

ORDINANCE NO. 04-23

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ORANGE ADDING CHAPTER 1.10 TO THE
ORANGE MUNICIPAL CODE RELATING TO
ADMINISTRATIVE CITATIONS.**

WHEREAS, California Government Code Section 53069.4 authorizes the City Council to adopt an ordinance which makes any violation of the Orange Municipal Code ("OMC") subject to an administrative fine; and

WHEREAS, the City Council desires to adopt an ordinance pursuant to Government Code Section 53069.4 making any violation of the Orange Municipal Code subject to an administrative fine; and

WHEREAS, Government Code Section 53069.4 also authorizes the City to establish the procedures governing the imposition, enforcement, collection, and administrative review of those administrative fines; and

WHEREAS, amendment of the OMC to add an administrative citation process will:

- (1) Promote and protect the public health, safety and welfare of the residents of this City;
- (2) Help ensure compliance with the OMC and state codes, ordinances and regulations in a timely and efficient manner;
- (3) Provide for an administrative process to appeal the imposition of administrative citations and fines and provide those cited with the right to a fair hearing without the need for legal counsel; and
- (4) Reduce the burden on the judicial system and minimize the time and expense of defending the citation by the person cited.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION I:

The Ordinance is not a "project" subject to the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378 because it involves an organizational and administrative activity of the City of Orange that will not result in direct or indirect physical changes in the environment.

SECTION II:

New Chapter 1.10 of the Orange Municipal Code (General Provisions – Administrative Citations) is hereby added to read as follows:

Chapter 1.10
ADMINISTRATIVE CITATIONS

- 1.10.010 Purpose and Intent.**
- 1.10.020 Authority and Scope.**
- 1.10.030 Definitions.**
- 1.10.040 Administrative Citation.**
- 1.10.050 Administrative Citation – Violation.**
- 1.10.060 Content of Administrative Citation.**
- 1.10.070 Procedure for Serving Administrative Citation.**
- 1.10.080 Administrative Fine.**
- 1.10.090 Payment of Administrative Fine.**
- 1.10.100 Request for Administrative Hearing.**
- 1.10.110 Time for Administrative Hearing.**
- 1.10.120 Request for Continuance of Hearing.**
- 1.10.130 Appointment of Administrative Hearing Officer.**
- 1.10.140 Procedures at Administrative Hearing.**
- 1.10.150 Failure to Attend Administrative Hearing.**
- 1.10.160 Decision of Administrative Hearing Officer.**
- 1.10.170 Late Payment Charges.**
- 1.10.180 Collection of Administrative Fines.**
- 1.10.190 Appeal of Decision of Administrative Hearing Officer.**
- 1.10.200 Failure to Pay an Administrative Fine.**

- 1.10.010 Purpose and Intent.**

The City Council finds and declares that:

A. There is a need for an alternative method of enforcement for violations of the Orange Municipal Code, state or county codes, and any other applicable statutes or laws.

B. This Chapter makes any violation of these provisions within this Code and applicable state or county codes subject to administrative citation and fine(s).

C. This Chapter establishes the procedures for the enforcement, collection, review, and appeal of administrative citations and fine(s) pursuant to Government Code Section 53069.4 and is considered authorized by the City's general police powers.

D. The issuance of an administrative citation under this Chapter is solely at the City's discretion and is one option the City has in addressing a violation of this Code and applicable state codes. By adopting this Chapter, the City does not intend to limit its discretion to utilize any other remedy, whether independently or concurrent, civil or criminal actions for such violations that the City may select in a particular case. The procedures established in this Chapter shall be in addition to criminal, civil or any other legal remedies established by law that may be pursued to address violations of this Code and applicable state or county codes.

E. The City adopts this administrative citation and administrative hearing program in order to achieve the following goals:

1. To protect the public health, safety and welfare of its citizens within the City of Orange;
2. To gain compliance with this Code and those applicable state or county codes, as well as other ordinances and regulations in a timely and efficient manner;
3. To encourage voluntary compliance with the provisions of this Code and applicable state or county codes and to eliminate nuisances for the protection and benefit of the entire community;
4. To provide for an administrative hearing process to appeal the administrative citations and fine(s) that are imposed;
5. To provide a method to hold a person responsible for their failure or refuse to comply with the provisions of this Code or applicable state or county codes, or other ordinances or regulations, or terms and conditions imposed on licenses, permits, or entitlements issued or approved by the City;
6. To minimize the expense and delay where the sole other remedy is to pursue persons or responsible persons in the civil or criminal justice system.

1.10.020 Authority and Scope.

A. The City Manager or designee is authorized to promulgate procedural rules and regulations governing the administration of this Chapter.

B. The City Manager shall have the authority to administer and enforce these provisions of this Chapter.

1. Any person or responsible person violating any provision of this Code or applicable state code may be issued an administrative citation by an officer or official of a department as provided in this Chapter.
2. Whenever an officer or official of a department charged with enforcement authority of this Chapter determines that a person or responsible person is allowing, causing, committing, continuing, permitting or maintaining a violation of this Code, the officer or official may issue an administrative citation.
3. When the violation pertains to building, plumbing, electrical, mechanical or other similar structural or zoning regulations that create an immediate danger to health, safety, or the welfare of the community, a citation may be issued forthwith.

4. An officer or official of a department may issue a citation for a violation not committed in their presence if it is determined through an investigation that the person or responsible person cited did commit, aid or abet the commission of a violation of this Code.

5. When the violation pertains to sidewalk vending, an administrative citation may only be issued as set forth in Chapter 5.54.

C. The City Manager may dismiss a citation at any time if determination is made that it was issued in error, in which event any deposit of fine(s) and appeal fees shall be refunded. Notice of such action shall be given to the person or responsible person in writing.

D. Any officer or official from a department is hereby authorized to issue an administrative citation to any person or responsible person found in violation of the Code.

E. Any officer or official authorized to issue an administrative citation shall be subject to the City's Conflict of Interest Code.

1.10.030 Definitions.

The following words and phrases, when used in the context of this chapter, shall have the following meanings:

"Administrative citation" means any citation issued pursuant to this Chapter by an officer or official to any person or responsible person for violation of the Code.

"Administrative hearing" means an oral proceeding before a hearing officer regarding the administrative citation.

"Building and safety violation" means any violation of this Code, which may also pertain to building, housing, plumbing, electrical, mechanical or other similar structural or zoning regulations, including regulations or laws set forth in Titles 15, 16 and 17 of this Code.

"Building Official" means the manager of building and safety services for the City of Orange.

"Citee" means a responsible person to whom a citation is issued.

"City" means the City of Orange.

"City Manager" means the City Manager of the City, or designated representative.

"Code" includes: (1) the entire Orange Municipal Code and any other Code or regulation incorporated therein by adoption or reference, excluding any nonobjective design or aesthetic standard imposed by discretionary review, (2) any uncodified ordinance adopted by the Orange City Council, and (3) any and all applicable county and state laws, codes or regulations.

“Correction period” means the period of time allowed for a person or responsible person cited to correct a violation shown on an administrative citation and/or notice of violation.

“Department” means the department and its division(s) or a director who are responsible for administering the Code. The department may be any of the following: Police Department, Community Services Department, Fire Department, Community Development Department, Public Works Department, Finance Department and/or any other department or division authorized by the City Manager to issue administrative citations pursuant to this Chapter.

“Director” means a head of a Department, or designee, who is authorized by the City Manager to administer and enforce the Code.

“Hearing Officer” includes a private entity, organization or association with professional experience conducting administrative hearings, or a public official, or duly constituted reviewing authority or commission that the City Manager designates or appoints to consider all timely requests for an administrative hearing upon issuance of a citation.

“Officer” or “official” means any City officer, official or employee of a department who is designated by the City Manager with the authority to administer, enforce or regulate those sections of the City code or applicable state or county codes which are specific to their scope of duties, assignment or outlined in their job description, in accordance with the provisions of this Code.

“Land use approval” means any approval required for a particular use of land, including, but not limited to permits, licenses, conditional use permits, variances or subdivision maps.

“Legal interest” means any interest that is represented by a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic’s lien or other similar instrument, which is recorded with the county recorder.

“Minor” means minor child under the age of 18.

“Notice of violation” means any form or variations of titles of a written notice provided by any officer or official of a department issued to any person or responsible person to inform such person of violation(s) of the Code and to advise such person of the date that such violation(s) must be corrected in order to avoid the issuance of an administrative citation.

“Person” means and includes any natural person, minor, legal entity, owner, firm, association, joint venture, major stockholders, joint stock company, partnership, organization, club, company, corporation, general partners, business, trust, fiduciaries, trustees, heirs, executors, administrators or their manager, lessee, agents, servants, officers, or employee of any of them.

“Responsible person” means any person who an officer or official determines is responsible for causing or maintaining a violation of the Code. The term “responsible person” includes, but is not limited to a property owner, tenant, independent contractor, or person in possession of real property, or an owner or authorized agent or person of any business, company or entity, or the holder or the agent of the holder of any land use approval or any other permit, license or entitlement.

“Violation” means an act or omission of any act, or use or condition that constitutes an offense of the Code, as well as a breach or violation of any condition of a permit, approval or license issued pursuant to the Code. A “transient” violation is one that is brief or spontaneous in its commission, or that is not typically confined to a fixed location. A “non-transient” violation is continuing in nature and generally present at one location.

1.10.040 Administrative Citation.

Any person or responsible person violating any section of this Code that is subject to this Chapter may be issued an administrative citation by an officer or official of a department as provided in this Chapter.

1.10.050 Administrative Citation – Violation.

A. General Code Violation. Any person or responsible person allowing, causing, committing, continuing, permitting or maintaining a Code violation, as defined in this Chapter, that does not create an immediate danger to health or safety may first be issued a notice of violation with a reasonable correction period within which to correct or otherwise remedy the violation prior to the service of an administrative citation and prior to imposition of administrative fines. The issuance of an administrative citation may be issued by any officer or official of that department after noncompliance with a notice of violation or to a repeat offender of the same offense within a twelve-month period.

1. Each and every day a violation of this Code or applicable state or county code exists constitutes a separate and distinct offense.

2. Any person or responsible person violating any provisions of this Code is subject to being issued an administrative citation by any officer or official from that department.

3. Administrative fine(s) shall be assessed by means of an administrative citation issued by the officer or official and shall be payable directly to the City or its agent.

4. Fine(s) shall be assessed in the amounts specified in Section 1.10.080.

5. Every person or responsible person who applies for and receives a license or permit, or any type of land use approval (e.g., subdivision maps, conditional use permits, variances, etc.) or other entitlement, shall comply with all conditions imposed upon the issuance of the license or permit, or any type of land use approval or other entitlement. If a person violates any condition of such license or permit, or land use approval or other entitlement, excluding violations of any nonobjective design or aesthetic standard imposed by discretionary review, they may be issued an administrative citation and be liable for fine(s) under the provisions of this Chapter.

6. The City may take into consideration the fact that a person or reasonable person has been issued an administrative citation when the City is determining whether to grant, modify, suspend, revoke, or deny any license or permit, or any type of land use approval or other

entitlement regarding that person or property, and such administrative citations are evidence that the person has committed a violation of the Code.

7. Obligation to correct violation(s). Nothing in this Code shall be interpreted to mean that because a person or responsible person has paid the fine(s) that they are not required to correct the violation(s). Failure to correct the violation(s) may result in additional citations.

B. Building and Safety Code Violation. Any person or responsible person allowing, causing, committing, continuing, permitting or maintaining a Code violation pertaining to building, plumbing, electrical or other similar structural or zoning issues that do not create an immediate danger to health or safety may first be issued a notice of violation with a reasonable correction period within which to correct or otherwise remedy the violation prior to the service of an administrative citation and prior to imposition of administrative fines. Notwithstanding the provisions of this Chapter, any person or responsible person may be issued a first administrative citation if the violation continues after the correction period has expired.

1. The person or responsible person issued a notice of violation for a building violation may request an extension of the correction period, provided that a request is filed with the Building Official before the correction period ends. The Building Official may, in their discretion, grant a reasonable extension of the time period to correct the violation, if the person or responsible person has supplied substantial evidence showing that the correction cannot reasonably be made within the correction period indicated on the notice of violation. The filing for such an extension does not, unless granted, extend the correction period or any other time periods set by this Chapter.

2. If a building violation has not been corrected by the end of the correction period, the officer or official has the authority to issue the person or responsible person a second administrative citation for failing to comply with the notice of violation(s). The person or responsible person to whom the notice of violation was issued shall be liable for and shall pay to the City or its agent the fine(s) described in the administrative citation by the date prescribed for payment pursuant to Section 1.10.090.A. A third administrative citation may be issued and additional fine(s) imposed for every day the violation continues uncorrected from the date of issuance of the second administrative citation. The fourth and subsequent violation of the same Code shall be prosecuted as a misdemeanor citation or any other remedy available to the City pursuant to Section 1.10.080.B.

3. Obligation to correct violation(s). Nothing in this Code shall be interpreted to mean that because a person or responsible person has paid the fine(s) that they are not required to correct the violation(s). Failure to correct the violation(s) may result in additional citations.

1.10.060 Content of Administrative Citation.

A. An administrative citation shall contain the following information:

1. Date, approximate time, and address or description of the location where the violation(s) was observed or occurred.

2. The person or responsible person's date of birth, any state-issued identification number or driver license number, height, weight, hair color, eye color, race, gender and any other description as needed or available.

3. The Code section(s) or condition(s) violated and a brief description of the violation(s).

4. An order to the person or responsible person to correct the violation(s) within the time specified, and an explanation of the consequences of failure to correct the violation(s).

5. The amount of the fine for each violation.

6. If necessary, a brief description of the action required to correct the violation(s).

7. An order prohibiting the continuation or repeat occurrence of the Code violation(s) described in the administrative citation.

8. An explanation of how the fine(s) shall be paid and the time period by which and the place to which it shall be paid.

9. A statement indicating that "Payment of a fine or fines shall not excuse a failure to correct a violation of the Code or Codes cited, nor shall it bar concurrent or further enforcement actions by the City."

10. Identification of rights of appeal, including the time within which the citation may be appealed and the manner in which to request a hearing to appeal the administrative citation.

11. The name of the officer or official of that department including their employee identification number and, if possible, the signature of the person or responsible person. The refusal or absence of any person or responsible person to sign a citation shall not affect its validity or related subsequent action or proceeding, nor shall signing a citation constitute an admission that the person has committed a violation of the Code.

B. Any other information deemed necessary for enforcement or collection purposes.

C. Any other information deemed necessary by the City Manager.

1.10.070 Procedure for Serving Administrative Citation.

An administrative citation or notice may be served by any one of the following methods:

A. **Personal Service.** An officer or official shall attempt to locate and personally serve the person or responsible person and obtain the signature of such person on the administrative citation. If the person or responsible person served refuses or fails to sign the administrative

citation, the failure or refusal to sign shall not affect the validity of the administrative citation or the subsequent proceedings.

B. Service by Mail. If the officer or official is unable to locate or personally serve the person or responsible person, the administrative citation shall be served by first-class mail, postage prepaid, or certified mail with a declaration under penalty of perjury of service by mail executed by the person mailing the administrative citation. The administrative citation shall be addressed to the person or responsible person at the address shown on the last equalized property tax assessment rolls for Orange County for a building or property related violation, or to any address known for the responsible person for all other violations. Service by mail shall be deemed to be effective service on the date it is mailed and shall not affect the validity of the administrative citation or of the subsequent proceedings.

C. Service by Posting. If the officer or official is unsuccessful in either personal service or service by mail, the administrative citation shall be posted in a conspicuous place on the real property where the violation occurred. Such posting shall be deemed to be effective service on the date of posting and shall not affect the validity of the administrative citation or of the subsequent proceedings.

D. Service by Publication. If the officer or official does not succeed in serving the person or responsible party personally, by certified mail or regular mail, and the City is not aware that such person has a legal interest in any real property within the City, the officer or official shall cause the administrative citation to be published once a week for four consecutive weeks in a local newspaper published at least once a week.

E. The failure of any person or reasonable person to receive a citation or notice shall not invalidate any fine(s), late charge(s), actions or proceedings that is imposed or brought pursuant to this Chapter, if service was given in a manner stated in this Section.

1.10.080 Administrative Fine

A. General Code Violation. Pursuant to Government Code Section 36900(b), fine(s) associated with the issuance of an administrative citation for violations of a City ordinance are hereby adopted. A misdemeanor citation may be issued to any person or responsible person who has committed a fourth or subsequent violation of the same Code within one year from the date of the first administrative citation or the City may at its discretion utilize any additional remedies available in seeking compliance.

B. Building and Safety Code Violation. Pursuant to Government Code Section 36900(c), fine(s) associated with the issuance of an administrative citation for violations of a Building and Safety Code are hereby adopted. A misdemeanor citation may be issued to any person or responsible person who has committed a fourth or subsequent violation of the same Code within one year from the date of the first administrative citation or the City may at its discretion utilize any additional remedies available in seeking compliance.

C. Sidewalk Vending Permit Violation. Fine(s) and penalty(ies) pursuant to Government Code Section 51039(a)(1), (2) and (3)(A), for an administrative citation for a

Sidewalk Vending Permit violation are hereby adopted and regulated under Chapter 5.54 of the Code.

D. The amounts of the fines imposed and the administrative citation processing fee pursuant to this Chapter shall be as established by resolution of the City Council. The City Council may, by resolution, also impose escalating fines in amounts it deems appropriate for repeat offenses of the same violation.

1.10.090 Payment of Administrative Fine.

A. The fine(s) and the administrative citation processing fee shall be paid to the City or its agent within thirty (30) days from the date of service of the administrative citation unless one or both of the following occurs:

1. The responsible person files a hardship waiver with the Director of Community Development as provided herein, justifying reduction or elimination of the fine(s) and processing fee.

2. The responsible person files a timely appeal along with the appeal fee pursuant to Section 1.10.100.

B. If no appeal is filed and/or no hardship waiver granted as provided herein, and the fine in any administrative citation is not paid within the time prescribed in Section 1.10.090.A, a late payment fee shall be charged in an amount of 30% percent of assessed fine(s) ten (10) days after the due date; an additional 50% percent after twenty (20) days; and an additional 100% percent after thirty (30) days.

C. Any administrative citation fine(s), the citation processing fee and administrative citation appeal fee paid pursuant to Section 1.10.090.A and 1.10.100.A.2 shall be refunded in accordance with Section 1.10.160, if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation, the citation was issued in error, or that there was no violation as charged in the citation.

D. Payment of any fine(s) under this Chapter shall not excuse or discharge any continuation, or repeated occurrence of any violation(s) that is the subject of the administrative citation, nor shall it bar further enforcement action by the City.

E. Hardship Waiver. A person who has been issued an administrative citation may apply for a hardship waiver to reduce the amount of the fine(s) and waive the citation processing fee, which will be granted upon a showing that payment of the full amount of the fine(s) and citation processing fee would impose an undue financial burden.

1. The person wishing to apply for a hardship waiver must timely complete a city-approved hardship waiver application and deliver it, together with any supporting documents listed below within fifteen (15) days from the date of service of the administrative citation(s), to the Code Compliance Division of the Community Development Department.

2. The Code Compliance Division shall not grant the hardship waiver unless the person seeking the request submits a sworn declaration under penalty of perjury, together with supporting documents, which show that they have made a bona fide effort to comply with the Code after the violation and that payment of the full amount of the fine would impose an undue financial burden on them. Such legible copies of documents suitable for consideration may include, but are not limited to:

a. Copy of the person's prior tax year federal or state tax returns showing adjusted gross income that meets the income limit requirements based on the Fair Market Rent (FMR) rate as established by the Department of Housing and Urban Development (HUD) in the annual Santa Ana-Anaheim-Irvine, CA HUD Metro FMR Area; and/or

b. Evidence the person is currently receiving at least one of the following Supplemental Security Income (SSI), State Supplementary Payments (SSP), County relief, general relief, general assistance, Cash Assistance Program for Immigrants (CAPI), California Food Assistance Program, Medi-Cal, Supplemental Nutrition Assistance Program, In-home Supportive Services (IHSS) program, California Work Opportunity and Responsibility to Kids (CalWORKs), California Tribal Temporary Assistance for Needy Families (TANF) Program, unemployment insurance, or any other public assistance program administered by the city, county, state or federal government.

3. The Community Development Director or designee may request additional documents or information regarding the request prior to issuing a determination.

4. The failure of any person to submit a completed, timely, and signed hardship waiver application, along with sufficient records that support a claim of financial hardship waiver shall be deemed a failure to exhaust the responsible person's administrative remedies with regard to any reductions of the fine(s) and processing fee.

5. Once a completed hardship waiver application is received, payment of any owed fine(s) and processing fee is stayed unless or until a written determination on the application is issued.

6. The Community Development Director or designee will review the hardship waiver application and render a determination to grant in full, grant in part, or deny the application for a hardship waiver.

7. Unless a timely appeal is filed, any amount of the fine(s) and/or processing fee as determined by the Director shall be remitted to the City or its agent within fifteen (15) days of receipt of the Director's written decision. Such a determination shall be final and non-appealable.

F. The City or its agent may use all available legal and equitable remedies to collect any past due fine(s), remaining balance of fine(s), the citation processing fee, and any other related costs.

G. No waiver for payment of fine(s) and appeal rights. Under no circumstances shall the payment of the fine designated in the administrative citation constitute a waiver of the citee's right to a hearing. Therefore, a citee may pay the fine along with the processing fee within the thirty (30) days from the date of service of the administrative citation and appeal period and also obtain a hearing to protest the imposition of the fine(s), provided that the citee makes a timely request for a hearing pursuant to 1.10.100.

1.10.100 Request for Administrative Hearing.

A. Any person or responsible person to whom an administrative citation was issued may appeal the citation no later than thirty (30) days from the date of service of the administrative citation by:

1. Filing a written document which shall contain the following information and submitting it along with the citation within such prescribed period;

- a. The citation number;
- b. The name, address, telephone, and email, of each person appealing the citation;
- c. A statement of the reason(s) why a citation is being appealed;
- d. The date and signature of each person appealing the citation.

2. Filing the administrative citation appeal fee with the City or its agent.

B. The amount of the administrative citation appeal fee imposed pursuant to this Chapter shall be as established by resolution of the City Council.

C. The person requesting the hearing shall be notified by certified mail, return receipt requested, or posting of the time and place of the hearing at least ten (10) days before the date of the hearing. Any documentation, other than the administrative citation, which the officer or official has submitted or will submit to the hearing officer shall be served on the person requesting the hearing pursuant to Section 1.10.070, at least five (5) days before the date of the hearing.

1.10.110 Time for Administrative Hearing.

Only after a request for hearing has been filed and the appeal fee paid shall the City or its agent set the place, date and time for the administrative hearing. The hearing shall be set for a date not less than fifteen (15) days nor more than sixty (60) days after the request for hearing has been filed. The City shall send notice of the date, time, and place of the hearing to the person requesting the hearing by certified mail, return receipt, or posting at least ten (10) days before the date of the hearing.

1.10.120 Request for Continuance of Hearing.

The person or responsible person requesting a hearing may request one continuance, but in no event may the hearing begin later than sixty (60) days after the original request for hearing form has been filed.

1.10.130 Appointment of Administrative Hearing Officer.

The City Manager shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a City employee. The employment, performance evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fine(s) upheld by the hearing officer.

1.10.140 Procedures at Administrative Hearing.

A. No hearing to appeal an administrative citation before a hearing officer shall be held unless and until a request for hearing and appeal fee has been completed.

B. The hearing officer shall only consider evidence that is relevant to whether the person or responsible person is allowing, causing, committing, continuing, permitting or maintaining a violation of the Code or other applicable state or county code on the date(s) specified in the administrative citation.

C. The person appealing the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a failure of such person's rights to exhaust their administrative remedies and they may be ordered to pay such fine(s) forthwith.

E. The administrative citation and any additional documents submitted by the officer or official shall constitute prima facie evidence of the respective facts contained in those documents.

F. If the officer or official submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall also be provided to the person requesting the hearing at least five (5) days prior to the date of the hearing.

G. At least ten (10) days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citation(s), report(s) and any other document(s) submitted or relied upon by the officer or official. No other discovery is permitted. Formal rules of evidence shall not apply.

H. The hearing officer may continue the hearing and request additional information from the officer or official, and/or the recipient of the administrative citation prior to issuing a written decision.

1.10.150 Failure to Attend Administrative Hearing.

If the person or responsible person fails to attend the scheduled hearing, the hearing will proceed without the person or responsible person, and they will be deemed to have waived their right to an administrative hearing. Notwithstanding this waiver and the time limits set forth in Section 1.10.110, if service of the administrative citation is made by posting of the citation on real property within the city or state in which the person or responsible person has a legal interest, and the person or responsible person provides verifiable and substantial evidence that removal of the administrative citation from the property by a third party caused the person or responsible person's failure to attend the scheduled hearing then the such person shall be entitled to an administrative hearing.

1.10.160 Decision of Administrative Hearing Officer.

A. No later than ten (10) days after the date on which the administrative hearing concludes, the hearing officer shall issue a written decision to uphold or dismiss the administrative citation. The hearing officer shall set forth the reason(s) for the decision. The decision shall be served upon the person or responsible person by the applicable method set forth in Section 1.10.070.

B. If the hearing officer upholds the administrative citation, then the hearing officer shall specify in the decision a payment schedule for which any unpaid fine(s) and processing fee are to be paid in full to the City or its agent. If such person fails at any point to pay the fine(s) and processing fee in full as conditioned by the hearing officer, then the City or its agent may pursue collections of any amount due pursuant to Section 1.10.180.

C. If the hearing officer dismisses the administrative citation, the citee shall receive a full refund of any fines or fees paid, including the appeal fee.

D. The hearing officer's written decision is final and the responsible person shall be notified of their right to appeal as provided in Section 1.10.190.

1.10.170 Late Payment Charges.

Any person who fails to pay on or before the due date any administrative fine(s) imposed pursuant to the provisions of this Chapter, shall be liable for the payment of any applicable late payment fee set forth in Section 1.10.090.B.

1.10.180 Collection of Administrative Fine.

A. The City or its agent may use all available legal and equitable remedies to collect any past due fine(s), remaining balance of fine(s), the citation processing fee, administrative citation appeal fee and any other related costs.

B. Unpaid administrative fines and other charges, fees, or costs imposed in accordance with this Chapter shall constitute a debt that may be collected in any manner allowed by law,

including, but not limited to the recordation of a lien (secured or unsecured) with the County Recorder's Office and/or with the California Franchise Tax Board "Inter-Agency Offset Program" (pursuant to Section 12419.10 of the Government Code).

C. The City shall be entitled to recover its attorney fees and costs arising from an action to collect an administrative fine and other charges, fees, or costs imposed in accordance with this Chapter if it is the prevailing party and provided it made the election to seek attorney fees at the commencement of the action. A citee shall be entitled to recover their attorney fees if the City made the election to seek attorney fees at the outset of the action and the citee prevails thereon.

D. The administrative citation process described in this Chapter does not preclude the City from recovering any costs incurred by the City in performing its code compliance efforts pursuant to the Code, including, but not limited to, abatement costs and re-inspection fees.

E. The parent or legal guardian of any person who is a minor shall be liable for any fine(s) imposed upon the minor pursuant to the provisions of this Chapter. Any such fine(s) may be collected from the minor, parent or guardian.

F. The City may withhold, or refuse to issue, extend, or renew any City permit, license, or other City approval to any person, who has unpaid delinquent fine(s), interest, fees, liens or assessments due under this Chapter related to the permit, license, or approval.

1.10.190 Appeal of Decision of Administrative Hearing Officer.

A. Any person aggrieved by an administrative decision of the hearing officer may seek judicial review of the administrative hearing decision by filing an appeal with a court of competent jurisdiction in accordance with the timelines and provisions set forth in Government Code Section 53069.4(b)(1). The aggrieved person filing the appeal shall be responsible for paying the statutory filing fee to the Superior Court when the appeal is filed. The person or responsible person shall serve upon the City Clerk either in person or by first class mail a copy of the notice of appeal. If the person or responsible person fails to timely file a notice of appeal with the court, the hearing officer's decision shall be deemed confirmed.

B. No appeal is permitted from an administrative decision regarding:

1. A request for preliminary administrative citation review or hardship waiver;
2. An extension of the thirty (30) calendar day correction period for building violations;
3. A decision that the responsible person is deemed to have abandoned the appeal of the administrative citation or fine(s) due to their failure to appear at the administrative hearing or failure to deposit the fine.

C. Any appeal to the Superior Court shall require the appealing person to deposit the fine(s) listed on the citation with the City or its agent prior appearing at the court hearing.

D. The city attorney shall forward to the Superior Court within fifteen (15) calendar days of its request, the pertinent administrative citation documents for any case appealed to that court. If the Superior Court dismisses any administrative citation, the City shall refund any fine(s) deposit made within thirty (30) calendar days of its receipt of the court's decision.

1.10.200 Failure to Pay an Administrative Fine.

It is unlawful for any person or responsible person to fail to pay an administrative fine in violation of this Chapter. The filing of a criminal action does not preclude the City from using any other legal remedies available to gain compliance with the administrative order or provisions contained in this Chapter.

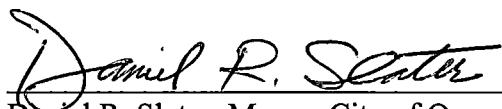
SECTION III:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION IV:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this 9th day of May, 2023.


Daniel R. Slater, Mayor, City of Orange

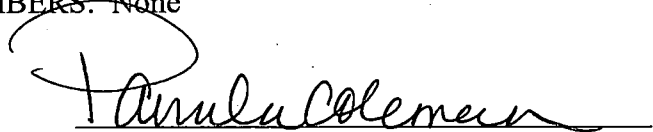
ATTEST:


Pamela Coleman, City Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the 28th day of March, 2023, and thereafter at the regular meeting of said City Council duly held on the 9th day of May, 2023 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS: Slater, Dumitru, Tavoularis, Bilodeau, Gyllenhammer
NOES: COUNCILMEMBERS: Barrios, Gutierrez
ABSENT: COUNCILMEMBERS: None
ABSTAIN: COUNCILMEMBERS: ~~None~~


Pamela Coleman, City Clerk, City of Orange