



CITY OF INDIANAPOLIS  
DEPARTMENT OF BUSINESS & NEIGHBORHOOD SERVICES  
BUREAU OF NUISANCE ABATEMENT

INFORMAL HEARING INFORMATION & POLICIES  
12/1/2023

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*The purpose of this document is to outline general processes and procedures regarding Department of Business & Neighborhood Services' (DBNS) informal hearings and serves to formalize the policies set forth herein.*

### CONTACT US:

 [bns.hearings@indy.gov](mailto:bns.hearings@indy.gov)

 317-327-4600

 Department of Business & Neighborhood Services  
Attn: Nuisance Abatement  
200 E. Washington St., Suite 107  
Indianapolis, IN 46204

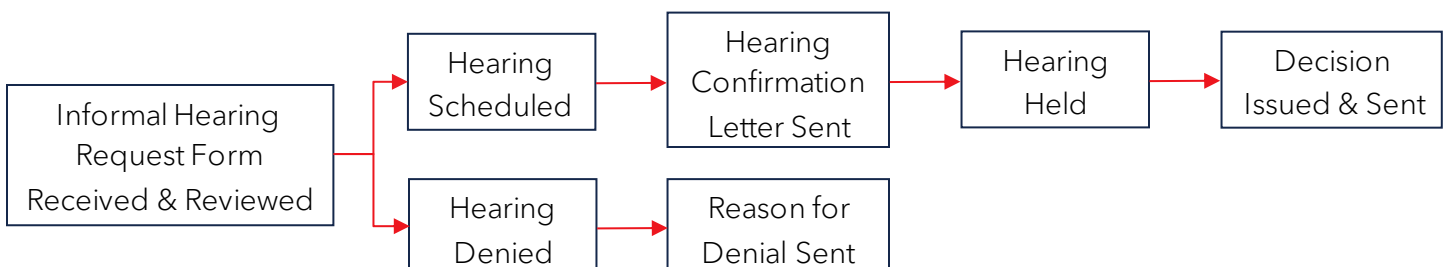
### APPLIES TO ALL DBNS INFORMAL HEARINGS

Informal hearings are held in the instances/case types listed below. In all instances, an Informal Hearing Request Form must be submitted; and the person making the request must be eligible to receive the hearing, as determined by City ordinance and/or DBNS policy. In addition to this section, please refer to the other section(s) throughout this document for information specific to each instance/case type.

- Appeal a violation and/or fee assessed for a high weeds & grass case (HWG)
- Appeal a violation and/or fee assessed for a litter & trash case (VIO)
- Request a reduction in civil penalties assessed for failure to comply with an order to repair (RNH)

#### General Process Overview & Timeline

Once the Informal Hearing Request Form is received by DBNS, the form is reviewed for accuracy and completeness; and the case(s) listed are reviewed for eligibility. Within 5 business days, DBNS will either send a Hearing Confirmation Letter containing hearing date, time, and other details, or provide the reason the hearing was denied. If a hearing is scheduled, the Hearing Examiner typically issues their decision within 4-6 weeks of the hearing; and DBNS aims to process and send the decision within 2 weeks.



### Informal Hearing Request Form

An Informal Hearing Request Form is required to be submitted so that DBNS can efficiently process the request and effectively communicate informal hearing information to the person requesting the hearing date and time, hearing instructions, and rights regarding the proceedings. DBNS will use the information provided in this form to determine hearing eligibility, communicate all relevant hearing details, and send all official hearing documents.

- Carefully review all information and instructions; and ensure that all information provided is accurate and complete.
- One form must be submitted for each property/parcel; however, if there is more than one case/case type eligible for hearing on the same property/parcel, please list all eligible cases for that property/parcel on the same form.
- DBNS encourages submitting the Informal Hearing Request Form online; however, DBNS will process forms submitted by email or mail. Please contact DBNS via one of the contact methods listed above to request a paper copy of the form.

### Document Submittal

DBNS prefers that any documents (e.g. photos, affidavits, and other evidence) you wish to present during the informal hearing be submitted along with the Informal Hearing Request Form.

- In some cases, certain documents may be required before an informal hearing can be scheduled.
- If the Informal Hearing Request Form is submitted online, please upload the document(s) directly, following the instructions provided within the online form. If the Informal Hearing Request is submitted by mail or email, please include the document(s) in the same email or envelope as the form.
- Document(s) that are not submitted with the Informal Hearing Request Form must be delivered at least one business day prior to the scheduled hearing via email or mail to the email/postal address listed above.

### Hearing Scheduling

Informal hearing dates are determined in advance and DBNS is not able to schedule informal hearings outside of the pre-determined dates. Multiple cases are scheduled for each hearing date; and cases are heard on a first-come, first-served basis.

- Hearings will be scheduled for the next available hearing date.
  - If you elect to receive hearing information by email, the hearing will not be scheduled to take place earlier than 7 days after DBNS sends the hearing confirmation.
  - If you elect to receive hearing information by mail, the hearing will not be scheduled to take place earlier than 20 days after DBNS sends the hearing confirmation, to account for postage delivery time.
- If for any reason, you need to reschedule the hearing, please contact Nuisance Abatement via one of the methods listed above at least one business day prior to the scheduled hearing date. Failure to do so will result in the case being heard in your absence.

- Hearings for multiple case types and/or properties are not guaranteed, or likely, to be scheduled for the same hearing.

### Hearing Attendance & Failure to Appear

Hearings are conducted in the City-County Building, located at 200 E. Washington St., Indianapolis, IN, 46204.

- Hearing attendance can be made in-person or remotely (via Teams video/phone conference). For civil penalty review hearings, written testimony may be submitted in place of in-person/remote attendance. Written testimony is only accepted for civil penalty review hearings – all other hearing types require in-person or remote attendance.
  - The Informal Hearing Examiner must weigh in-person, remote, and written testimony equally; and the manner of testimony does not impact the Hearing Examiner's timeline for issuing a decision.
  - A party who attends the hearing remotely or by submitting written testimony waives their right to an in-person hearing; and the decision of the Informal Hearing Examiner is final, regardless of the manner of attendance by any party.
- Attending parties must appear in-person, be signed-in to the Teams video or phone conference, or submit written testimony (when allowed), by the hearing date and time listed in the Hearing Confirmation letter.
  - Sign-in begins one hour prior to the hearing time listed in the Hearing Confirmation letter; and cases are heard on a first-come, first-served basis.
- If a party fails to appear or otherwise participate in the hearing, the matter may be decided without that party's testimony.

### General Hearing Procedure

Informal hearings are conducted in an informal manner, without strict adherence to the technical rules of evidence and procedure which govern judicial proceedings. Informal hearings are not conducted as an administrative hearing under Chapter 103 of the Revised Code of the Consolidated City of Indianapolis-Marion County (Revised Code) or Indiana Code; and are in no way subject to the procedural requirements, standards, or any other provisions set forth therein.

- The designee of the Director of BNS ("Hearing Examiner") shall afford all parties the opportunity to participate in the hearing to the extent necessary for full consideration of all relevant facts and issues.
  - The Hearing Examiner shall rule on the admissibility of any offer of proof, and on other motions, and shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds.
- A party may present evidence in the form of testimony, affidavits, and documentation, engage in argument, and conduct cross-examination.
  - The testimony of each party and witness shall be made under oath or affirmation.
- A party may participate directly or by counsel at the party's own expense. If the party is not an individual or is incompetent to participate, then the party shall participate by a duly authorized representative.

## What to Expect at the Hearing

Hearings are conducted in an informal fashion; however, the hearing examiner typically leads the hearing in the general order outlined below.

- Initial Questions
  - The hearing examiner will announce the property address when they are ready to hear the case and they will begin with their initial questions, such as your name and relationship to the property.
- Presentation of Evidence & Testimony and Fact Finding
  - DBNS will present its evidence and testimony (e.g., copy of the notice and photos of the violations). Then, you will have the opportunity to respond and present your own evidence; and DBNS will have the opportunity to respond.
  - This process may go back-and-forth; and each party will have the opportunity to respond and ask the other party and the hearing examiner questions. The hearing examiner will also ask any questions they may have during this time.
- Conclusion
  - Once both parties have had the opportunity to present their evidence and testimony, and the hearing examiner has completed their fact finding, they will end the hearing.
  - In most cases, the hearing examiner will return their decision to DBNS within 4-6 weeks. DBNS typically processes and sends the decision to the recipient within 2 weeks.
  - If any portion of the fee(s) are removed or reduced, and the reduced/removed fee(s) was paid, you will be directed to contact DBNS' Admin & Finance Bureau to request a refund.

## **APPLIES TO HIGH WEEDS & GRASS CASES (HWG)**

Enforcement of HWG violations is governed by Chapter 575 of the Revised Code; and hearing requirements are outlined in Sec. 575-7(a)(2), which states "[a] recipient may request in writing an informal hearing before the director of the department of business and neighborhood services, or his or her designee, to dispute the existence of a violation and/or the accuracy of all or part of the costs of abatement billed."

## Hearing Eligibility

The person requesting the hearing must be the person listed on the Notice of Violation issued by DBNS (Notice); and an Informal Hearing Request Form must be submitted. Unless the hearing is requested before DBNS has abated the violation (mowed the property), an internal review process must be completed before a hearing will be scheduled.

- The Revised Code defines 'recipient' as owner or occupant to whom notice of violation has been directed.
- The Informal Hearing Request Form is required by DBNS policy. See the "Informal Hearing Request" section of this document.

- An internal review process is required by DBNS policy due to limited time for hearings and the high volume of HWG disputes. This process results in quicker outcomes by determining whether the dispute can be resolved without the need for a hearing.
  - Email [weedsquestions@indy.gov](mailto:weedsquestions@indy.gov) to begin to request an internal review of the case(s). DBNS will review the case to determine whether the case is valid – meaning Notice was properly sent; and the mowing vendor’s photos clearly show the property in violation, that the vendor mowed the property, and the date of the mow.
  - If DBNS determines the case is not valid, the fee(s) will be removed. If the any portion of the removed fee(s) was paid, you will be directed to contact DBNS’ Admin & Finance Bureau to request a refund.

## APPLIES TO LITTER & TRASH CASES

Enforcement of litter & trash violations is governed by Chapter 361 of the Revised Code; and hearing requirements are outlined in Sec. 361-107(a)(2), which states “[w]ithin ten (10) days of issuance, a recipient may request in writing an informal hearing before the director of the department of business and neighborhood services, or his or her designee, to dispute the existence of a violation and/or the accuracy of all or part of the costs of abatement billed.”

### Hearing Eligibility

The person requesting the hearing must be the person listed on the Notice of Violation issued by DBNS (Notice); and an Informal Hearing Request Form must be submitted. If the hearing is requested before DBNS has abated the violation (cleaned the litter/trash listed in the Notice), the Hearing Request Form must be submitted within ten (10) days of the issuance date listed on the Notice, per Sec. 361-107(a)(2).

- The Revised Code defines ‘recipient’ as owner or occupant to whom notice of violation has been directed.
- The Informal Hearing Request Form must be required by DBNS policy. See the “Informal Hearing Request” section of this document.

## CIVIL PENALTY REVIEW (RNH)

Enforcement of orders to repair is governed by Indiana’s unsafe building statute (IC 36-7-9/USB statute) and the City’s vacant building standards (Chapter 537 of the Revised Code). IC 36-7-9 effectively states that repair orders are final 10 days after notice is given unless a hearing is requested in writing within 10 days; and civil penalties are assessed if a property is not brought into compliance with an order to repair.

Once the property is brought into compliance with the order to repair (all violations listed in the repair order have been corrected), DBNS offers “Civil Penalty Review Hearings”, an internal, administrative process by which property owners may be granted relief from civil penalties imposed for failure to comply with a repair order. Neither IC 36-7-9 nor Chapter 537 requires Civil Penalty Review Hearings or outlines any requirements for these hearings; and these hearings are governed entirely by DBNS policy.

- The Informal Hearing Request Form must be submitted. See the “Informal Hearing Request” section of this document.

### Eligibility

The following criteria must be met in order to be considered eligible for a Civil Penalty Review Hearing.

- The structure must be in compliance with the Order; and
- The requestor is the current property owner, or the property owner at the time the property came into compliance; and
- The civil penalties were either (i) paid by the requestor; or (ii) unpaid, and are to be paid by the requestor.

### Exclusions

The following parties are not eligible for a Civil Penalty Review Hearing:

- Prior owners that did not bring the property into compliance, regardless of whether civil penalties were paid prior to the property transfer
- Current owners that brought the property into compliance, but did not pay, or will not be paying, the civil penalties in question
- Contract buyers that are not the current owner of record according to the Marion County Assessor's Office (Owner of Record).
  - As long as all other criteria are met, (i) the current Owner of Record may request a hearing, or, (ii) the Owner of Record may complete an affidavit provided by BNS that authorizes the contract buyer to request the hearing.

The following civil penalties are not eligible for a Civil Penalty Review Hearing:

- Civil penalties paid as a part of the minimum bid for tax sale and surplus sale properties; or
  - Civil penalties assessed during the redemption period may be eligible if all other criteria are met.
- Civil penalties assessed for Orders that were issued more than five (5) years before the date of the request.

### Management Discretion

Notwithstanding the above eligibility and exclusions, DBNS management has sole discretion on any approval or denial to grant a Civil Penalty Review Hearing for any reason not already included in this document.

*[END OF INFORMAL HEARING INFORMATION & POLICIES]*