traffic civil littering law with a pilot program in the Sixth District.

II. DEFINITIONS

For the purpose of issuing a Notice of Violation (NOV) using an Office of Administrative Hearings Form 1 (OAH-1) and as used in this directive, the following terms shall have the meanings designated:

1. Littering – Intentional or careless droppings of rubbish, waste matter, refuse, garbage, trash, debris, dead animals or other discarded materials of every kind and description.
2. Member – Sworn employee of the MPD or MPD Reserve Corps member.
3. MPD Hearing Advocate – A member who serves as the liaison between the MPD and the Office of Administrative Hearings (OAH) and attends all OAH hearings for non-traffic littering NOVs. For the duration of this pilot, the Hearing Advocate will be the Administrative Sergeant assigned to Strategic Change Division, Strategic Services Bureau.
4. Non-traffic Littering – Throwing or placing or causing to be deposited, thrown or placed any solid waste in any alley, street, catch basin, or other public space, or into the Potomac River or other waters in the District, or onto any premise under the control of others (DCMR Title 21 § 700.4).
5. Traffic Littering – Disposing or causing or allowing the disposal of litter from a [motor] vehicle upon any public or private property. Litter shall include all rubbish, waste matter, refuse, garbage, trash, debris, dead animals, or other discarded materials of every kind and description (D.C. Official Code § 18-2221.6).
6. Motor Vehicle – All vehicles propelled by internal-combustion engines, electricity, or steam. The term “motor vehicle” shall not include traction engines, road rollers, vehicles propelled only upon rails or tracks, personal mobility devices, as defined by D.C. Official Code § 50-2201.02(12), or battery-operated wheelchair when operated by a person with a disability (D.C. Official Code § 50-2201.02(1)).

NOTE: Segways™ are considered personal mobility devices.

III. REGULATIONS

- A. This Special Order shall apply to members assigned to the Fourth District (4D) and the Sixth District (6D) for the duration of the Littering Enforcement Pilot Program.
- B. **Phase II of the pilot program will begin with a warning period. During August, 2012, members of the Sixth District shall process NOVs as prescribed in this order, but shall write WARNING across the violation.**
- C. All members shall continue to issue Notices of Infraction (NOIs) to any operator of a motor vehicle who is observed engaging in traffic littering, or

allowing traffic littering from the motor vehicle in operation. [Code T 765 Littering from a vehicle upon public or private property (DCMR §18-2221.6)]

1. Members shall write "Littering from a Vehicle" on the NOI.
 2. The NOI carries a fine of \$100.
 3. Members shall process the NOI in accordance with MPD policy and procedures including, but not limited to, General Order 303.02 (Notices of Infraction Procedures).
- D. Members shall issue a Notice of Violation (NOV) (Form OAH-1) (Attachment A) to any person who is observed engaging in non-traffic littering in accordance with the procedures outlined in Part IV of this order.
1. Members shall retain:
 - a. Their copy of the Form OAH-1;
 - b. Any notes related to littering incidents; and
 - c. Any photographs or sketches related to littering incidents. Members shall comply with the provisions of GO-SPT-304.13 (The Use of Photographs in Criminal Investigations) when photographing violators.
 2. Members shall not collect litter as evidence.

IV. PROCEDURES

- A. Issuing an NOV for Non-Traffic Littering
1. Members who witness non-traffic littering shall issue an NOV (Form OAH-1), carrying a fine of \$75, to the violator that:
 - a. Indicates the offense as "Littering" on the NOV; and
 - b. References "21 DCMR Sec. 700.4".
 2. Members shall direct the violator to the language on the back of the NOV describing the procedural guidelines on how to pay or contest the NOV, and the timelines given.
- B. Non-Traffic Littering: Violator Refusals to Provide Name and Address
1. Members shall:
 - a. Request that violators provide a valid name and address.

NOTE: Absent any articulable facts and circumstances supporting a member's belief that a violator is intentionally providing false or fictitious information, the violator's verbal disclosure of their name and address shall be accepted.

- b. **Not** demand or require violators to produce identification for non-traffic littering violation.
 - c. Inform violators who refuse to provide a valid name and address that the law requires them to provide this information, and if they refuse they may be arrested (D.C. Official Code § 8-811).
 - d. Arrest violators who still refuse to provide a valid name and address for "Refusal to Make Identity Known". [Criminal Justice Information System Code 6300: Pedestrian-Failure to Identify-Littering].
2. Issue a completed NOV for littering once the subject's identity has been established.

C. Submission of NOVs

1. Members shall turn in all completed NOVs to their check-off official by the end of their tour of duty.
2. The check-off official shall place all completed NOVs in the NOV box.
3. Patrol District Administrative Officials, or their Designee shall:
 - a. Log in all NOVs related to littering onto a transmittal sheet.
 - b. Scan a copy of each NOV and email them to the MPD Hearing Advocate daily.
 - c. Maintain a copy of the transmittal form.
 - d. Ensure the transmittal sheet with all original NOVs is hand-carried to the Office of Administrative Hearings daily.

NOTE: The Office of Administrative Hearings is located at 441 4th Street, NW, Suite 450 North, Washington, DC 20001.

- (1) The NOVs and the transmittal sheet shall arrive no later than 0830 hours on the day following the issuance of the NOV, except that Friday's and Saturday's NOVs shall be included with Sunday's and shall be delivered on Monday.

- (2) When a holiday occurs during the business work week (i.e., Monday through Friday) the NOVs and transmittal sheet shall be delivered the following business day.

D. Hearings for Contested NOVs

1. Upon receiving notice from the Office of Administrative Hearing that an NOV is to be adjudicated, the MPD Hearing Advocate shall contact the member that issued the NOV by email and request a telephone conference to discuss the specifics of the case.
 - a. The MPD Hearing Advocate shall copy the designated Patrol District Administrative Official on the email.
 - b. The email shall be sent as early as possible, but no later than five (5) business days prior to a scheduled hearing.
2. The member shall contact the MPD Hearing Advocate to discuss the case within their next two (2) shifts of the MPD Hearing Advocate's email being sent.
 - a. The MPD Hearing Advocate can be reached by phone between 0600 and 1600 hours, Monday through Friday. The phone number for the MPD Hearing Advocate is (202) 345-1007.
 - b. The MPD Hearing Advocate can be reached by email at Mpdnov.coordinator@dc.gov.
3. If the issuing member has not contacted the MPD Hearing Advocate within two (2) business days of the email being sent, the MPD Hearing Advocate shall contact an official from the member's administrative office, who shall make the member available.
4. The MPD Hearing Advocate shall make arrangements with the issuing member on how to deliver any notes, photographs / sketches, or any other evidence pertaining to the case.
5. The MPD Hearing Advocate, or his/her designee, shall represent the MPD in all hearings of NOVs contested to the Office of Administrative Hearing.
 - a. If there is a need for the issuing member to be present, the MPD Hearing Advocate or his/her designee shall notify the member of the date, time, and location of the hearing by email.

NOTE: In most cases, issuing members will not attend hearings.

- b. Emails from the MPD Hearing Advocate or his/her designee requesting the member's presence at a hearing shall serve as an official Computer Assisted Notification System (CANS) notice.
6. Members shall immediately contact the MPD Hearing Advocate in the event that they are unable to attend a hearing (i.e., unforeseen, emergency circumstances) and shall explain why they cannot attend.
- a. Between 0600 and 1600 hours, Monday through Friday, members shall contact the MPD Hearing Advocate by telephone at (202) 345-1007.
 - (1) If members are unable to contact the MPD Hearing Advocate, they shall:
 - (a) Leave a voicemail message for the MPD Hearing Advocate containing their contact information along with the reason they are unable to attend the hearing; and
 - (b) Contact their District Administrative Office.
 - b. During all other times, members shall:
 - (1) Contact an official in their command, and
 - (2) Send an email containing their contact information to both the MPD Hearing Advocate and their District Administrative Office with the reason they cannot attend the hearing.

V. ROLES AND RESPONSIBILITIES

- A. Members shall be responsible for issuing NOIs and NOV's for littering as outlined in this order and other applicable MPD policies and procedures.
- B. Designated Patrol District Administrative Officials and their Designees shall be responsible for:
 - 1. Complying with the provisions of this order; and
 - 2. When notified by the MPD Hearing Advocate of an issuing officer's failure to appear at an OAH Hearing or failure to comply with the requirements of this order, obtain incident summary (IS) numbers in accordance with MPD policies and procedures.
- C. The MPD Hearing Advocate or his/her designee shall be responsible for:

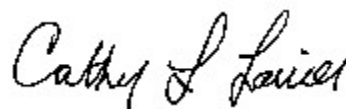
1. Attending all hearings at the Office of Administrative Hearings for non-traffic littering NOVs as outlined in this order; and
 2. Notifying members and designated official of hearings within the prescribed timelines.
- D. The Commanders, Fourth District and Sixth District, shall be responsible for:
1. Designating a Patrol District Administrative Official from his/her Administrative Office to ensure that NOVs are properly collected, logged onto a transmittal sheet, and forwarded to the MPD Hearing Advocate and the Office of Administrative Hearings; and
 2. Establishing a secure repository for NOVs.

VI. CROSS REFERENCE

- A. General Order
1. GO-SPT-303.02 (Notices of Infraction Procedures)
 2. GO-SPT-304.13 (The Use of Photographs in Criminal Investigations)
- B. D.C. Official Code
1. D.C. Official Code § 8-801 (Purpose of litter control administration)
 2. D.C. Official Code § 8-811 (Identification of offenders)
 3. D.C. Official Code § 50-2201.02(1) (Motor vehicle definition)
 4. D.C. Official Code § 50-2201.02(12) (Personal Mobility Device definition)
- C. D.C. Municipal Regulations
1. DCMR § 18-2221.6 (Littering from a vehicle)
 2. DCMR § 21-700.4 (Littering)

VII. ATTACHMENT

1. Attachment A: Office of Administrative Hearings Form-1



Cathy L. Lanier
Chief of Police



Government of the District of Columbia
METROPOLITAN POLICE DEPARTMENT

**Civil Infraction
Notice of Violation**

OFFICE OF ADMINISTRATIVE HEARINGS FORM 1
CIVIL INFRACTION NOV
MARCH 2010

No. Series _____

Officer _____

Dept. and Element _____

ATTENTION

Tickets in this book are for civil infractions adjudicated by the Office of Administrative Hearings (OAH) only. They are not to be used for criminal infractions under the jurisdiction of the D.C. Superior Court, nor are they to be used to enforce Traffic Violations.

DISTRIBUTION

- Copy A** OAH Control Copy to Station Clerk
- Copy B** Violator's Copy
- Copy C** Officer's Copy

OAH NOTICE OF VIOLATION TABLE

The following are the proper references to the District of Columbia Official Code or District of Columbia Municipal Regulations that can be used in conjunction with the Notice of Violation in this ticket book.

DC Code/

DCMR Reference	Violation	Collateral
21 DCMR §700.4	Littering	\$75.00

Government of the District of Columbia
METROPOLITAN POLICE DEPARTMENT

100001

Notice of Violation

Violator's Name

FIRST MIDDLE LAST

DATE OF BIRTH

Street Address

NUMBER STREET APT./SUITE

CITY STATE ZIP CODE

Violation Details

DATE / / TIME AM PM

LOCATION IN WHICH INCIDENT OCCURRED

DISTRICT DC CODE/DCMR REFERENCE \$ FINE

NATURE OF VIOLATION

PHOTOS TAKEN? YES NO NCIC CHECK? YES NO

SWORN OFFICER'S TESTIMONY

I personally observed and/or determined that the Violator committed the violation charged above. I certify that I served this Notice on the Violator by personal service.

I further certify under penalty of perjury that (CHECK ONE):

- the Violator is not in the military service of the United States
- the Violator is in the military service of the United States
- I am unable to determine whether the Violator is in the military service of the United States.

OFFICER'S SIGNATURE FULL NAME (PRINTED)

ELEMENT CAD # BADGE NO. RANK DATE

VIOLATOR'S ACKNOWLEDGMENT

I hereby acknowledge receipt of this Notice of Violation. Acknowledgment of receipt **IS NOT** an admission of liability.

VIOLATOR'S SIGNATURE DATE

Answering a Notice of Violation

You are charged with violating the District of Columbia regulation stated on the other side of this Notice. You **MUST** answer this Notice within 14 calendar days of the day you receive it. If you do not, you will be subject to an order finding you in default and assessing both the fine stated on the other side, and an additional penalty equal to the amount of that fine.

You must answer with a plea of **ADMIT**, **ADMIT WITH EXPLANATION**, or **DENY**. See the instructions below.

1. To Admit and Pay the Fine. If you wish to Admit liability and pay the fine, sign at the bottom and check the Admit box. Mail or bring this form, with a personal check, cashier's check, or money order for the amount of the fine payable to "DC Treasurer" to the address below. **We cannot accept cash payments.** Write the notice of violation number on your check or money order.

2. To Admit with Explanation and Request a Hearing by Mail. If you wish to Admit liability, but want to submit an explanation that you would like an Administrative Law Judge to consider in deciding whether the fine should be reduced or suspended, sign at the bottom and check the Admit with Explanation box. Mail or bring this form, along with your written explanation and any supporting documents, photographs or other materials, to the address below.

3. To Deny and Request an In-Person Hearing. If you wish to Deny liability for the violation, sign at the bottom and check the Deny box. Mail or bring this form to the address below. You will receive a notice from the Office of Administrative Hearings with information about your hearing date. The hearing will be conducted by an independent Administrative Law Judge.

MAILING ADDRESS/OFFICE LOCATION

Office of Administrative Hearings
441 4th Street, NW
Washington, DC 20001

HOURS OF OPERATION

9 AM-5 PM Monday through Friday

OAH INFORMATION LINE: 202-442-9094

ANSWER

Admit

Admit with Explanation

Deny

SIGNATURE

PRINT NAME

ADDRESS

PHONE NUMBER