

ORDINANCE NO. 2450

AN ORDINANCE OF THE CITY OF REDLANDS ADDING CHAPTER 1.22 TO THE REDLANDS MUNICIPAL CODE TO ESTABLISH AN ADMINISTRATIVE CITATION AND REMEDIES PROCESS

THE CITY COUNCIL OF THE CITY OF REDLANDS DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 1.22 entitled the Administrative Remedies, is hereby added to the Redlands Municipal Code to read as follows:

"Chapter 1.22

ADMINISTRATIVE CITATIONS AND REMEDIES

Section

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Section 1.22.010 Applicability.

A. This Chapter establishes a process for the issuance of administrative citations, which are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address violations of this Code.

B. The administrative citations process established in this Chapter shall not apply to continuing violations of this Code that pertain to building, plumbing, electrical or other similar structural or zoning issues. This limitation shall not, however, prevent the City from utilizing the administrative citations process for building, plumbing, electrical or other similar structural or zoning violations which are transient and non-continuing in nature.

C. This Chapter does not supersede any other provisions of this Code which address additional legal or administrative remedies available for City Code violations. Use of the administrative citation process shall be at the sole discretion of the City.

Section 1.22.020 Definitions.

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

A. "Director" shall mean the City Manager or his or her designee.

B. "Enforcement officer" shall mean any City employee or agent of the City with the authority to enforce any provision of this Code, including, but not limited to, the City Attorney, Community Development Director, Code Enforcement Officer, Animal Control Officer and any Fire Official or Police Officer.

Section 1.22.030 Administrative citation.

A. Whenever an Enforcement Officer charged with the enforcement of this Code determines that a violation has occurred, the Enforcement Officer shall have the authority to issue an administrative citation to any person responsible for the violation. 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 at 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 and signature of the citing Enforcement Officer.

Section 1.22.040 Amount of fines. The amounts of the fines for Code violations imposed pursuant to this Chapter shall be established by resolution of the City Council. The schedule of fines shall specify any increased fines for repeat violations of the same Code provision within thirty-six months from the date of an administrative citation. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.

Section 1.22.050 Payment of the fine. The fine shall be paid to the City within thirty days from the date of the administrative citation. Payment of a fine shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the administrative citation.

Section 1.22.060 Hearing request. Any recipient of an administrative citation may contest that there was a violation of the Code or that he or she is the responsible party by completing a request for hearing form and returning it to the City within thirty days from the date of the administrative citation, together with an advance deposit of the fine. A request for hearing form may be obtained from the department specified on the administrative citation. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing. If the Enforcement Officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing.

Section 1.22.070 Hearing Officer and Procedure.

A. The City Manager shall designate a hearing officer for administrative citation hearings. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance with the City.

B. The hearing shall be set for a date that is not less than fifteen days and not more than thirty days from the date that the request for hearing is filed. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

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

Section 1.22.080 Hearing Officer's decision. After considering all testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list the reasons for that decision. The decision of the hearing officer shall be final. If the hearing officer determines that the administrative citation should be upheld, then the City shall retain the fine amount on deposit with the City. If the hearing officer determines that the administrative citation should be canceled, the City shall promptly refund the amount of the deposited fine. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision. 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.

Section 1.22.090 Late payment charges. Any person who fails to pay to the City any fine imposed pursuant to the provisions of this Chapter on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines.

Section 1.22.100 Recovery of administrative citation fines and collection costs. The City may collect any past due administrative citation fine, late payment charge and costs of collection by use of all available legal means.

Section 1.22.110 Right to judicial review. 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 for review with the court in San Bernardino County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4.

Section 1.22.120 Notices. The administrative citation and all notices required to be given by this Chapter shall be served on the responsible party in accordance with the provisions of this Chapter. Failure to receive any notice specified herein does not affect the validity of

proceedings conducted hereunder.

Section 1.22.130 Applicability. This Chapter provides for administrative 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. This Chapter shall not supersede any other sections of this Code which address other legal or administrative remedies for City Code violations; use of this Chapter shall be at the sole discretion of the City.

Section 1.22.140 Compliance Order. Whenever an Enforcement Officer determines that a violation of this Code is occurring or exists, a written Compliance Order may be issued to any person responsible for the violation. A Compliance Order shall contain the following information:

1. The date and location of the violation;
2. The section of this Code violated and a description of the violation;
3. The actions required to correct the violation;
4. The time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved;
5. Either a copy of this Chapter or an explanation of the consequences of noncompliance with this Chapter and a description of the hearing procedure and appeal process.

Section 1.22.150 Method of service. All notices required herein shall be served as provided in this Chapter unless otherwise specified. Where real property is involved, written notice shall be mailed to the property owner at the address as shown on the last equalized county assessment roll. Where personal service or service by mail upon the property owner cannot be made despite a diligent effort, a copy of the order shall be conspicuously posted at the property that is the subject of the order. The failure of any person to receive any notice required under this Chapter shall not affect the validity of any proceedings taken under this Chapter.

Section 1.22.160 Notice - Service procedure. Whenever a notice is required to be given under this Chapter, unless different provisions are otherwise specifically made, such notice may be given either by personal delivery to the person to be notified or by deposit in the United States Mail, in sealed envelope postage prepaid, addressed to such person to be notified at his last-known business or residence address as the same appears in the last equalized county assessment roll or to her records pertaining to the matter to which such notice is directed. Service by mail shall be deemed completed at the time of deposit in the United States Mail receptacle is made.

Section 1.22.170 Hearing. If the Enforcement Officer determines that all violations have been corrected within the time specified in the Compliance Order, no further action shall be taken. If full compliance is not achieved within the time specified in the Compliance Order, the

Enforcement Officer shall advise the secretary to the Appeals Hearing Board to set a hearing before the Board.

The secretary to the Appeals Hearing Board shall cause a written notice of hearing to be served on the violator and, where real property is involved, a notice of hearing shall be served on the property owner at the address as it appears on the last equalized county assessment roll available on the date the notice is prepared. All hearings shall be open and public.

Section 1.22.180 Notice of Hearing. Every Notice of Hearing on a Compliance Order shall contain the date, time and place at which the hearing shall be conducted by the Appeals Hearing Board. Each hearing shall be set for a date not less than fifteen days nor more than thirty days from the date of the Notice of Hearing unless the Enforcement Officer determines that the matter is urgent or that good cause exists for an extension of time. The hearing serves to provide the full opportunity of a person subject to a Compliance Order to object to the determination that a violation has occurred and/or that the violation has continued to exist. The failure of any person subject to a Compliance Order, pursuant to this Chapter, to appear at the hearing shall constitute a failure to exhaust administrative remedies.

Section 1.22.190 Hearing - Findings and Order.

A. At the place and time set forth in the Notice of Hearing, the Appeals Hearing Board shall conduct a hearing on the Compliance Order issued pursuant to Section 1.22.140. The Appeals Hearing Board shall consider any written or oral evidence consistent with its rules and procedures regarding the violation and compliance by the violator and/or by the real property owner, including but not limited to:

1. The report of the Enforcement Officer or his or her designee;
2. Objections or protests of property owners or other responsible or interested persons who may be held liable for the amounts owed or whose property may be assessed or lienied for the amounts owed;
3. Evidence on whether the person before the Board is responsible for the amounts owed to the City;
4. Whether the violator or owner has taken the required corrective action within the required time period; and
5. Such other and further evidence as justice may require.

B. Within a reasonable time following the conclusion of the hearing, the Board shall make findings and issue its determination regarding:

1. The existence of the violation; and
2. The failure of the violator or owner to take required corrective action within the required time period.

C. The Board shall issue written findings on each violation. The findings shall be supported by evidence received at the hearing. If the Board finds by a preponderance of the evidence that a violation has occurred and that the violation was not corrected within the time period specified in the Compliance Order, the Board shall issue an Administrative Order. If the Board finds that no violation has occurred or that the violation was corrected within the time period specified in the Compliance Order, the Board shall issue a finding of those facts.

Section 1.22.200 Administrative Order. If the Appeals Hearing Board determines that a violation occurred which was not corrected within the time period specified in the Compliance Order, the Board shall issue an Administrative Order that imposes any or all of the following:

1. An order to correct, including a schedule for correction where appropriate;
2. Administrative penalties;
3. Administrative costs; and
4. Interest.

The Administrative Order shall state that failure to comply with its provisions may result in the City abating the nuisance and charging the cost of said abatement plus all administrative costs to the property owner, and may further result in the City collecting the monies due as a personal obligation of the responsible party or by recordation of a lien or filing of a special assessment against the subject real property.

Section 1.22.210 Abatement by City. If correction of the violation has not occurred within the time period specified in the Administrative Order, the continuing violation shall be deemed a public nuisance and the City or a contracting agent hired by the City may enter upon the private property on which the violation exists for the purpose of abating the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the City or its contracting agents to enter upon the premises for the purpose of abating the violation. The cost of abatement, including administrative costs, may be enforced as a personal obligation against the property owner and as a lien or special assessment against the property.

Section 1.22.220 Administrative penalties.

A. The Appeals Hearing Board may impose administrative penalties for the violation of any

provision of this Code in an amount not to exceed two thousand five hundred dollars per day for each ongoing violation, except that the total administrative penalty shall not exceed one hundred thousand dollars exclusive of interest, administrative costs and restitution for compliance, re-inspections, or any related series of violations.

B. In determining the amount of the administrative penalty, the Board may take any or all of the following factors into consideration:

1. The duration of the violation;
2. The frequency, recurrence, and number of violations, related or unrelated, by the same violator;
3. The seriousness of the violation;
4. The good faith efforts of the violator to come into compliance;
5. The economic impact of the penalty on the violator;
6. The impact of the violation on the community; and
7. Such other factors as justice may require.

C. Administrative penalties imposed by the Board shall accrue from the date specified in the Compliance Order and shall cease to accrue on the date the violation is corrected as determined by the Enforcement Officer or the Board. Administrative penalties may be suspended for any period of time during which the violator has filed for necessary permits and such permit applications are actively pending before the City, State, County, or other appropriate agency.

D. Administrative penalties assessed by the Board shall be due by the date specified in the Administrative Order.

E. If the violation is not corrected as specified in the Board's order to correct, administrative penalties shall continue to accrue on a daily basis until the violation is corrected, subject to the maximum amount set forth in subsection (A) above.

F. If the violator gives written notice to the Enforcement Officer that the violation has been corrected and if the Enforcement Officer finds that compliance has been achieved, the Enforcement Officer shall deem the date the written notice was postmarked or personally delivered to the Enforcement Officer or the date of the final inspection, whichever first occurred, to be the date the violation was corrected. If no written notice is provided to the Enforcement Officer, the violation will be deemed corrected on the date of the final inspection.

Section 1.22.230 Administrative costs. The Appeals Hearing Board shall assess administrative costs against the violator when it finds that a violation has occurred and that compliance has not been achieved within the time specified in the Compliance Order. The administrative costs may include any and all costs incurred by the City in connection with the matter before the Appeals Hearing Board including, but not limited to, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all re-inspections necessary to enforce the Compliance Order.

Section 1.22.240 Interest. The Appeals Hearing Board may also assess interest on the amount of administrative penalties, abatement costs and administrative costs imposed at the legal rate from the date of the Administrative Order.

Section 1.22.250 Force and effect. The Administrative Order of the Hearing Appeals Board shall be the final decision of the City. The Administrative Order of the Board, once recorded, shall have the same force and effect and priority as a judgment lien governed by the provisions of Sections 697.340 of the California Code of Civil Procedure and may be extended as provided in Sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure. The Administrative Order shall have the same force and effect as a resolution of the City Council for the purpose of filing a lien, special assessment, or special collection with the County of San Bernardino Tax Collector's office pursuant to this Code and for the purpose of pursuing any other collection or enforcement action to obtain payment of the amounts owed to the City.

Section 1.22.260 Failure to comply with Administrative Order. If unpaid as of the date specified in the Administrative Order, the administrative penalties, administrative costs and interest assessed by the Board shall be collected by the City by use of all available legal means, and may be enforced as:

1. A personal obligation of the violator; and/or
2. If the violation is in connection with real property, a lien or special assessment upon the real property. The lien or special assessment shall remain in effect until all of the administrative penalties, interest and administrative costs are paid in full.

Section 1.22.270 Right of judicial review. The decision of the Appeals Hearing Board shall be final. Any person aggrieved by an Administrative Order of the Appeals Hearing Board may obtain review of the Administrative Order in the Superior Court by filing with the Court a petition for writ of mandate pursuant to California Code of Civil Procedure section 1094.6.

Section 1.22.280 Report of Compliance after Administrative Order. If the Enforcement Officer determines that compliance has been achieved after a Compliance Order has been sustained by the Appeals Hearing Board, the Enforcement Officer shall prepare a report indicating that compliance has been achieved. A copy of the compliance report shall be served on the violator.

Section 1.22.290 Compliance dispute. If the Enforcement Officer does not prepare and serve the compliance report specified above, a violator who believes that compliance has been achieved may request a compliance hearing before the Appeals Hearing Board by filing a request for a hearing with the secretary to the Board. The hearing shall be noticed and conducted in the same manner as a hearing on a Compliance Order. The Board shall determine if compliance has been achieved and, if so, when it was achieved. The decision of the Board shall be final.

Section 1.22.300 Lien/special assessment. Whenever the amount of any administrative penalty and/or administrative cost imposed by the Appeals Hearing Board pursuant to this Chapter in connection with real property has not been satisfied in full within ninety days and/or has not been successfully challenged by a timely writ of mandate, this obligation may constitute a lien or, in the alternative, a special assessment against the real property on which the violation occurred.

Section 1.22.310 Lien procedure.

A. There is hereby established the following procedure for collection of administrative penalties and costs imposed by the Appeals Hearing Board pursuant to this Chapter or other abatement and related administrative costs by recordation of a lien.

B. Upon determination by the City Manager that the administrative penalty, administrative costs and interest imposed by the Appeals Hearing Board has not been satisfied in full within ninety days and/or not been successfully challenged by a timely writ of mandate, the City Manager shall prepare and file with the Appeals Hearing Board secretary a report stating the amounts due and owing, the name of the agency imposing the lien (City of Redlands), the date of the Administrative Order or abatement order, the street address, legal description and assessor's parcel number of the subject property, and the name and address of the recorded owner of the property.

C. Prior to recordation of the lien, the secretary to the Appeals Hearing Board shall serve a copy of the City Manager's report provided under subsection (B) above on the property owner, along with notice to the property owner that a lien in the amounts stated in the City Manager's report will be filed against the subject property in the County Recorder's Office.

D. The notice set forth in subsection (C) above shall be served in the same manner as summons in a civil action in accordance with Code of Civil Procedure § 415.10 et seq. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in San Bernardino County.

E. Following proper notice to the owner of record as provided in subsection (D) above, the City Manager's report and a copy of the administrative or abatement order shall be recorded as a lien with the county recorder. Once recorded, the Administrative Order shall have the force and effect and priority of a judgment lien governed by the provisions of Sections 697.340 of the Code of Civil Procedure and may be extended as provided in Sections 683.1 10 to 683.220, inclusive, of the Code

of Civil Procedure.

F. Interest at the legal rate per year shall accrue on the principal amount of the lien until satisfied pursuant to law. A lien pursuant to this section may be foreclosed by an action brought by the City for a money judgment.

Section 1.22.320 Special assessment procedure.

A. As an alternative to the procedure authorized by Section 1.22.310, there is hereby established a procedure for making the administrative penalties and costs imposed by the Appeals Hearing Board pursuant to this Chapter or abatement and related administrative costs a special assessment against the subject real property.

B. Upon determination by the City Manager or the Board that the administrative penalty, administrative cost and/or interest imposed by the Appeals Hearing Board has not been satisfied in full within ninety days and/or not been successfully challenged by a timely writ of mandate, the City Manager shall prepare and file with the Appeals Hearing Board secretary a report stating the amounts due and owing, the date of the Administrative Order or abatement order, the street address, legal description and assessor's parcel number of the subject property, and the name and address of the recorded owner of the property.

C. Prior to the imposing of the special assessment, the secretary to the Appeals Hearing Board shall serve a copy of the City Manager's report provided under subsection (B) above on the property owner, along with notice that the property may be sold after three years by the tax collector for unpaid delinquent assessments. Such notice shall be served by certified mail to the property owner. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in San Bernardino County. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

D. The assessment may be collected at the same time and in the same manner as ordinary municipal 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 municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the assessment relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the assessment shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

E. Interest shall accrue on the principal amount of the assessment until satisfied pursuant to law.

F. The City may, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, conduct a sale of vacant residential developed property for which the payment of the assessment is delinquent.

G. Notices or instruments relating to the Administrative Order, abatement order or special assessment shall be entitled to recordation.

Section 1.22.330 Satisfaction of lien/special assessment.

Once payment in full is received by the City for outstanding penalties and costs, the City Manager shall:

A. With respect to a lien, either record a notice of satisfaction or provide the property owner or financial institution with a Notice of Satisfaction so they may record this notice with the office of the County Recorder. Such Notice of Satisfaction shall cancel the City's lien; or

B. With respect to a special assessment, provide written notice to the tax collector that the special assessment amount has been paid in full and should no longer be imposed against the subject property. Such written notice shall cancel the City's special assessment.

Section 1.22.340 Designated body - Appeals Hearing Board. Unless otherwise specified in this Code, the City Council hereby establishes and appoints the Appeals Hearing Board as the designated body delegated with the authority to set, notice, and conduct public hearings required or allowed pursuant to this Chapter to contest fees, charges, costs, expenses, penalties or other sums of money owed to the City and to allow the imposition of a lien, special assessment, special collection or other collection process against a responsible party and any affected property, as appropriate. The Board shall consist of three members. Two members shall be experienced in planning and zoning issues or shall have experience in the building trades or in building inspection.

Section 1.22.350 Functions, powers, and duties.

The Board shall have the following functions, powers, and duties:

1. Hear all administrative hearings and appeals authorized by this Code or by ordinance;
2. Conduct all administrative abatement action hearings authorized by this Code or by ordinance;
3. Authorize the imposition of liens, assessments, special collection or other collection process against a responsible party any affected property, as appropriate;
4. Perform such other programs or functions related to administrative hearings and appeals that the City Council or the City Manager may, from time to time, authorize or request.

Section 1.22.360 Appointment/Term.

Members of the Board shall be appointed by the City Council upon recommendation or nomination by the City Manager, and shall serve two-year terms.

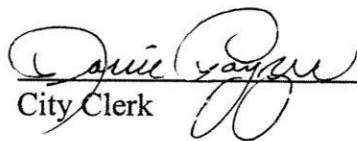
Section 2. In addition to all other remedies set forth in this section, each and every such violation shall be subject to the administrative citation and administrative remedies processes set forth in this Code."

Section 3. The Mayor shall sign this ordinance and the City Clerk shall certify to the adoption of this ordinance and shall cause it, or a summary of it, to be published once in the Redlands Daily Facts, a newspaper of general circulation within the City, and thereafter, this ordinance shall take effect as provided by law.



Mayor of the City of Redlands

ATTEST:



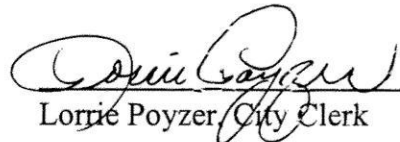
City Clerk

I, Lorrie Poyzer, City Clerk of the City of Redlands, hereby certify that the forgoing ordinance was duly adopted by the City Council at a regular meeting thereof held on the 5th day of September, 2000, by the following vote:

AYES: Councilmembers George, Freedman, Peppler, Haws;
Mayor Gilbreath

NOES: None

ABSENT: None



Lorrie Poyzer, City Clerk