



NOTICE AND CALL OF A MEETING OF THE
TRINIDAD PLANNING COMMISSION

The Trinidad Planning Commission will hold a regularly scheduled monthly meeting on
WEDNESDAY APRIL 18th, 2018, AT 6:00 P.M.
in Town Hall at 409 Trinity Street.

The following items will be discussed:

- I. ROLL CALL
- II. APPROVAL OF MINUTES - March 29, 2018
- III. APPROVAL OF AGENDA
- IV. ITEMS FROM THE FLOOR
- V. AGENDA ITEMS

Discussion / Decision / Public Hearing / Action

- 1. Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and/or fees for violators. *Continued from the March meeting.*

- VI. COUNCIL REPORT
- VII. STAFF REPORT
- VIII. FUTURE AGENDA ITEMS
- IX. ADJOURNMENT

MINUTES OF THE RECHEDUED MONTHLY MEETING OF THE
TRINIDAD PLANNING COMMISSION
Wednesday, March 29, 2018

I. CALL TO ORDER/ROLL CALL (6:10pm)

Commissioners Present: Johnson, Graves, Stockness

Commissioners Absent: Gregory

Staff: Parker, Gunderson

II. APPROVAL OF MINUTES

January 31, 2018

Commissioner Graves requested that the following be noted as his response to the Applicant's (M. Hasslequist) comment on page 3 of 8: "By law, family history and intent cannot be considered, because permits run with the land."

Commissioner Johnson clarified that the Planning Commission would be receiving a copy of the Hold Harmless Agreement/Clause for the Hasselquist project once it is completed.

Motion (Johnson/Graves) to approve the minutes as amended.

Passed unanimously (3-0).

III. APPROVAL OF AGENDA

Motion (Johnson/Graves) to approve the agenda.

Passed unanimously (3-0).

IV. ITEMS FROM THE FLOOR

Do. Cox (436 Ocean) asks about the Hold Harmless clause – who creates it, is it a generic form, and what is taking so long?

Planner Parker responded that the City will copy the language used by another City and that the Hold Harmless clause follows the finalization of the deed restriction.

V. AGENDA ITEMS

1. Selection of a new Chair/Vice-Chair

Commissioner Johnson nominated John Graves as Chair and Brett Gregory as Vice-chair. Commissioner Graves suggested that they wait to appoint Commissioner Gregory as Vice-chair until he is in attendance.

The Commissioners voted to appoint John Graves as Chair. A discussion ensued as to whether this appointment terminates in two years, or should it be concurrent with appointments. Commissioner Johnson added that he and Commissioner Stockness' appointment terminate December 2018, Commissioner Graves and Gregory terminate December 2022.

2. Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and/or fees for violators. *Continued from the July, August, and November 2017 and January 2018 meetings.*

Parker provided an overview of the ongoing conversation about the policies for detached living spaces. In her staff report, she suggested there are two primary issues that would help staff to address the complaints and enforcement. These are: 1) definition of a kitchen, and 2) residences being used as both long-term and short-term rentals. The staff is looking to the Planning Commission to provide guidance on Administrative Rules for help with enforcement of the STR Ordinance.

Beginning with defining a kitchen, Parker suggested that the Ordinance used by the City of Sonoma may be a good fit for Trinidad. This was also discussed at the previous meeting.

Commissioner Comments/Questions

Commissioner Graves notes that he and other Commissioners have received email correspondence regarding STRs in South Lake Tahoe.

Commissioner Stockness is concerned about the concentration of detached living spaces (DLS) on Ocean Ave., and would like to see more involvement by the Building Inspector.

Commissioner Johnson notes that this is both an STR and a DLS issue. He likes the Sonoma definition of a kitchen, but he suggested that a statement be added to include convection ovens, such as "microwave or similar." He pointed out that the section on bathrooms and second units didn't apply to Trinidad. Parker clarified that those sections would not be included in Trinidad's policy.

Parker clarifies the Health Department's regulations and policies regarding sizing of septic systems for second units; the requirements depend on the size and number of bedrooms of the structures.

Commissioner Graves notes that the City's restrictions on second units run counter to many State laws, and that the City is likely not meeting affordable housing needs. He feels that detached and attached second units should be treated the same.

Public Comment

Do. Cox (436 Ocean) referred to an email she sent to the City regarding the improper noticing of this meeting. She made a comment regarding her disagreement with Planner Parker and Commissioner Johnson over their assessment of the situation at

381 Ocean Ave; in her opinion it is not consistent with the rules in terms of use, the presence of a kitchen and the parking. She notes that she and neighbors are soured on this issue because of what happened at 407 Ocean. Ms. Cox asked the Commission for a definition of sub-standard housing. Commission Johnson replied that it is a building code issue. Ms. Cox also provided examples of alleged violations and the lack of enforcement by the City.

Commissioner Discussion

Commissioner Graves agrees that enforcement in the City is an issue; it is a small community with many “grandfathered” problems. He notes that he has spoken to the City Manager regarding the possibility of applying for Measure Z funding to provide enforcement assistance.

Commissioner Graves agrees that the definition of a kitchen used by the City of Sonoma is appropriate for Trinidad, but would like to see the definition be tightened up and condensed to understandable rules. Commissioner Johnson reiterated his comment regarding the convection oven, but otherwise agrees that the Sonoma definition is a good fit for Trinidad. Commissioner Stockness also agreed.

Commissioner Graves requested that Planner Parker prepare a policy document that could be approved at the next meeting. Planner Parker stated that she will have the Building Inspector review the document, add the Trinidad logo, and bring the policy document to the next Planning Commission meeting.

Regarding Administrative Rules, Commissioner Johnson reminded the Commission that they had previously discussed forming a five-member sub-committee to review complaints, comprised of appointed individuals from the public, Planning Commission, and an STR owner. He suggested that they discuss this further at the next meeting. Additional discussion ensued between Commissioners regarding inspections and enforcement, including administrative fines for violations. The Commission would like to pursue this issue further at the next meeting.

VI. COUNCIL REPORT

Planner Parker reported that the City Council discussed the extension of the Verizon lease. They continued the discussion to the next meeting pending additional information needed from Verizon. The Council also discussed a request from a property owner to cut trees on City property in accordance with the City’s Viewshed Ordinance. The City continued that discussion to the next meeting also. The McKinleyville High School requested their prom scheduled for the City Hall be allowed an extra hour. Their request was denied.

VII. STAFF REPORT

The new staff person Nicole has already become an asset to City staff.

The Draft CEQA Initial Study for the Van Wyke repair is waiting on Cultural and Biological Studies. Staff is also almost ready to start submitting draft general plan elements to Coastal Commission staff for review.

VIII. FUTURE AGENDA ITEMS

Continue the discussion on Policies for Detached Living Spaces.
There are several applications Parker is expecting soon.

IX. ADJOURNMENT

The meeting was adjourned at 7:42.

Submitted by:
Cheryl Gunderson
Interim Secretary to Planning Commission

Approved by:

Diane Stockness
Acting Planning Commission Chair

PC DISCUSSION / ACTION AGENDA ITEM



Wednesday, April 18, 2018

Item: Continued Discussion of Policies for Detached Living Spaces: As directed by the City Council, an initial discussion to develop clear policy recommendations about permitting detached living space to minimize the potential for these spaces to be utilized as separate dwelling units and add enforcement fines and / or fees for violators.

Summary

At the last meeting, the Planning Commission came to a consensus on using the definition of a kitchen from Sonoma County. The Commission also agreed on a set of standard conditions of approval that would be used for any future applications for detached living spaces. The Commission directed me to write those up as policy documents for adoption by the Commission. Those policy documents are attached hereto. For clarification, I have again requested an opinion from the City Attorney as to whether these policies can be applied retroactively to existing structures to any degree.

The Planning Commission did not get a chance to discuss possible recommendations on Administrative Rules under the STR ordinance for consideration by the City Manager. I have included that same section from last month's memo for discussion at this meeting.

Similarly, the Commission did not have much chance to discuss enforcement and administrative fines, so I have also included that section from the March memo herein. In addition, I have attached several examples of administrative fine ordinances (Arcata, Woodland, Coronado, Palm Springs). I have not researched this enough to recommend any particular ordinance, I have only provided these as examples. The Planning Commission's recommendation to the Council does not have to be for adoption of a specific ordinance, but can be a general recommendation to consider such an ordinance.

Definitions

The attached policy document follows the format of the Sonoma County Policies and Procedures. I did have a couple of questions / points of clarification for the Planning Commission regarding the kitchen definition. I would like the Commission to think carefully out item 1 in the definition. It seems strange to me that a 240 volt outlet or gas line would be considered to constitute a kitchen. Possibly in combinations with a sink and fridge that could be considered a kitchen, but not by themselves. I think that criterion either needs to be eliminated or clarified. I also added the underlined "built-in" before "appliances" for clarification. I concluded that built-in was implied, since a microwave is allowed in a wet bar. It might also be worth clarifying that a portable burner or smoker

does not constitute a kitchen. In addition, because cabinet / counter spaces is included as part of the definition of a wet bar, should it also be part of the definition of a kitchen?

Standard Conditions for Detached Living Spaces

I would request that the Planning Commission consider some additional specificity for item 1 of the standard conditions in order to further clarify what that means. This is basically the same condition that was put on the detached living space at 381 Ocean that staff has struggled with interpreting. Otherwise, I think this policy is pretty straightforward other than the question in regards to whether than can be applied retroactively at all. I will try to get an opinion in time for the meeting. But that doesn't necessarily affect the policy itself.

Administrative Rules for STRs

Because the existing complaints, and the properties that staff have struggled with in terms of interpreting regulations are all STRs, it may make sense to focus on that aspect of this topic. The STR ordinance allows the City Manager to develop administrative rules regarding STRs. The Planning Commission could make a recommendation for such rules.

17.56.190 (6.26).Q Administrative Standards and Rules

The City Manager shall have the authority to establish administrative rules and regulations consistent with the provisions of this Section for the purpose of interpreting, clarifying, carrying out, furthering, and enforcing the requirements and the provisions of this Section. In particular, the City Manager will establish administrative procedures for complaints. A copy of such administrative rules and regulations shall be on file in the Office of the City Clerk and posted on the City's website.

Regulating how a detached living space is used is problematic from an enforcement standpoint. And, in our discussions so far, the Planning Commission has seemed reluctant to limit the use as long as it's not causing a nuisance. However, the type and number of rental contracts is a more tangible/verifiable aspect of use that could be regulated. A primary problem that has come up is when a portion of a residence is rented to a long-term tenant and another portion is rented as an STR.

Staff have been reluctant to take away someone's rights without clear authority to do so—generally if something is not prohibited, it is allowed. And if the long-term resident is the owner, then renting out a portion of their home as an STR is an allowable use. Where does the line fall if there is one? It could make sense for an STR to be rented without a kitchen, but it doesn't make sense for a long-term rental to not have a kitchen. In the case of 381 Ocean, the long-term tenant lives in the detached space, without a full kitchen, but the rental agreement allows the tenant access to the kitchen in the main residential structure. The owner lives there part-time, but also rents out the main structure as an STR part of the year. The STR rental agreement acknowledges that there is a long-term tenant in the detached structure that has access to the kitchen when it is rented as an STR. The situation seems to meet the letter of the law and limitations, but still functions as a de facto second

unit. It would be helpful for the Planning Commission to weigh in on this situation. There is a similar situation at 88 Van Wycke that has created a de facto duplex.

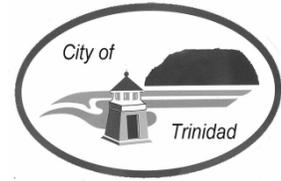
Enforcement & Fines

The enforcement and fine portion of the Council’s direction was not included in the staff recommendation to them, because that is not normally a Planning Commission issue. However, you could make a recommendation in this regard. In fact, the Planning Commission previously made a recommendation that the Council consider adopting an administrative fine ordinance as part of the STR ordinance update. Currently, building and zoning code violations can be processed as infractions and misdemeanors with fines associated with them. However, it takes a court process to issue those; therefore they are not readily useful. The Council did institute administrative fines within the new STR ordinance. Generally, enforcement for STRs is through the procedures of the STR ordinance and through the Nuisance Abatement Ordinance for most other land use and building violations. The Planning Commission could make a recommendation that the City Council adopt a more comprehensive administrative fine ordinance. In addition, the Planning Commission could make recommendation(s) for enforcement priorities.

Attachments

- Planning Commission Policy – Definition of a Kitchen
- Planning Commission Policy – Detached Living Space Standard Conditions
- Administrative fine ordinances:
 - Arcata
 - Woodland
 - Coronado
 - Palm Springs

PLANNING COMMISSION POLICY



Definition of a Kitchen

Adopted April 18, 2018

Purpose

This policy provides guidance to City of Trinidad staff for determining whether a kitchen exists in a space based on the improvements contained therein. It shall be used when reviewing permit applications, checking plans, investigating complaints and inspecting buildings. The provision of a kitchen is one of the factors used to determine whether a structure is considered to be a dwelling unit and for determining the number of units within a structures or allowed on a given site. These guidelines shall be used by all staff in determining whether a space contains a kitchen.

Background

Staff, citizens, the Planning Commission, and the Council have spent quite a bit of time in recent years over concerns and disagreements about the difference between a second dwelling unit and a detached living space, and whether any secondary cooking facilities should be allowed on a property that is only authorized to have one dwelling unit. The City Council has directed the Planning Commission and Planning Staff to develop clear policy recommendations regarding these issues.

The presence or absence of a kitchen is often used by jurisdictions to determine whether a second unit exists. The City's code does not have a definition of kitchen, and the building code definition is vague. The building code requires a dwelling unit to have food preparation facilities, but does not define what those are. There is nothing in Trinidad's codes (or the State's) that prohibits a single-family dwelling from having two kitchens. However, the Planning Commission has put limitations on the creation of a kitchen for specific projects.

There are a number of reasons that one dwelling may have multiple kitchens. Full outdoor kitchens, for example, have become popular. Sometimes an upper or lower story or a recreation/ game room will have a partial kitchen or wet bar installation for convenience. Some people may want separate cooking facilities if someone has allergies or religious restrictions on what they can eat or how food is prepared. Also, a second kitchen or supplemental cooking facilities could be important for someone who does a lot of food prep such as smoking, canning and other types of preserving.

Definitions & Policies

Kitchen: A kitchen means an area within a structure that is used or designed to be used for the preparation or cooking of food and that contains one or both of the following:

1. Cooking appliances or rough in facilities including, but not limited to: ovens, convection ovens, stoves, stove tops, built-in grills or microwave ovens or similar built-in appliances, 240 volt electrical outlets or any gas lines. OR
2. A sink less than 18 inches in depth with a waste line drain 1.5 inches or greater in diameter AND a refrigerator exceeding five (5) cubic feet in capacity or space opening with an electrical outlet that may reasonably be used for a refrigerator exceeding five (5) cubic feet in capacity.
3. Cabinets/counters...
4. A kitchen may have more than one sink, stove, oven or refrigerator in the same room.

Wet bar: A single sink with a waste drain line no greater than 1.5 inches in diameter and an under counter refrigerator no greater than 5 cubic feet in size with cabinets and/or counter top area not exceeding 6 lineal feet. A wet bar shall not include a refrigerator in excess of 5 cubic feet in size or a kitchen sink greater than 2 square feet in size or a gas or electric range, stove top and/or oven (but may include a microwave oven).

Exceptions: Notwithstanding the criteria above, the following shall not be considered to be a kitchen:

- A. Gas lines and/or electrical outlets of 240 volts in a residential garage, barn, workshop or similar structure, if an operable garage door is provided and the space is unconditioned as defined in the adopted model codes. A garage may contain a refrigerator or freezer but cannot contain any cooking appliances.
- B. One laundry/utility room in a dwelling unit. The laundry room may include utility hook-ups for gas or electric laundry appliances and may include a utility sink with a sink depth 18 inches (18") or greater and/or a full size refrigerator or freezer. A laundry room shall not contain cooking appliances.
- C. An "outdoor kitchen" that is placed in an unenclosed area that may be roofed but is open on at least two sides and exposed to weather.
- D. Any room where the City Manager or his/her designee determines that the room, by its design, clearly cannot reasonably be used as a kitchen. In considering whether a room is a kitchen that would designate a structure as a dwelling unit, the director may also consider but not be limited to, whether or not the structure has a full bathroom and/or potential sleeping area. When an exception is made pursuant to this section, it shall be documented by a Deed Restriction and/or an Agreement to be signed by the property owner and recorded to inform future property owners of restrictions on the use of a building and future permit requirements for any change in use.

Number of Kitchens: There shall be only one kitchen per approved dwelling unit unless an exception to this policy is granted by the Planning Commission. In granting an exception, the Planning Commission shall ensure that adequate measures, such as a deed restriction or other limitations, are included to ensure that the structure is not converted for use as a second dwelling unit.

PLANNING COMMISSION POLICY



Detached Living Space Standard Conditions

Adopted April 18, 2018

Purpose

This policy provides guidance to City of Trinidad staff and the Planning Commission for setting standards for improvements to and the use of detached living spaces. It shall be used when reviewing permit applications, checking plans, investigating complaints and inspecting buildings. These guidelines shall be used by all staff in determining whether a detached living space is being used consistent with City regulations and policy.

Background

The City has a history of allowing existing, detached structures to be converted into living space as an economical alternative to an addition. These spaces can and have been used for a variety of legitimate, single-family, residential uses. However, there are financial incentives, as well as reasons of simple personal convenience, for owners or residents to convert a detached bedroom/living space into its own complete dwelling unit.

Staff, citizens, the Planning Commission, and the Council have spent quite a bit of time in recent years over concerns and disagreements about the difference between a second dwelling unit and a detached living space, and whether any secondary cooking facilities should be allowed on a property that is only authorized to have one dwelling unit. This policy document is just one piece of the larger issue. It is intended to provide consistency and clarity for residents, applicants and staff alike. The standard conditions listed below have been developed for use by the Planning Commission in approving any application for a detached living space. In addition, these standards shall be applied to existing detached living spaces to the extent lawfully allowed.

Standard Conditions for Detached Living Spaces

1. An accessory living space shall operate as an extension of and be dependent upon the principal use and shall not be a separately functioning dwelling unit.
2. A "kitchen," as defined by Planning Commission Policy, is prohibited within a detached living space that contains a bedroom or full bathroom.
3. Property owner to sign and record a deed restriction limiting the number of bedrooms and units on the property to that approved by the City.
4. Owner to agree to periodic inspections/walk-throughs by the City Building Inspector with 24-hour notice.
5. Separate mailing addresses are prohibited for a detached living space.
6. Separate utility meters for electricity, water, and other utility services are prohibited for a detached living space.

ORDINANCE NO. 1498

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA AMENDING THE ADMINISTRATION CITATION PROCEDURE OF THE MUNICIPAL CODE

The City Council of the City of Arcata does ordain as follows:

Section 1. Chapter 3, Penalty Provisions, of Title 1, General Provisions, is hereby renamed to “Enforcement and Penalty Provisions,” and Article 1 entitled “Penalty Provisions” is hereby created in Chapter 3 to consist of existing Sections 1200 through 1210 without any changes to said Sections, excepting changes to Section 1200, as shown by the following strike through for deleted text and bold double underscore for additions:

Title 1 - General Provisions
Chapter 3 – **Enforcement and** Penalty Provisions
Article 1 - Penalty Provisions

SEC. 1200. Penalty – General.

No person whether principal, agent, employee or otherwise, shall violate any provision, or fail to comply with any of the mandatory requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code, shall be guilty of an infraction unless such offense is specifically designated as a misdemeanor in this Code. Any person convicted of a misdemeanor under any of the provisions of this Code, unless provision is otherwise herein made, shall be punished by a fine of not more than ~~five hundred~~ **one thousand** dollars (~~\$500~~**1,000**.00), or by imprisonment in the City or County Jail for a period not exceeding six months, or by both such fine and imprisonment. Every violation determined to be an infraction is punishable by (1) a fine not exceeding one-hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two-hundred dollars (\$200.00) for a second violation of the same ordinance within one year; (3) a fine not exceeding five-hundred dollars (\$500.00) for each additional violation of the same ordinance within one year. **Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year; (3) a fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.** Each such person shall be guilty of separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.

Section 2. Section 1210, “Administrative fines or penalties for violations of Code,” of Title 2, General Provisions, Chapter 3, Enforcement and Penalty Provisions, is hereby repealed.

Section 3. Article 2 entitled “Administrative Enforcement” is hereby created in Chapter 3, Enforcement and Penalty Provisions, of Title 2, General Provisions, and shall consist of the following new Sections 1210 – 1225 hereby adopted:

Title 1 - General Provisions
Chapter 3 – Enforcement and Penalty Provisions
Article 2 – Administrative Citations

SEC. 1210. Purpose and applicability.

Unless otherwise provided by law, the violation of any provision of this Code is subject to an administrative citation, fine and penalty pursuant to Government Code Section 53069.4. The remedies provided by this Chapter are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code. Use of this Article shall be at the sole discretion of the City.

SEC. 1211. Enforcement Officer defined.

For purposes of this Article, "Enforcement Officer" shall mean any City employee or agent of the City having the authority to enforce any provision of this code. Enforcement Officers shall have authority to issue administrative citations pursuant to this Article.

SEC. 1212. Administrative citation.

A. Whenever an Enforcement Officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, the Enforcement Officer may issue an administrative citation to any person responsible for the violation.

B. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The section of this Code violated and a description of the violation;
4. The amount of the fine for the Code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
6. An order prohibiting the continuation or repeated occurrence of the Code violation described in the administrative citation;
7. An order to correct the Code violation described in the administrative citation if said violation is correctable as described in subsection D below;
8. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained and an advance deposit waiver; and
9. The name and signature of the citing Enforcement Officer.

C. Any order to correct issued as part of an administrative citation may be enforced as set forth in specific provisions applicable to that violation.

D. In cases involving a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety, a reasonable time not to exceed six months shall be provided to remedy or correct the violation prior to imposition of fines or penalties. In determining what is a reasonable time, the City may consider the estimate of local professionals including licensed contractors. In the case of such violations, the time within which the violation must be corrected in order to avoid a fine shall also be specified on the administrative citation. The City Manager may extend the time period to remedy or correct a violation up to six months for good cause, including such factors as complexity of corrective action and third party delays not caused or contributed to by any person responsible for the violation. Upon application to the City Manager and after a duly noticed public meeting, the City Council may further extend the time

period to remedy or correct a violation provided that the responsible party has made diligent progress in correcting the violation.

E. Whenever an administrative citation has been issued for the undertaking of any activity without a permit, license, or franchise required by this Code and the amount of the administrative fine imposed for that violation is delinquent, no permit, license, or franchise for that activity shall be issued unless and until the delinquent administrative fine and any applicable penalties and interest are first paid. A permit may be issued to correct outstanding violation(s) of this Code provided the person who received the citation has entered into a settlement and payment agreement to the satisfaction of the City Manager after first considering the circumstances, severity and extent of the violation.

SEC. 1213. Notice of Violation In Lieu Of Administrative Citation

A. *Notice of violation, generally.* Except as provided in subsection B of this Section, if the violation consists of building, electrical, mechanical, plumbing or zoning regulation violations which does not create an immediate danger to health or safety, the Enforcement Officer may defer issuance of an administrative citation until the person responsible for a violation has first been given a notice of the violation and an opportunity to correct the violation. When issued, the notice of violation shall contain all of the following:

1. The date and location that the violation was observed;
2. The section of this Code violated and a description of the violation;
3. The actions required to correct the violation;
4. A reasonable and definite time period for the correction of the violation; and
5. Notice that if the violation is not corrected by the date specified, an administrative citation may be issued and fines may be imposed.

B. *Exceptions.* The Enforcement Officer is not required to issue a notice of violation prior to issuance of an administrative citation if any of the following circumstances exist, as determined by the Enforcement Officer:

1. The person responsible for the violation was issued an administrative or infraction citation for violation of the same provision of this Code within the immediately preceding 12 months;
2. The violation constitutes an immediate threat to the health or safety of any person or the public generally;
3. One or more other violations exist on the property, any one of which is not subject to a notice of violation; or
4. The person responsible for the violation owes the City unpaid administrative fees, fines or penalties that are delinquent.

C. *Correction of Violation.* If the Enforcement Officer determines that all violations listed in the notice of violation have been corrected within the specified time, an administrative citation may not be issued. If the Enforcement Officer determines that some or all of the violations listed in the notice of violation were not corrected within the required time, an administrative citation may be issued for each uncorrected violation or the Enforcement Officer may invoke any other remedy provided by law.

SEC. 1214. Amount of fines.

The amount of the administrative fines imposed under this Article shall be established by resolution of the City Council and shall be consistent with Section 1200 and applicable state law. The schedule of fines shall specify increased fines for repeat violations of the same Code provision by the same person within 12 months from the date of an administrative citation. Such person shall be guilty of a

separate offense for each and every day, or portion thereof, during which any violation of any provision of this subchapter is committed, continued, or permitted by such person. The schedule of fines shall additionally specify the late payment and interest charges imposed on a payments made after its due date.

SEC. 1215. Payment of the fine.

Fines shall be paid to the City within 30 days from the date of the administrative citation. Payment of a fine under this Article shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation. Fines not paid when due shall be deemed delinquent, and subject to a late payment penalty and interest charge.

SEC. 1216. Hearing request.

A. The recipient of an administrative citation may contest the alleged violations, or that he or she is the responsible party, by submitting a request for hearing to the City within 30 days from the date of the administrative citation. The request for hearing must be made on a City provided form, and shall include a deposit payment of the total amount of fine, or notice that an advance payment hardship waiver application has been filed pursuant to Section 1217.

B. The City shall set a date for hearing not less than 15 days or more than 60 days from the date the City receives a complete hearing request form. The City shall notify the person requesting the hearing of the time and place set for the hearing at least ten days prior to the date of the hearing.

C. Any additional written reports concerning the administrative citation submitted by the Enforcement Officer for the hearing officer's consideration shall also be served on the person requesting the hearing at least five days prior to the date of the hearing.

SEC. 1217. Advance payment hardship waiver.

A. Any person who intends to request a hearing under Section 1216 and who is financially unable to make the advance payment of the fine as required by this Article, may file an application for an advance payment hardship waiver. The request for a hardship waiver shall be filed with the City on the City's advance deposit hardship waiver application form within ten days of the date of the administrative citation. The application shall contain a sworn affidavit by the applicant together with any supporting documents or materials providing proof of such financial inability to deposit the full amount of the fine. The City Manager or designee shall review the application and determine if the application demonstrates actual financial inability to advance pay fine, and on such determination may waive the requirement of an advance deposit of the fine.

B. The advance payment deposit requirement shall be stayed unless or until the City makes a determination not to grant the advance payment hardship waiver.

C. If the City Manager determines not to issue an advance payment hardship waiver, the cited party shall remit payment to the City within ten days of the date of that decision or 30 days from the date of the administrative citation, whichever is later.

D. The City Manager shall issue a written determination of its reasons for granting or denying an advance payment hardship waiver. This written determination shall be final.

E. The written determination shall be served upon the applicant for the advance payment hardship waiver by first class mail.

SEC. 1218. Hearing officer.

The City Manager shall designate one or more persons qualified to act as hearing officer for administrative citation hearings.

SEC. 1219. Hearing procedures.

A. No hearing will be held unless the fine has been deposited in advance or an advance payment hardship waiver has been granted.

B. The administrative citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents. Both the party contesting the administrative citation and the City shall be given opportunities to testify and present additional evidence concerning the alleged violations at the hearing. Such evidence may include witness testimony and/or documentary evidence. The legal rules of evidence shall not apply to the hearing, and the hearing officer may rely on any relevant evidence that is material to the alleged violations.

D. The failure of a recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine, a failure to exhaust his or her administrative remedies and consent to any order issued as part of the administrative citation.

F. The hearing officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the administrative citation prior to issuing a written decision.

SEC. 1220. Hearing Officer's decision.

A. After considering all the relevant testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold, reduce or cancel the administrative citation and shall state in the decision the reasons therefore. The decision of the hearing officer shall be served by the City on the cited person within 10 days of receipt, and shall be final.

B. If the hearing officer determines that the administrative citation should be upheld, the fine amount on deposit with the City shall be retained by the City.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance payment hardship waiver, complete payment of the fine shall be made within 30 days of receipt of the hearing officer's decision, and if not then paid shall be considered delinquent.

D. If the hearing officer determines that the administrative citation should be canceled or reduced and the fine was deposited with the City, the City shall refund the fine amount deposited or paid in excess, within 30 days of the date of the hearing officer's decision.

SEC. 1221. Recovery of administrative citation fines and costs.

The City may collect delinquent fines, penalties and interest through any available legal method, including, but not limited to, collection, liens and judicial action, and the City's collection costs are recoverable together with the delinquent payment, penalty and interest. Delinquent fines, penalties and interest owed for conditions of real property, or structures thereon, owned by the person cited may be

made a lien against the real property upon which the violation occurred when such fines, penalties and interest are not fully paid within 60 days.

SEC. 1222. Lien Procedure

A. The Finance Director may initiate proceedings to establish and record a lien against the property for which a delinquent fine was imposed on the owner of property for a violation occurring or existing on that property by preparing and filing with the City Clerk a report stating for each property for which a lien is proposed the amount of the delinquent administrative fine, applicable penalties and interest, and an administrative fee established by resolution of the City Council to recover the administrative costs incurred in recording the lien and carrying out the lien procedures of this Article.

B. The City Clerk shall fix a time, date, and place for hearing by the City Council of the report and any protests or objections thereto.

C. The Finance Director shall cause written notice to be served on the owner of each affected property not less than ten days prior to the time set for the hearing. Such notice shall set forth the amount of the delinquent administrative fine and any penalties and interest which are due. Such notice shall be delivered by first class mail, postage prepaid, addressed to each owner of such property to be assessed as that owner's address appears on the last equalized assessment roll or supplemental roll of the County of Humboldt, whichever is more current. Service by mail as provided for herein shall be effective on the date of mailing, and the failure of any person to actually receive such notice shall not affect the validity of the notice.

D. At the conclusion of the hearing, the City Council may adopt a resolution confirming, discharging, or modifying the amount of the lien proposed for each affected property and order that the amount not discharged as to any property be reduced to a lien against that property. The City Council may thereupon order that the fee be specifically assessed against the property involved. If the City Council orders that the fee be specially assessed against the property, it shall confirm the assessment. Thereafter, said assessment may be collected at the same time and in the same manner as ordinary real property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

E. A lien may be foreclosed by an action brought by the City for a money judgment.

F. The city may recover from the property owner any costs incurred regarding the process and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

G. The City Clerk shall record the lien in the office of the Humboldt County Recorder within 30 days following the adoption of a resolution by the City Council imposing a lien.

SEC. 1223. Satisfaction of lien.

Upon payment in full is received by the City for all outstanding administrative fines, penalties, interest, and administrative costs, the Finance Director shall record a notice of satisfaction of lien with the office of the Humboldt County office recorder and release the lien.

SEC. 1224. Right to judicial review.

A. Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition seeking review in accordance with Government Code Section 53069.4.

B. The City is prohibited from seeking review of an administrative decision of a hearing officer on an administrative citation pursuant to Government Code Section 53069.4.

SEC. 1225. Legislative Subpoenas. Pursuant to Government Code § 37104, the City Manager is authorized to subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony in any administrative action or proceeding pending before the City.

Section 5: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 6: This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because the ordinance implements an existing Code compliance program in a manner, and can be seen with certainty there is no possibility it may have a significant effect on the environment.

Section 7: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: January 3, 2018

ATTEST:

APPROVED:

/s/ Bridget Dory
City Clerk, City of Arcata

/s/ Sofia Pereira
Mayor, City of Arcata

CLERK’S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1498, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, held on the 3rd day of January, 2018, by the following vote:

AYES: **PEREIRA, WATSON, ORNELAS, PITINO, WINKLER**
NOES: **NONE**
ABSENT: **NONE**
ABSTENTIONS: **NONE**

/s/ Bridget Dory
City Clerk, City of Arcata

Chapter 1.12 - ADMINISTRATIVE FINES AND PENALTIES^[1]

Sections:

1.12.010 - Purpose.

The city council finds that there is a need for an alternative method to enforce provisions of its ordinances, as amended from time to time. The city council further finds that the assessment of civil fines and penalties through an administrative hearing procedure for code violations in accordance with Government Code Section 53069.4 is a necessary, alternative method of ordinance enforcement.

(Ord. No. 600, § 4, 1-11-2016)

1.12.020 - Cumulative with other remedies.

The enforcement remedy of administrative assessment of civil fines and penalties established in this chapter shall be cumulative and in addition to any other applicable statutory, administrative or judicial remedy authorized by any applicable law or ordinance.

(Ord. No. 600, § 4, 1-11-2016)

1.12.030 - Definitions.

- A. "Enforcement officer" means the code enforcement officer designated by the city manager, including any deputies of the code enforcement officer, and any sworn peace officer employed by the city.
- B. "Property owner" means the owner of record of the real property, upon which a violation of a city ordinance exists, as shown on the most recent equalized tax roll, the occupant of that real property, the person in possession of that real property and any other interested person responsible for such property or the violation.
- C. "Notice of violation" means the "notice of violation, order to correct and notice of assessment of administrative fines and penalties" or its substantial equivalent, issued by the enforcement officer in compliance with this chapter.
- D. "Person" means any natural person, partnership, trust, corporation, limited liability company, association, society, club or other entity but shall not include the city or any of its employees and agents acting within the scope and course of such employment or agency.

(Ord. No. 600, § 4, 1-11-2016)

1.12.040 - Imposition of civil fines and penalties.

- A. Any person violating any provision of an ordinance enacted by the city, as amended from time to time, shall be subject to the assessment of civil fines and penalties pursuant to the administrative procedures established in this chapter and authorized by Government Code Section 53069.4.
- B. Each and every day that a violation of any city ordinance exists shall constitute a separate and distinct violation.

(Ord. No. 600, § 4, 1-11-2016)

1.12.050 - Enforcement authority.

- A. The enforcement officer shall have the authority and powers necessary to determine whether a violation of a city ordinance exists and the authority to take appropriate action to gain compliance with the provisions of all ordinances enacted by the city. These powers include the power to issue a notice of violation; the power to assess and collect civil fines and penalties as provided in this chapter; and the power to enter and inspect private property within the boundaries of the city pursuant to the consent of the property owner or other person in charge, or a warrant.
- B. These inspections may include, but are not limited to, the taking of photographs or video recordings and the taking of samples or other physical evidence. All entries, examinations, inspections and surveys shall be conducted in a reasonable manner. If all property owners, tenants or other responsible persons refuse to consent to the entry or inspection by the enforcement officer, the enforcement officer may seek and obtain an inspection warrant pursuant to Part 3, Title 13 of the Code of Civil Procedure (commencing with Section 1822.50) except that, notwithstanding Section 1822.52 of the Code of Civil Procedure, the warrant shall be issued only upon probable cause.

(Ord. No. 600, § 4, 1-11-2016)

1.12.060 - Amount of fines and penalties.

Any person who violates any provisions of any ordinance enacted by the city, as amended from time to time, or any person who owns property upon which a violation exists, irrespective of whether that person caused the violation, shall be subject to an administrative fine or penalty up to the maximum amounts set forth in this chapter.

(Ord. No. 600, § 4, 1-11-2016)

1.12.070 - Amount of fine.

The enforcement officer may impose as the administrative fine, an amount up to the maximum fine or penalty amounts for infractions set forth in subsection (b) of California Government Code Section 36900, to the extent permitted by law; the enforcement officer may impose the fine if the violation is not abated by the date specified in the notice of violation issued in compliance with Section 1.12.100 of this chapter. If each day the violation exists is deemed a separate violation, the amount of the fine which may be imposed shall be calculated based upon the number of calendar days from the date of transmittal of the notice of violation through the date of abatement.

(Ord. No. 600, § 4, 1-11-2016)

1.12.080 - Interest.

Any administrative fine and penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing on the twentieth (20th) day after the penalty becomes a final decision or order.

(Ord. No. 600, § 4, 1-11-2016)

1.12.090 - Determination of fine.

- A. The enforcement officer shall determine the amount of fines or penalties in the first instance. In making the determination, the enforcement officer may take into account the facts and circumstances of the violation, including without limitation the following factors:
1. The length of the time the violations existed;
 2. The culpability of the owner and the willfulness of the violation;
 3. The number of previous violations of the same or related type committed by the owner within the preceding twelve (12) months;
 4. The extent of the violation and the effect of the violation on other residents within the boundaries of the city;
 5. Attempts, if any, to comply with the applicable ordinance(s);
 6. The time necessary to abate the violation; and
 7. Any other information relevant to a determination of the fine.
- B. In making a determination of the amount of the fine, the enforcement officer may consider any relevant information including, without limitation, any information submitted by the property owner. In the event that the enforcement officer determines that the violation was not caused by, or with the knowledge of, the present property owner, the enforcement officer may reduce or eliminate the fine. In the event the enforcement officer determines that the correction of the violation is not feasible, and the violation does not impact other residents within the boundaries of the city, the enforcement officer may reduce or eliminate the fine.

(Ord. No. 600, § 4, 1-11-2016)

1.12.100 - Notice of violation, order to correct and notice of assessment of administrative fines and penalties.

Upon determining that a violation exist of any ordinance enacted by the city, the enforcement officer may take the following steps:

- A. Issue a "notice of violation, order to correct, and notice of assessment of administrative fines and penalties" to the property owner by certified mail or by personal service. The notice of violation shall specify or contain:
1. The name and address of the property owner, and the address and assessor's parcel number ("APN") of the real property where the violation exists;
 2. A statement that a determination has been made that a violation of the particular ordinance exists on the identified property and specifying the sections of the ordinance violated and the conditions constituting each and every violation;
 3. A specified time period of not less than thirty (30) days from receipt of the notice of violation within which the violation must be abated;
 4. A statement advising the property owner that in the event the violation is not abated by the deadline specified in the notice of violation, the property owner shall be subject to administrative fines and penalties under this chapter and specifying the maximum amount of such fines and penalties;
 5. A statement that the property owner may submit in writing to the hearing officer any information relating to the determination of the existence of the violation or violations or the

- amount of the fine to be imposed;
6. A statement of any additional potential consequences that could occur if the violation continues after the expiration of the deadline specified in the notice of violation including, but not limited to, criminal prosecution, civil injunction, administrative abatement, judicial abatement, summary abatement, revocation of permits, recordation of notice of violation, and withholding of future city permits.
 7. A statement that the property owner affected by the notice of violation may appear before the hearing officer at the date and time specified in the notice of violation to appeal the findings, determinations and amount of potential fines and penalties set out in the notice of violation.
 8. A statement that should the property owner fail to appear at the appeal hearing specified in the notice of violation, the findings, determinations and amounts of administrative fines set out in the notice of violation shall be final.
- B. The enforcement officer may, in her/his discretion, record a copy of the notice of violation with the county recorder. In the event of such recordation, and in the event that the notice of violation is subsequently modified, the enforcement officer shall record an amended notice of violation. Correction or abatement of the violation shall not excuse the owner's liability for costs incurred during the administrative abatement process. In the event that the notice of violation is eliminated through the appeal process or because the violations have been corrected within the deadline specified in the notice of violation, the enforcement officer shall record a "notice of withdrawal of notice of violation" or a "notice of satisfaction and compliance with notice of violation," as warranted.
 - C. If the enforcement officer determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation. Unless the notice of violation is appealed as provided in Section 1.12.110 of this chapter, the notice of violation shall constitute the final administrative order or decision of the city and the assessment of administrative fines and penalties shall become a final order or decision within the meaning of Government Code Section 53069.4(b)(1).
 - D. Notwithstanding subsection A. above, the enforcement officer may require immediate abatement of a violation if the violation creates an imminent danger to the health and safety of other persons or property within the boundaries of the city, including city staff and city property. Such summary abatement must comport with all applicable laws and any requirements enacted in this Code or such other uniform code which has been adopted by the city.

(Ord. No. 600, § 4, 1-11-2016)

1.12.110 - Initial appeal of notice of violation.

- A. The notice of violation shall set an appeal hearing which shall be no sooner than twenty (20) days and no later than forty-five (45) days following the issuance of the notice of violation. Failure of the property owner to timely appear will result the notice of violation and the assessment of administrative fines and penalties to immediately become a final order or decision.
- B. During the appeal hearing, the hearing officer shall: review the notice of violation; review any relevant evidence submitted by the property owner; consider the factors set forth in Section 1.12.090 of this

chapter; and either uphold, withdraw or modify the notice of violation and the fines and penalties specified in the notice of violation. The hearing officer shall serve a copy of his or her written decision on the property owner. The written decision shall also include or be accompanied by a description of the right to appeal the hearing officer's decision to the city council as provided in Section 1.12.120 of this chapter. Service of the hearing officer's decision shall be complete within five calendar days after the date it was mailed by first-class U.S. mail to the property owner at the address shown on the last equalized tax roll.

- C. The decision of the hearing officer shall constitute the administrative order or decision of the city and be final and confirmed within the meaning of Government Code Section 53069.4(c) unless appealed to the city council as set out in Section 1.12.120 of this chapter.

(Ord. No. 600, § 4, 1-11-2016)

1.12.120 - Appeal to the city council.

- A. The person who appealed the notice of violation pursuant to Section 1.12.110 of this chapter may appeal the decision of the hearing officer to the city council pursuant to Title 1 of this Code and subject to all of the requirements of this chapter which shall be controlling to the extent of any inconsistency with Chapter 1.13 of Title 1.
- B. A notice of appeal must be in writing, must be filed with the city clerk and must state specifically all of the claimed errors, abuses of discretion and other grounds for the appeal. The city council shall consider only the issues raised in the timely notice of appeal as a basis for appeal. The appellant, with approval of the city council, may amend the written notice of appeal to include additional issues, before submission to the city council for decision.
- C. At the time of filing the appeal, the appellant must pay a fee in an amount adequate to cover the cost of processing and hearing the appeal, as established from time to time by resolution of the city council. The city shall also recover from the appellant the costs of preparation of any transcript of testimony requested by the appellant.
- D. The city clerk shall cause a notice of hearing to be mailed to the appellant by first-class mail specifying the date, time and location where the city council will meet and hear the appeal, which date shall be not less than five calendar days after the date of mailing the notice. The city clerk shall also give a copy of said notice to the responding city officer or employee. Upon receipt of the notice of hearing from the city clerk, the responding city officer or employee shall transmit to the city clerk copies of all documents pertaining to the matter under appeal, a transcript of testimony as the appellant shall specifically request and pay for, and a summary of all of the evidence presented to the responding city officer or employee. The city clerk shall also give such other notices as may be required by law or ordinance.
- E. At the time fixed by the city clerk, the city council shall meet to review the appeal. The appellant may appear and be heard on the matter.
- F. The notice of violation and the written decision of the hearing officer shall be admitted into evidence. The appellant shall bear the burden of proving that the decision of the hearing officer should be vacated or modified.
- G. In reviewing the decision of the hearing officer, the city council shall consider the factors set forth in Section 1.12.090 of this chapter, and shall uphold, repeal or modify the decision of the hearing officer;

and the city council shall uphold, eliminate, or modify any fines and penalties assessed by the hearing officer. The written decision shall also include or be accompanied by a description of the appellant's right to appeal the decision as provided in Government Code Section 53069.4 and Section 1.12.130 of this chapter.

- H. At the hearing on appeal, the city council shall review the documents pertaining to the matter, offered summaries of the evidence, such transcript of testimony as may be furnished; and will hear such testimony as is relevant to the issues raised in the appellant's notice of appeal and any amendments thereto. Oral evidence shall be taken on oath or affirmation. Each side shall have the right to call and examine witnesses; to introduce exhibits; to cross examine opposing witnesses on any matter relevant to the issues on appeal even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him to testify; and to rebut the evidence against him. If a party does not testify on her/his own behalf she/he may be called and examined as if under cross-examination. The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but may be rejected by the city council if deemed unreliable. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at a hearing. Irrelevant and unduly repetitious evidence shall be excluded. At the conclusion of the hearing, the city council may affirm, reverse or modify the finding, decision or action, or may refer the matter back for further action.
- I. The decision of the city council shall constitute the final administrative order or decision of the city within the meaning of Government Code Section 53069.4(b)(1) and (c). The city clerk shall cause a copy of the city council's written decision to be served by first-class mail on the appellant specified in the written notice of appeal. Service of the city council's decision shall be complete on the fifth day after the date it is mailed by the city clerk to the address provided by the appellant on the notice of appeal.

(Ord. No. 600, § 4, 1-11-2016)

1.12.130 - Judicial review.

- A. Any person aggrieved by a final administrative order or decision imposing an administrative fine after an appeal under Section 1.12.120 of this chapter may seek review in the Tulare County Superior Court pursuant to the terms of Government Code 53069.4(b).
- B. Judicial review of a decision of the city council made after a hearing pursuant to Section 1.12.120 shall be made pursuant to Section 1094.6 of the California Code of Civil Procedure where and to the extent said section may be applicable.

(Ord. No. 600, § 4, 1-11-2016)

1.12.140 - Enforcement and collection.

When an administrative fine or penalty becomes a final order under this Chapter or Government Code Section 53069.4, the city may proceed to collect the fine or penalty as follows:

- A. The city may commence a civil action to enjoin and/or collect the administrative fines and penalties.

In the event a civil action is commenced to collect the administrative fines and penalties, the city shall be entitled to recover all costs associated with the collection of the fines and penalties. Costs include, without limitation, staff time incurred in the collection of the penalty and those costs set forth in Code of Civil Procedure Section 1033.5.

- B. The amount of any unpaid final administrative fine, plus interest, plus any other costs as provided in this chapter, may be declared a lien on any real property owned by the property owner against whom an administrative penalty has been imposed, as follows:
 - 1. Notice shall be given to the property owner before recordation of the lien, and shall be served in the same manner as a summons in the civil action pursuant to Code of Civil Procedure Section 415.10 et seq.;
 - 2. The lien shall attach when the city records it with the county recorder's office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final decision, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel; and
 - 3. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, the city shall record a notice of the discharge containing the information specified in Section 1.12.100 8.B.
- C. The city may withhold issuance of licenses, permits and other entitlements to the property owner on any project, property, or application of any kind whenever an administrative penalty remains unpaid.
- D. The city may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgments Law, commencing with California Code of Civil Procedure Section 680.010.

(Ord. No. 600, § 4, 1-11-2016)

Chapter 1.10 CODE ENFORCEMENT ADMINISTRATIVE FINES

Sections:

1.10.010 Enforcement through administrative fine.

1.10.020 Amount of fines.

1.10.030 Notice of violation.

1.10.040 Issuance of administrative citation.

1.10.050 Review to contest administrative citation.

1.10.060 Review Officer.

1.10.070 Review procedure.

1.10.080 Review Officer's decision.

1.10.090 Appealing Review Officer's decision.

1.10.100 Collection of fines and charges.

1.10.010 Enforcement through administrative fine.

A person who has violated a regulatory provision of this code may be required to pay an administrative fine in accordance with the provisions of this chapter. (Gov. Code § [53069.4](#)) (Ord. 1862)

1.10.020 Amount of fines.

The following fines shall be imposed for each separate violation of same code section:

A. \$100.00 for a first violation;

B. \$200.00 for a second violation within the same year; and

C. \$500.00 for each additional violation in the same year. (Gov. Code § [36900](#))

1.10.030 Notice of violation.

A. The Code Enforcement Officer shall provide a reasonable period of time for the person who has violated a regulatory provision of the code to correct the violation, if the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, and does not create an immediate danger to health or safety.

B. If the person fails to cure the violation within the time provided by the Code Enforcement Officer, the Code Enforcement Officer is authorized to issue an administrative citation.

1.10.040 Issuance of administrative citation.

An administrative citation shall contain the following information:

- A. The date of the violation.
- B. The address or a description of the geographic location where the violation occurred.
- C. The section of the code violated.
- D. A description of the conditions which caused the code violation.
- E. An order to bring the conditions into compliance with the code.
- F. Information concerning the fine:
 - 1. The amount of the fine which the citee is to pay;
 - 2. The date, 20 working days from the date of the citation, by which the citee must pay the fine; and
 - 3. The location where the citee must pay the fine.
- G. Notice that the citee's payment of the fine does not excuse a continued or subsequent violation of the code.
- H. Notice of the citee's entitlement to request an administrative review.

1.10.050 Review to contest administrative citation.

A. Request for Review. A citee may contest the citation by:

- 1. Completing a request for review form and returning it to the City Clerk within 20 days from the issuance of the administrative citation; and
- 2. Depositing with the City Clerk a refundable \$25.00 deposit for the review.

B. Suspension of Payment of Fine. If the citee files a timely request for review, the requirement to pay the fine shall be suspended and the payment of the fine, if any, shall be in accordance with the decision of the Review Officer.

C. Processing Request.

- 1. Upon the receipt of a request for review, the City Clerk shall set the matter for hearing and provide the citee at least 10 days' notice of the time, date, and location of the review.
- 2. If the City intends to submit any written material for consideration at the review, other than the citation, then the City Clerk shall provide copies of such additional material to the citee at least five working days prior to the review.

1.10.060 Review Officer.

The City Manager shall designate a competent person or persons to serve as a Review Officer.

1.10.070 Review procedure.

A. If the citee requesting the review fails to appear, the Review Officer shall enter a decision upholding the citation.

B. At the review, the City shall present its case in support of the contention that a violation of this code has occurred and that the citee is responsible.

C. At the review, the person contesting the penalty shall be given the opportunity to testify and to present evidence that a violation did not occur and/or the citee is not responsible for the violation.

1.10.080 Review Officer's decision.

A. The Review Officer shall issue a written decision to uphold or set aside the administrative citation and shall present the reasons for the decision.

B. The City Clerk shall send a copy of the Review Officer's decision to the citee with notice of the citee's entitlement to appeal the Review Officer's decision in Superior Court.

C. The decision of the Review Officer shall be the City's final action on the matter. The decision shall be final as of the date of the decision.

D. If the Review Officer upholds the administrative citation, the City shall reimburse the citee's \$25.00 deposit.

1.10.090 Appealing Review Officer's decision.

A. A citee may appeal the Review Officer's decision by filing an appeal with the Superior Court, within 20 days from service of the Review Officer's decision. (Code of Civil Procedure § [1094.6](#); Gov. Code § [53069.4](#))

B. Suspension of Payment of Fine. If the citee files a timely appeal with the Municipal Court, the requirement to pay the fine shall be suspended and the payment of the fine, if any, shall be in accordance with the decision of the Superior Court.

1.10.100 Collection of fines and charges.

If a citee fails to pay the fine in a timely manner, the City may collect any past due fines by use of all available legal means.



The Coronado Municipal Code is current through Ordinance 2077, passed February 6, 2018.

Disclaimer: The City Clerk's Office has the official version of the Coronado Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.coronado.ca.us/>

City Telephone: (619) 522-7300

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Palm Springs Municipal Code[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 1 GENERAL PROVISIONS](#)**Chapter 1.06 COMMUNITY IMPROVEMENT AND ADMINISTRATIVE CITATIONS****1.06.010 Intent.**

- (a) This chapter provides for administrative citation remedies, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this code, including any codes adopted by reference, or other public nuisance.
- (b) This chapter establishes an administrative citation process and monetary penalties to encourage and expedite compliance with the provisions of the Palm Springs Municipal Code. This chapter encourages voluntary compliance through the implementation of a process that informs responsible parties of violations by giving a written warning before taking action and allowing reasonable time lines for compliance.
- (c) The goals of this chapter focus on minimizing the number of code violations made by property owners, renters, business owners, and other stakeholders of the city by instituting a citation process and promoting a positive city image. The goals of this chapter are as follows:
- (1) To improve the quality of life for Palm Springs residents and business owners by reducing the number of code violations through the encouragement of expedient compliance;
 - (2) To protect the health, safety, and welfare of the general public by minimizing potentially harmful municipal code violations;
 - (3) To provide a simplified administrative citation process in order to encourage its implementation;
 - (4) To minimize the time and expense associated with code enforcement action;
 - (5) To provide a methodology to hold noncompliant parties responsible for continuous violations; and
 - (6) To provide for the enhanced collection of delinquent code enforcement fines, costs, fees and penalties by conditioning issuance and renewal of city licenses and permits upon payment of such delinquent code enforcement fines, costs, fees and penalties.
- (d) The council finds that the enforcement throughout the city of the provisions of this code, including such codes as have been incorporated by reference and any applicable state codes, is an important public service. Code enforcement is vital to the protection of the public's health, safety, and quality of life. The council recognizes that code enforcement depends upon the codification and implementation of fair, reasonable, and consistent regulations that can be effectively applied in administrative and judicial proceedings. The council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with this code and the regulations contained in this code. (Ord. 1669 § 5, 2005)

1.06.020 Definitions.

In construing the provisions of this chapter, the following definitions shall apply:

“Administrative citation” means a monetary penalty issued after failure to abate a violation of the Palm Springs Municipal Code.

“City manager” means the city manager of the city or the city manager's designee or designees.

“Enforcement officer” means a code compliance officer, police officer, building inspector, or any other city employee designated by the city manager to enforce the provisions of the Palm Springs Municipal Code and granted authority to issue notices and administrative citations pursuant to this title. The term “enforcement officer” also includes any city employee or official expressly pro-

vided enforcement authority pursuant to the provisions of this code.

“Hearing” means a hearing conducted by a hearing officer regarding an appeal of the issuance of an administrative citation submitted by a responsible party.

“Hearing officer” means an individual or board (including, but not limited to, the administrative appeals board) as may be designated by the city manager to conduct hearings, including appeals hearings, and make decisions as provided in this chapter.

“Public safety officer” means a police officer or the fire chief of the city or the fire chief’s designee authorized under the laws of the State of California or this code to enforce the provisions of the Palm Springs Municipal Code. A “public safety officer” is an “enforcement officer” as defined in this chapter.

“Responsible party” means the owner of property upon which a violation of the Palm Springs Municipal Code exists. This term shall also include any non-owner, occupant, or other person or entity in control of the property who is creating, causing, or maintaining any condition in violation of the Palm Springs Municipal Code. (Ord. 1679 § 3, 2005; Ord. 1669 § 5, 2005)

1.06.030 Administrative citation and pre-citation or courtesy notice.

(a) Whenever an Enforcement Officer charged with the enforcement of any provision of this Code determines that a violation of that provision has occurred, either by receiving a complaint or being witness to the violation, the Enforcement Officer has the authority to take the actions identified in this Section and issue an administrative citation to a responsible party for the violation, as provided herein, unless the violation is deemed to be an immediate threat to life and safety, at which time the matter shall be referred to the Building Official, Police Department, Fire Department, or other applicable agency, depending on the nature of the violation, for immediate action. A Public Safety Officer shall not be required to issue a pre-citation or courtesy notice as provided in Subsection (b) of this Section; however, a Public Safety Officer, in the discretion of such officer, may issue such courtesy notice. The City Manager may by administrative rule or regulation or by direction or order authorize an Enforcement Officer to issue an administrative citation without first complying with the pre-citation or courtesy notice requirements as otherwise required pursuant to Subsection (b) of this Section.

(b) Prior to issuing an administrative citation for a violation of this code that does not create an immediate danger to health or safety, the enforcement officer shall serve a pre-citation or courtesy notice on the responsible party for the violation containing the following information:

- (1) The date the violation was observed;
- (2) The address or a definite description of the location where the violation was observed;
- (3) The section of this code violated and a description of the violation;
- (4) The compliance date by which the violation shall be corrected or otherwise remedied, which shall be no less than fifteen days and no more than sixty days from the date the pre-citation notice is given, as determined to be reasonable by the code enforcement official;
- (5) A statement that if the violation is not corrected by the specified compliance date, that an administrative citation will be issued which imposes a fine, for the amount of which will be specified; and
- (6) The name, signature and department of the enforcement officer issuing the pre-citation notice.

(c) Each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The section of this code violated and a description of the violation;
- (4) The amount of the fine for the code violation;
- (5) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

(6) An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;

(7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and

(8) The name, signature, and department of the citing enforcement officer.

(d) An administrative citation shall be issued and served in accordance with Section 1.06.040. (Ord. 1848 § 1, 2014; Ord. 1679 § 4, 2005; Ord. 1669 § 5, 2005)

1.06.040 Imposition of penalties.

(a) **First Administrative Citation.** If the violation is not abated by the date set forth in the courtesy notice, a first administrative citation shall be issued. The first administrative citation shall carry a fine of one hundred dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the first administrative citation. If an extension of the compliance date set forth in the first administrative citation is requested and approved in accordance with Section 1.06.050, the fine must be paid prior to the city's grant of the extension. The first administrative citation shall warn the responsible party of an additional two hundred fifty dollar penalty, or such amount as the city council may establish by resolution, for not abating the violation by the compliance date set forth in the first administrative citation or the extension period granted by the city.

(b) **Second Administrative Citation.** If the violation continues after the compliance date in the first administrative citation or any extension period granted by the city, or a second violation of the same provision of this code occurs within one year of the compliance date of the first such violation, a second administrative citation shall be issued. The second administrative citation shall carry a fine of two hundred fifty dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the second administrative citation, and shall clearly indicate "SECOND ATTEMPT TO OBTAIN COMPLIANCE." If an extension of the compliance date set forth in the second administrative citation is requested and approved in accordance with Section 1.06.050, the full amount of all fines must be paid prior to the city's grant of the extension. The second administrative citation shall warn the responsible party of an additional five hundred dollars penalty for not abating the violation by the compliance date set forth in the second administrative citation or the extension period granted by the city.

(c) **Third Administrative Citation.** If the violation continues after the compliance date in the second administrative citation or any extension period granted by the city, or a third or subsequent violation of the same provision of this code occurs within one year of the compliance date of the first such violation, a third administrative citation shall be issued. The third administrative citation shall carry a fine of five hundred dollars, or such amount as the city council may establish by resolution, and shall require abatement of the violation within ten calendar days from the date of the third administrative citation, and shall clearly indicate "FINAL ATTEMPT TO OBTAIN COMPLIANCE – FAILURE TO COMPLY MAY RESULT IN PUBLIC NUISANCE PROCEEDINGS AND OTHER ENFORCEMENT ACTIONS – ALL COSTS ASSOCIATED WITH PUBLIC NUISANCE PROCEEDINGS MAY BE LIENED AGAINST THE SUBJECT PROPERTY IF NOT PAID BY THE RESPONSIBLE PARTY." If an extension of the compliance date set forth in the third administrative citation is requested and approved in accordance with Section 1.06.050, the full amount of all fines must be paid prior to the city's grant of the extension. (Ord. 1679 §§ 5, 6, 2005; Ord. 1669 § 5, 2005)

1.06.050 Action required upon receipt of an administrative citation.

(a) Upon receipt of an administrative citation, the responsible party must take one of the following actions to avoid additional penalties:

(1) Correct the violation, pay the corresponding fine(s), if any, and contact the city to request a re-inspection, prior to the compliance date specified in the administrative citation; or

(2) Request an extension of time in writing, which shows a reasonable hardship pursuant to subsection (b) of this section, prior to the compliance date specified in the administrative citation; or

(3) Request a hearing to appeal the administrative citation pursuant to subsection (c) of this section.

(b) All requests for extensions must be made in writing, submitted to the enforcement officer, and present a reasonable hardship. The enforcement officer may grant a one-time extension at his/her discretion after payment of the fine due. The extension shall not exceed thirty days unless the matter is referred to the city manager for additional

time. The city manager may grant additional time as determined in the city manager's reasonable discretion, considering all relevant facts and circumstances of the hardship. If the case has been referred or appealed to the hearing officer, extensions may not be granted.

(c) A responsible party receiving an administrative citation may appeal such citation within ten calendar days from the date the citation is deemed served, or such extended date, if an extension is granted pursuant to Section 1.06.050.

(1) The appeal must be in writing and must indicate the appellant's full name and mailing address. It must be accompanied by the penalty amount and appeal fee which shall be set by city council resolution, must specify the basis for the appeal in detail, and must be filed with the city clerk's office. If the appeal deadline falls on a day City Hall is closed, then the deadline shall be extended until the next regular business day.

(2) As soon as practicable after receiving the written notice of appeal, the city manager shall fix a date, time, and place for the hearing before a hearing officer. Hearings shall take place once per month at a set time and date, unless the city finds it necessary to conduct hearings more frequently. Written notice of the time and place for the hearing may be served by first class mail, at the mailing address indicated on the written appeal. Service of the appeal notice must be made at least ten calendar days prior to the date of the hearing to the party appealing the administrative citation.

(3) The failure of any person with an interest in the property, or other responsible party, to receive such properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter. Service by first class mail, postage prepaid shall be effective on the date of mailing.

(4) Failure of any responsible party to file an appeal in accordance with the provisions of this section shall constitute a waiver of that responsible party's rights to administrative determination of the merits of the administrative citation and the amount of the penalty. If no appeal is filed, the administrative citation shall be deemed a final administrative order and a failure to exhaust the responsible party's administrative remedies.

(Ord. 1669 § 5, 2005)

1.06.060 Hearing procedure.

(a) The city manager shall designate a hearing officer or hearing officers to conduct appeals under this chapter. Each hearing officer shall be an individual or appointed person or board, subject to the provisions of the Political Reform Act of 1974 and all other laws, ordinances, or regulations of the state or the city relating to conflicts of interest. All costs associated with the hearing officer shall be paid from the appeal hearing fees and fines collected from administrative citations. The responsible party may request the city manager to excuse a hearing officer upon a showing of actual prejudice against the party's cause. The hearing officer shall conduct an orderly fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs as follows:

(1) A valid citation shall be prima facie evidence of the violation.

(2) The hearing officer shall administer oaths and accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation.

- (3) The owner, agent, person responsible for the violation, or any other interested person, may present testimony or evidence concerning the violation and the means and time frame for correction.
- (b) The city manager shall establish all appropriate administrative regulations for implementing this chapter, including the conduct of hearings and rendering decisions pursuant to this section.
- (c) The hearing officer may modify the penalties stated in an administrative citation depending upon the circumstances of each case and the evidence presented and the hearing officer provides specific grounds for such modification in the written decision. The hearing officer has authority to reduce, conditionally reduce, or increase the amount of any penalties, subject to the fine amounts or limits established by the council by resolution. The hearing officer may impose conditions and deadlines for correction of violations or payment of outstanding penalties.
- (d) The failure of the responsible party or duly authorized representative to appear at the hearing shall constitute a forfeiture of the fine and appeal fees and a failure to exhaust the responsible party/appellant's administrative remedies.
- (e) The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The city shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the appellant within ten calendar days after the hearing. The decision of the hearing officer dismissing the administrative citation is final and conclusive. The decision of the hearing officer affirming the administrative citation is final and conclusive, subject only to review by the Superior Court in accordance with state law pursuant to an appeal to Superior Court filed by the appellant within twenty days of the date that the administrative citation is served upon the appellant. There are no appeals to the city council.
- (f) If the hearing officer dismisses the administrative citation, all fines and appeal fees shall be refunded to the responsible party/appellant within thirty calendar days.
- (g) The responsible party who requested the hearing may obtain review of the hearing officer's administrative decision regarding the administrative citation by filing a petition for judicial review pursuant to the provisions of California Government Code Section 53069.4. (Ord. 1679 § 7, 2005; Ord. 1669 § 5, 2005)

1.06.070 Collection of fines.

- (a) The failure of any person to pay a fine assessed by administrative citation within the time specified on the administrative citation constitutes a debt to the city. To enforce that debt, the city manager may file a civil action, impose a special assessment as set forth below, or pursue any other legal remedy to collect such debt, including reasonable costs of collection and attorneys' fees.
- (b) The city council may impose a special assessment against the property that is the subject of a citation if the citation has been issued to the property owner. The city manager shall record a notice of lien in the office of the county recorder when the special assessment procedure is used. When so made and confirmed, the cost shall constitute a lien on that property for the amount of the assessment.
- (c) After confirmation and recordation, a copy shall be turned over to the Riverside County tax collector. At that point, it will be the duty of the tax collector to add the amounts of the respective assessments to the next regular property tax bills levied against the lots and parcels of land for municipal purposes. Those amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. Or, after recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- (d) Non-payment of fines which the city has made reasonable effort to collect shall be deemed a misdemeanor for which the responsible party may be prosecuted.
- (e) Administrative citation fines collected pursuant to this chapter shall be deposited into a an appropriate fund

to be administered in furtherance of the purposes of this chapter and to fund such code enforcement and public nuisance abatement actions and proceedings as the city council may identify or proscribe. (Ord. 1669 § 5, 2005)

1.06.080 Civil or criminal actions not affected.

Any administrative citations pursuant to this chapter shall not prejudice or adversely affect any other action, civil or criminal, that may be brought to abate the public nuisance or violation or to seek compensation for damages suffered. A civil or criminal action may be brought concurrently with any other process regarding the same public nuisance or violation. (Ord. 1669 § 5, 2005)

1.06.090 Neighborhood involvement.

The city manager shall cooperate with neighborhood organizations and the neighborhood involvement committee, as may be organized pursuant to the provisions of Chapter 2.55 of this code, in the implementation of this chapter. Such cooperation may include the provision of information and the establishment of forums for dialogue and communication on the requirements of the city's code and the city's enforcement of the code. Nothing in this chapter shall be construed as authorizing the city manager to appoint or designate any member of any neighborhood organization or the neighborhood involvement committee as an enforcement officer. (Ord. 1669 § 5, 2005)

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