

**Article 2: Code Enforcement
Judicial and Administrative Remedies**

Division 9: Administrative Citations
*(“Administrative Citations”
added 8-10-1993 by O-17956 N.S.)*

§12.0901 Administrative Citations

Division 4 of Article 3 of Chapter 1 governs the procedures relating to administrative citations.

(Renumbered from Sec. 13.0340, retitled to “Administrative Citations” and amended 8-10-1993 by O-17956 N.S.)

§12.0902 Declaration of Purpose

The Council finds that there is a need for an alternative method of enforcement for violations of the Municipal Code and applicable state codes which do not create an immediate danger to health and safety. The Council further finds that an alternative method of enforcement for these violations is an administrative citation program.

The procedures established in this Division shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

(Renumbered from Sec. 13.0341, retitled to “Declaration of Purpose” and amended 8-10-1993 by O-17956 N.S.)

(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)

§12.0903 Authority

- (a) Any person violating any provisions of the Municipal Code or applicable state codes which do not create an imminent danger to health and safety may be issued an administrative citation by an Enforcement Official as provided in this Division.
- (b) Each and every day a violation of the Municipal Code or applicable state code exists constitutes a separate and distinct offense.
- (c) A civil penalty shall be assessed by means of an administrative citation issued by the Enforcement Official and shall be payable directly to the City Treasurer’s Office.

- (d) Penalties assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this Division.

(Renumbered from Sec. 13.0343, retitled to "Authority" and amended 8-10-1993 by O-17956 N.S.)

(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)

§12.0904 Procedures

- (a) Upon discovering any violation of the Municipal Code or applicable state codes, which do not create an imminent danger to health and safety, an Enforcement Official may issue an administrative citation to a Responsible Person in the manner prescribed in this Division. The administrative citation shall be issued on a form approved by the City Manager.
- (b) If the Responsible Person is a business, the Enforcement Official shall attempt to locate the business owner and issue the business owner an administrative citation. If the Enforcement Official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation shall also be mailed to the business owner or Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter.
- (c) Once the Responsible Person is located, the Enforcement Official shall attempt to obtain the signature of that person on the administrative citation. If the Responsible Person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
- (d) If the Enforcement Official is unable to locate the Responsible Person for the violation, then the administrative citation shall be mailed to the Responsible Person in the manner prescribed in Section 11.0301(a)(2) of this Chapter.
- (e) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the Responsible Person in the manner prescribed by Section 11.0301(a) (2) of this Chapter.
- (f) The administrative citation shall also contain the signature of the Enforcement Official.

- (g) The administrative citation shall be mailed to the Responsible Person in the manner prescribed by Section 11.0301(a) (2) of this Chapter. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Division.

(Renumbered from Sec. 13.0344, retitled to "Procedures" and amended 8-10-1993 by O-17956 N.S.)

(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)

§12.0905 Contents of Notice

- (a) The administrative citation shall refer to the date and location of the minor violations and the approximate time the violations were observed.
- (b) The administrative citation shall refer to the code sections violated and describe how the sections are violated.
- (c) The administrative citation shall describe the action required to correct the violations.
- (d) The administrative citation shall require the Responsible Person to immediately correct the violations and shall explain the consequences of failure to correct the violations.
- (e) The administrative citation shall state the amount of penalty imposed for the violations.
- (f) The administrative citation shall explain how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty.
- (g) The administrative citation shall identify all rights of appeal.
- (h) The citation shall contain the signature of the Enforcement Official and the signature of the Responsible Person if they can be located, as outlined in subsection 12.0904(c).

("Contents of Notice" renumbered from Sec. 13.0345 and amended 8-10-1993 by O-17956 N.S.)

§12.0906 Appeal of Administrative Citation

An appeal of an administrative citation shall follow the procedures set forth in Division 5, Article 2 of Chapter 1.

("Appeal of Administrative Citation" renumbered from Sec. 13.0346 and amended 8-10-1993 by O-17956 N.S.)

§12.0907 Administrative Enforcement Order

- (a) The appeal hearing shall follow the enforcement hearing procedures set forth in Division 4, Article 2 of Chapter 1.
- (b) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may reduce, waive or conditionally reduce the penalties assessed by the citation.
- (c) The Enforcement Hearing Officer may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties.
- (d) The Enforcement Hearing Officer shall assess reasonable administrative costs. Costs include, but are not limited to: staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation; and scheduling and processing of the administrative hearing and all related actions. Any determination that documented costs are not reasonable must be supported by written findings.
*(“Administrative Enforcement Order” added 8-10-1993 by O-17956 N.S.)
(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)*

§12.0908 Penalties Assessed

- (a) The Director shall establish policies to assist in the assessment of civil penalties for administrative citations.
- (b) If the Responsible Person fails to correct the violation, subsequent administrative citations may be issued for the same violations.
- (c) An Administrative Citation may be issued for each violation observed on a property. The penalty assessed for each violation may be issued in any of the following amounts: \$100; \$250; \$500; \$750; or \$1,000.
- (d) In determining the amount of penalty to assess for a particular violation, the Director may consider:
 - (1) the nature of the violation,
 - (2) the level of seriousness of the violation,
 - (3) the duration of the violation,
 - (4) efforts by the violator to correct the violation,
 - (5) the impact of the violation on the community,

- (6) any instances in which the Responsible Person has been in violation of same or similar laws at the same or other locations in the City of San Diego,
 - (7) the good faith effort by the Responsible Person to comply,
 - (8) the economic impact of the penalty on the Responsible Person,
 - (9) whether the violation is easy to correct,
 - (10) any other factors that justice may require.
- (e) Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.
- (f) All penalties assessed shall be payable to the City Treasurer.
(Renumbered from Sec. 13.0347, retitled to "Penalties Assessed" and amended 8-10-1993 by O-17956 N.S.)
(Amended 2-26-2007 by O-19579 N.S.; effective 3-28-2007.)

§12.0909 Failure To Pay Penalties

The failure of any person to pay the civil penalties assessed by an administrative citation within the time specified on the citation may result in the Director referring the matter to the City Treasurer to file a claim with the Small Claims Court. Alternatively, the Director may pursue any other legal remedy to collect the civil penalties as provided in Section 13.0401 of this Chapter.
("Failure To Pay Penalties" added 8-10-1993 by O-17956 N.S.)

§12.0910 Allocation of Administrative Penalties

Administrative civil penalties collected pursuant to this Division shall be deposited in the civil penalties fund established pursuant to Section 13.0402 of this Chapter.
("Allocation of Administrative Penalties" renumbered from Sec. 13.0348 and amended 8-10-1993 by O-17956 N.S.)