

Chapter 1.16
ADMINISTRATIVE CITATIONS

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§1.16.010 Applicability of Chapter

A. This Chapter provides for administrative citations and fines which are in addition to all other civil legal remedies and which are an alternative to criminal legal remedies that may be pursued by the City to address any violation of this Code, or any other ordinance of the City, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, or any condition of an approval, permit or license granted pursuant to this Code.

B. Use of the remedies and procedures of this Chapter shall be at the sole discretion of the enforcement officers. The availability of the remedies and procedures of this Chapter are not exclusive and shall not limit or preclude the use of criminal or other civil code enforcement proceedings, including issuance of an administrative compliance order pursuant to Chapter 1.18 of this Code and commencement of judicial injunctive or abatement proceedings.

§1.16.020 Definitions

For the purposes of this Chapter, the following definitions shall apply:

A. "Applicable law" means this Code, or any other ordinance of the City, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, or any condition of an approval, permit or license granted pursuant to this Code, or any combination of the foregoing.

B. "Enforcement officer" means any City employee or employee of a contracting agency, including the County, or any agent of the City, having the authority to enforce any applicable law.

C. "Hearing officer" means any person designated by the City Manager to hear an appeal of an administrative citation. The hearing officer shall not be any enforcement officer or direct supervisor of an enforcement officer and may be a non-employee of the City. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

D. "Responsible person" means any person who is in immediate control of the premises or activity which constitutes a violation of an applicable law, the business owner, the property owner, and any person engaging in prohibited conduct.

§1.16.030 Administrative citation

A. Whenever an enforcement officer determines that a violation of any applicable law has occurred, the enforcement officer shall have authority to issue an administrative citation to any responsible person.

B. Each administrative citation shall contain the following information:

- (1) The name(s) and address(es) of the responsible person(s).
- (2) The date(s) of the violation.
- (3) The address or a definitive description of the location where the violation occurred.
- (4) The section or provision of the applicable law which has been violated and a description of the violation.
- (5) A prohibition of the continuation or repeated occurrence of the violation described in the administrative citation.
- (6) A description of the potential consequences should the violator continue or repeat the violation.
- (7) Either:
 - (a) The amount of the administrative fine charged and to be paid by the responsible person as a result of the violation; or
 - (b) In the case of certain continuing violations described in Section 1.16.050 of this Chapter, the amount of the administrative fine that will become payable if the violation is not corrected or remedied within the prescribed time.

- (8) 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 and the process by which the City may collect any unpaid amounts owed.
- (9) A description of the administrative citation review process, including the time within which the administrative citation may be contested and how to obtain a form to contest the administrative citation.
- (10) The name and signature of the citing enforcement officer.

C. An administrative citation may be in letter form or any other form which adequately conveys the information set forth above.

§1.16.040 Service of administrative citations

A. An administrative citation may be served in one of the following ways, as may be applicable:

- (1) By personal delivery to the responsible person; or
- (2) By causing a copy of the citation to be sent by certified mail, postage prepaid, return receipt requested, addressed to a location reasonably calculated to give notice to the responsible person, as determined by the enforcement officer. If the violation involves any real property, the notice may be sent to the address of the owner as it appears in the most recently adopted assessment roll of the County.
- (3) If any citation sent by certified mail is not delivered by reason the U.S. Postal Service being unable to obtain a signed receipt and the failure of the addressee to thereafter claim the mail from the post office, the citation may then be sent to the responsible person by regular mail.
- (4) Where personal delivery or service by mail upon a property owner cannot be made despite a diligent effort, the citation may be served by posting a copy thereof at a conspicuous location on any real property that is the subject of the citation.

B. Service of a citation which is personally served is completed at the time of such personal service. Service of a citation which is served by certified mail shall be deemed completed on the date the receipt is signed. Service of a citation which is served by regular mail which is not returned by the U. S. Postal Service shall be deemed completed on the third business day after deposit of the citation in the U.S. Mail. Service of a citation which is served by posting is completed at the time of posting.

C. The failure of any person to receive a copy of an administrative citation shall not affect the validity of any proceedings or actions taken under this Chapter. A copy of the return receipt or affidavit of mailing, or a copy of the posted citation along with an affidavit of posting, shall be retained by the enforcement officer.

§1.16.050 Time period to correct or remedy certain continuing violations

A. Where the violation of an applicable law is 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, the responsible person shall be provided a reasonable amount of time, but not less than ten (10) days in which to correct or otherwise remedy the violation.

B. The enforcement officer may extend the time in which to correct or otherwise remedy a violation upon a showing that the responsible person requires additional time to complete the corrective work or upon a showing that the responsible person is awaiting issuance of a permit that is required for performance of the corrective work, provided the responsible person offers proof that action has been commenced to correct or otherwise remedy the violation or that a proper application for such permit has been made.

C. If the violation is not corrected or remedied within the time required by the enforcement officer, the fine specified in the administrative citation shall become immediately due and payable.

§1.16.060 Amount of administrative citation fines

A. **Amount of fine.** Any party to whom an administrative citation has been issued shall be responsible for payment of a fine for violating the applicable law specified in the citation, determined as follows:

- (1) One hundred dollars (\$100.00) for a first citation;
- (2) Two hundred dollars (\$200.00) for a second citation for the same violation within twelve (12) consecutive months;
- (3) Five hundred dollars (\$500.00) for each additional citation for the same violation within twelve (12) consecutive months.

B. **Changes to Government Code.** If the maximum fines for infraction offenses allowed to be charged by California Government Code Section 53069.4 should increase or decrease, then the revised amounts allowed or permitted by law shall automatically be applied to this Section, as of the effective date of the change in State law.

§1.16.070 Appeal of an administrative citation

A. Any recipient of an administrative citation who desires to contest that a violation has occurred or that the recipient is the party responsible for committing the violation may, within ten (10) days from the date that service of the administrative citation was completed, file a written notice of appeal with the City Clerk for the matter to be heard by a hearing officer. Any appeal not timely filed shall be rejected.

B. The notice of appeal shall contain the following information:

- (1) Name, mailing address, and telephone number of each appellant.
- (2) A copy of the administrative citation or the reference number of the administrative citation.
- (3) A brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant.
- (4) A brief statement in ordinary and concise language of the relief sought and the reasons why the administrative citation should be rescinded, modified or otherwise set aside.
- (5) The signature of each appellant.

C. The notice of appeal shall be accompanied by either an advance deposit of the total fine amount or a completed application for advance deposit waiver as described in Section 1.16.080 of this Chapter. Any notice of appeal filed without payment of the advance deposit or submittal of the advance deposit waiver application shall be deemed incomplete.

D. The person requesting the hearing shall be notified of the time and place set for the hearing pursuant to Section 1.16.100.A of this Chapter.

E. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration, then a copy of this report also shall be served on the appellant at least five (5) business days prior to the date of the hearing.

F. Enforcement of the administrative citation shall be stayed during the pendency of an appeal which is properly and timely filed.

§1.16.080 Advance deposit hardship waiver

A. Any person who intends to request a hearing to contest an administrative citation and who is financially unable to make the advance deposit of the fine, as required in Section 1.16.070, may file an application for advance deposit

hardship waiver. The application shall be on a form available from the City Clerk's office and shall be accompanied by a sworn affidavit as described in Subsection B below.

B. The City Manager or designee may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited person submits to the City a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City Manager or designee the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing. Financial inability can be established by showing that the applicant has qualified, or would be qualified, for participation in a public or private assistance program available only to persons having low or very low income, such as subsidized housing, food stamps, SSI, Medi-Cal, or California LifeLine.

C. The requirement of depositing the full amount of the fine as described in Section 1.16.070 shall be stayed unless the City makes a determination not to issue the advance deposit hardship waiver. The City Manager or designee must either grant or deny the application for a waiver within a reasonable period of time, taking into account the complexity of the data pertinent to the application.

D. If the application for an advance deposit hardship waiver is denied, a written determination listing the reasons for the denial shall be issued and shall be served by mail upon the person who applied for the waiver. The written determination to deny the waiver shall be final.

§1.16.090 Failure to timely and properly appeal administrative citation

Failure to timely and properly file an appeal from an administrative citation, or the failure to make an advance deposit of the full amount of the fine within ten (10) days after service of a written denial of the cited person's application for an advance deposit hardship waiver, shall constitute a relinquishment of all rights to an appeal hearing. In such event, the determination that the violation occurred and that the cited person was responsible for the violation shall be deemed final on the date that service of the administrative citation is deemed completed pursuant to Section 1.16.040 of this Chapter.

§1.16.100 Hearing on administrative citation before hearing officer

A. A hearing before the hearing officer shall be set for a date that is not less than ten (10) days and not more than sixty (60) days from the date that a notice of hearing is issued, unless the hearing officer determines that the matter is urgent and needs to be heard sooner or that good cause exists for an extension of time. Notice of the hearing shall be sent by regular mail to the cited person at the address shown on the notice of appeal.

B. No hearing to contest an administrative citation shall be held unless the fine set forth in Section 1.16.060 has been deposited in advance, or an advance

deposit hardship waiver application has been granted by the City pursuant to Section 1.16.080.

C. The hearing serves to provide the cited person the full opportunity to object to the determination that a violation has occurred, and/or that the violation has continued to exist, and/or that the cited person is responsible for the violation. The cited person may appear personally or through an attorney and shall have the opportunity to testify, present evidence, and cross-examine witnesses concerning the administrative citation.

D. The hearing officer shall consider any written or oral evidence submitted that is relevant to the matter. Formal rules of evidence do not apply. 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. All hearings shall be open and public.

E. The hearing officer may continue the hearing and request additional information from the enforcement officer or the person(s) accused of a violation prior to issuing a written decision.

F. The failure of the cited person to appear at the hearing after proper notice or, in the alternative, to present evidence for consideration at the hearing, shall constitute a forfeiture of the fine and failure to exhaust administrative remedies that may bar judicial review.

§1.16.110 Hearing officer's decision on administrative citation

A. Within a reasonable time following the conclusion of the hearing, the hearing officer shall make findings and issue a determination, a copy of which shall be provided to both the responsible party and the enforcement officer.

B. If the hearing officer finds that no violation has occurred or that the cited person was not responsible for the violation, the hearing officer shall issue a finding of those facts. If the hearing officer determines that an administrative citation should be cancelled, the City shall promptly refund the amount of the fine. If the hearing officer upholds the violation, the City shall retain any fines paid or shall be entitled to collect the fines owing but unpaid.

C. If the violation is upheld, the hearing officer may assess administrative costs against the violator from the date on which compliance was ordered. The administrative costs may include any and all costs incurred by the City in connection with the matter before the hearing officer, including, but not limited to, costs of inspection, investigation, staffing costs incurred in preparation for the hearing and costs to conduct the hearing.

D. The decision of the hearing officer shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

§1.16.120 Right to judicial review

A. Within twenty (20) days after service of the final decision of the hearing officer, a person contesting that decision may seek judicial review by filing an appeal to be heard by the superior court for San Mateo County pursuant to Government Code Section 53069.4.

B. If no notice of appeal is filed within the time specified in Paragraph A of this Section, the decision of the hearing officer shall be deemed confirmed.

§1.16.130 Payment of administrative fine and costs

A. In the absence of a timely and proper appeal by the responsible person, the administrative fine shall be paid in full within thirty (30) days from the date the citation is served upon the responsible person pursuant to Section 1.16.040. Where a timely and proper appeal has been filed and the violation is upheld, any fine and administrative costs owed to the City shall be paid in full within thirty (30) days after the date the decision of the hearing officer is served on the responsible person.

B. Payment of any fine and administrative costs shall not excuse the failure to correct the violation, nor shall it bar further enforcement action by the City for any continuation or repeated occurrence of the violation that was the subject of the original enforcement action, or any other violation of an applicable law.

C. Any person who fails to pay to the City the amount imposed as a fine or administrative cost within the time prescribed in this Chapter shall be liable for payment of a late charge thereon in an amount equal to one percent (1%) per month of the delinquent payment from the date such payment became due until the date it is paid in full.

D. The City shall be entitled to collect all fines, administrative costs, and late charges owed to it pursuant to this Chapter by use of all available legal means, and the same may be collected as:

- (1) A personal obligation of the responsible person; and/or
- (2) A lien upon real property, if the violation is in connection with such property, in accordance with the provisions of Section 1.16.140 of this Chapter.

§1.16.140 Lien procedure

A. Upon a determination that any administrative fine and/or administrative cost owed to the City pursuant to this Chapter has not been paid in full within ninety (90) days from the date the same became due, and in cases where the violation involves any real property, the City may elect to collect such amounts by means of a recorded lien against such property pursuant to this Section.

B. Prior to recordation of the lien, the enforcement official shall prepare and file with the City Clerk a report stating the amounts due and owing, the date of the citation, the street address and assessor's parcel number of the subject property, and the name and address of the record owner of the property. The report shall be accompanied by a copy of the decision by the hearing officer, if any. The City Clerk shall fix a time, date and place for the City Council to consider such report and hear any protests or objections thereto. A copy of the report along with a written notice of the City Council hearing thereon shall be served on each property owner whose interest is shown on the most recently adopted assessment roll of the County not less than ten (10) days prior to the date set for the hearing.

C. Any person owning a legal or equitable interest in the real property proposed to be subject to a lien pursuant to this Section may file a written protest with the City Clerk and may protest orally at the City Council hearing. The grounds for protest or objection, and any evidence or testimony submitted in support or in opposition to the imposition of a lien, shall be confined to whether the amount of any administrative fine or administrative cost imposed was paid in full or was successfully challenged by a writ of mandate or other proceeding. At the close of the hearing, the City Council shall adopt a resolution confirming, discharging, or modifying the amount of the lien based upon evidence produced at the hearing.

D. If the lien, or any portion thereof, is confirmed by the City Council, the City Clerk shall record the same in the office of the County Recorder as a judgment lien against the subject property. Once recorded, such lien shall have the force and effect and priority of a judgment lien governed by the provisions of Section 697.340 of the Code of Civil Procedure, and may be extended as provided in Section 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

E. A lien recorded pursuant to this Section may be foreclosed by an action brought by the City for a money judgment.

F. Once payment in full is received by the City, the City Clerk shall either record a notice of satisfaction or provide the property owner with a notice of satisfaction so the owner may record the notice with the County Recorder. Such notice of satisfaction shall cancel the City's lien.