

ARTICLE 2. - VIOLATIONS AND USE OF CITATION

Subarticle 1. - Generally

Sec. 1-1-34. - General penalty for violations.

- (a) ~~Any person violating any~~ Each violation of the provisions of this Code ~~is shall~~, unless otherwise specifically provided in this Code or by statute, ~~be guilty of a misdemeanor; that can be prosecuted by County authorities in the name of the people of the State of California, or redressed by civil action.~~
- (b) Any person convicted of a misdemeanor for a violation of any of the provisions of this Code shall, unless otherwise specifically provided in this Code or by statute, be punishable by a fine of not more than ~~one thousand dollars (\$1,000.00)~~ two thousand five hundred (\$2,500) per violation or by imprisonment in the County Jail for a period of not more than six (6) months or by both such fine and imprisonment.
- (c) ~~Any person convicted of an infraction for a violation of any of the provisions of this Code shall, unless otherwise specifically provided in this Code or by statute, be punishable by: (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same Code provision within a period of one year; (3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance within one year.~~

(1) Every violation that is an infraction is punishable by the following:

- a. A fine not exceeding one hundred dollars (\$100) for a first violation.
- b. A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one year of the first violation.
- c. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year of the first violation.

(2) Notwithstanding any other law, a violation of adopted building and safety codes that is an infraction is punishable by the following:

- a. A fine not exceeding one hundred thirty dollars (\$130) for a first violation.
- b. A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year of the first violation.
- c.1 A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.
- c.2 A fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the

violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property.

(3) For any fine pursuant to Section 1-1-34, a hardship waiver to reduce the amount of the fine may be granted by the Director of OC Public Works, or his/her assigned designee, upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.

(d) An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, his or her own recognizance, or a deposit of bail.

(e) Except as otherwise provided by law, all provisions of law relating to misdemeanors shall apply to infractions including, but not limited to, powers of peace officers, jurisdiction of courts, periods for commencing action and for bringing a case to trial and burden of proof.

(Code 1961, §§ 11.021; Ord. No. 3001, § 1, 8-30-77; Ord. No. 3032, § 1, 1-17-78; Ord. No. 3985, § 1, 7-22-97)

Sec. 1-1-35. - Continuing violations.

Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall be punishable accordingly.

Sec. 1-1-35.1. – Reinspection Fees

There is hereby imposed, upon each person who receives a notice of violation of any of the provisions of the Codified Ordinances of the County of Orange or of State law, an inspection fee, in such amounts as set from time to time by the County or Orange Board of Supervisors through the adopted fee ordinance, which may be assessed for each inspection or reinspection conducted pursuant to this section. Any such initial inspection fee and first reinspection fee shall be waived and shall not be imposed, when the particular violation for which an initial inspection and first reinspection is conducted is fully abated and corrected within the time and manner specified in the notice of violation. This fee is intended to provide full cost recovery for administrative and operational costs, based on actual time expended for reinspections where violations continue to exist beyond the first reinspection, and not for enforcement of the law. Any fees imposed shall be separate and apart from any fines or penalties imposed for violation of the law. The amount of any fee imposed shall be deemed a civil debt due and owing to the County of Orange. For purposes of this subsection, the term “initial inspection” shall mean any inspection of the premises which results in the issuance of a notice of violation or stop work notification of any of the provisions of the Codified Ordinances of the County of Orange or of State law.

(Code 1961, § 11.022)

Sec. 1-1-36. - Acts include causing, aiding and abetting.

Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding or abetting such act or omission.

(Code 1961, § 11.023)

Sec. 1-1-37. - Use of citation.

- (a) If any person is arrested for a violation of any provision of this Code or for violation of any ordinance of the County of Orange, including those ordinances hereafter enacted, violations of which are punishable as misdemeanors, and such person is not immediately taken before a magistrate, as more fully set forth in the Penal Code of California, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court.
- (b) The time specified in the notice to appear must be at least five (5) days after such arrest.
- (c) The place specified in the notice to appear shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by such court to receive a deposit of bail.
- (d) The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.
- (e) The officer shall, as soon as practicable, file the duplicate notice with the magistrate specified therein. Thereupon the magistrate shall fix the amount of bail which in his judgment, in accordance with the provisions of section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him in the form set forth in section 815a of the Penal Code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the County Treasury for distribution pursuant to section 1463 of the Penal Code.

- (f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment as required by law.
- (g) When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in section 853.1 of the Penal Code, the magistrate shall issue and have delivered for execution a warrant for his arrest within twenty (20) days after his failure to appear as promised, or if such person promises to appear before an officer authorized to accept bail other than the magistrate and fails to do so on or before the date which he promised to appear, then, within twenty (20) days after the delivery of such written promise to appear by the officer to the magistrate having jurisdiction over the offense.

(h) Nothing herein contained shall be deemed or construed to require any arresting officer to issue a citation instead of taking the person arrested before a magistrate as otherwise provided by law.

(Code 1961, § 11.024)

Sec. 1-1-38. - Reserved.

Editor's note— Ord. 98-16, § 1, adopted December 8, 1998, amended the Code by repealing former § 1-1-38. Former § 1-1-38 pertained to parking citations and derived from Ord. No. 3467, adopted June 5, 1984.

Sec. 1-1-39. - Enforcement as misdemeanor or infraction.

In addition to those violations of this Code that are deemed infractions, a violation of the following enumerated sections of this Code may be deemed to be an infraction and may be punished as such, notwithstanding the fact that, at the discretion of the District Attorney, the violation of any section contained in this subsection may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction.

- (a) Section 4-3-2. Sanitary Facilities.
- (b) Section 7-1-17. Building Code.
- (c) Section 7-2-7. Electrical Code.
- (d) Section 7-3-10. Plumbing Code.
- (e) Section 7-9-154.3. Zoning Code.
- (f) Section 7-1-811. Grading Code.
- (g) Section 7-5-11. Mechanical Code.
- (h) Section 4-6-11. Construction Noise.
- (i) Section 6-1-45. Public Works Code.
- (j) Section 6-3-28. Public Works Code.
- (k) Section 6-3-80. Public Works Code.
- (l) Section 6-3-92. Public Works Code.
- (m) Section 2-5-31. Parks, Beaches, and Recreational Areas.
- (n) Section 6-5-1. Flood Control District Property.
- (o) Sections 6-1-56 through 6-1-58 Obstructions on Highways.
- (p) Section 6-1-69 Signs on Highways.

(Ord. No. 3961, § 2, 4-2-96; Ord. No. 3971, § 1, 12-3-96)

Sec. 1-1-40. - Reserved.

Subarticle 2. - Civil Fines

Sec. 1-1-40.1. - Applicability.

- (a) This subarticle makes any violation of the provisions of this Code subject to civil fine.
- (b) This subarticle establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines pursuant to Government Code section 53069.4 and the County's plenary police power.
- (c) The issuance of a civil citation under this subarticle is solely at the County's discretion and is one option the County has to address violations of this Code. By adopting this subarticle, the County does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the County may select in a particular case.
- (d) The purpose of issuing civil citations pursuant to this subarticle is to encourage voluntary and complete compliance with the provisions of this Code and to eliminate nuisances for the protection and benefit of the entire community.
- (e) Notwithstanding any lease, license or any other instrument or agreement, the owner of any real property has the right to enter upon his or her own property to the extent reasonably necessary to abate any nuisance or correct any violation of this Code existing thereon. The provisions of this subsection shall be an implied term of any instrument affecting the right to possession of real property located in the County of Orange.
- (f) Because of the serious blighting conditions that can result affecting the residents' health and safety, this subarticle is intended to impose strict civil liability upon the owners and lessees of real property for all building, housing, fire and health code and zoning violations that occur upon the subject premises.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.2. - Definitions.

The following definitions apply to the use of these terms for the purposes of this subarticle:

- (a) *Building violation.* Any violation of this Code pertaining to building, plumbing, electrical, or other similar structural or zoning regulations set forth in this Code that does not create an immediate danger to health or safety.
- (b) *Civil citation.* A notice issued pursuant to this subarticle that there has been a violation of the County's Code. "Civil citation" includes a notice of noncorrection unless the context clearly shows otherwise.
- (c) *Director.* Director of the issuing department, or his or her designee.
- (d) *Enforcement Officer.* Any County employee or agent of the County designated in writing by the County Executive Officer.
- (e) *Hearing officer.* The person appointed by the County Executive Officer to serve as the hearing officer for administrative hearings. Prior to conducting hearings the Hearing Officer must first be certified by the County Counsel as qualified to provide a fair and impartial hearing based on appropriate education, training and experience.

- (f) *Issued.* Giving a civil citation to the violator. Issuance occurs on the date when a civil citation is personally served on the violator, the date it is mailed to the violator, or the date it is posted on real property where a property related violation occurs.
 - (g) *Issuing department.* The County Department that has the authority and responsibility for enforcing the Code section(s) designated on a citation as having been violated.
 - (h) *Notice of decision.* A form used to inform a violator of the decision made regarding various provisions of this subarticle.
 - (i) *Notice of noncorrection.* A notice contained in a second civil citation issued for a building violation which notes the violation on the prior civil citation has not been corrected within the applicable correction period.
 - (j) *Responsible person.* A responsible person is any of the following:
 - (1) A person who causes a Code violation to occur.
 - (2) A person who maintains or allows a Code violation to continue, by his or her action or failure to act.
 - (3) A person whose agent, employee, or independent contractor causes a Code violation by its action or failure to act.
 - (4) A person who is the owner of, and a person who is a lessee or sublessee with the current right of possession of, real property where a property related Code violation occurs.
 - (5) A person who is the on-site manager of a business who normally works daily at the site when the business is open and is responsible for the activities at such premises.
 - (6) A person who is the beneficiary under a deed of trust for the property where a property related violation exists and that person has not corrected the violation within thirty (30) days after being notified by the Director in writing of the violation and the fact that the trustor under the deed of trust is no longer living on the property and his or her whereabouts is unknown.
- For purposes of this subdivision "person" includes a natural person or legal entity, and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.
- There shall be a legal presumption that the record owner of a parcel according to the County's latest equalized property tax assessment rolls and a lessee or sublessee of a parcel has notice of any Code violation existing on the premises.
- For the purposes of this subarticle, there may be more than one (1) responsible person for a Code violation, and a minor at least 14 years of age may be a responsible person subject to the provisions of this subarticle.
- (k) *Violator.* Person given a civil citation charging him or her as a responsible person for a Code violation.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.3. - Civil citation—General.

- (a) Any Enforcement Officer upon determining that a provision of this Code, which he or she is charged to enforce, has been violated has the authority to issue a civil citation to any responsible person or persons. An Enforcement Officer may issue a civil citation for a violation the officer did not see occur if the officer has determined through investigation that the responsible person did commit the violation. A responsible person to whom a civil citation is issued shall be liable for and shall pay to the County the fine or fines described in the civil citation when due pursuant to the provisions of this subarticle.
- (b) Every person who applies for and receives a permit, license, or any type of land use approval (e.g., subdivision maps, conditional use permits, variances), shall comply with all conditions imposed upon the issuance of the permit, license or other approval. If a person violates any condition of such permit, license or approval, he or she may be issued a civil citation and be liable for civil fines under the provisions of this subarticle.
- (c) Each day a violation of this Code exists shall be a separate violation and be subject to a separate fine. A civil citation may charge a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more Code sections.
- (d) The County may take into consideration the fact that a person has been issued civil citations when the County is determining whether to grant, suspend, revoke, or deny any permit, license, or any type of land use approval for the person and such civil citations are evidence that the person has committed acts that are not compatible with the health, safety and general welfare of other persons and businesses in the vicinity.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.4. - Civil citation—Building violation.

- (a) When a civil citation is issued for a building violation, a thirty-day correction period shall be allowed for the correction of the violation and the violator shall correct the violation within that period. Notwithstanding section 1-1-40.3, no responsible person for a building violation shall be liable for a civil fine unless the violation continues after the thirty (30) days allowed for its correction (plus any extension) and he or she is issued a second civil citation containing a notice of noncorrection.
- (b) The violator of a building violation may request an extension of the correction period provided that a request is filed with the Director before the thirty-day period ends. The Director may in his or her discretion grant a reasonable extension of the period of time to correct the violation if the violator has supplied substantial evidence showing that the correction cannot reasonably be made within the thirty-day period. The Director's decision shall be in writing and is final. The filing for such an extension does not, unless granted, extend the thirty-day correction period or any other time periods set by this subarticle.
- (c) If a building violation has not been corrected by the end of the correction period, the Enforcement Officer has authority to issue to the responsible person a second civil citation containing a notice of noncorrection. The violator to whom the notice of noncorrection is issued shall be liable for and shall pay to the County the fine or fines described in the civil citation, which fine shall be due on the date this second citation is issued. Additional civil citations may be issued and fines imposed for every day the violation continues uncorrected from the date the second civil citation is issued.

- (d) If upon re-inspection the Enforcement Officer determines the violation has been corrected, he or she will issue a notice of decision to the violator indicating correction has been made.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.5. - Civil citation contents.

- (a) Each civil citation shall contain the following information:
 - (1) Name of the responsible person for the violation of this Code.
 - (2) Date on which an inspection established the Code violation.
 - (3) Designation of the issuing department for the Code section(s) violated.
 - (4) The Code section violated.
 - (5) Address where the Code violation occurred.
 - (6) Description of the violation established by inspection.
 - (7) Amount of the fine for the violation and procedure to pay the fine and avoid a late payment penalty.
 - (8) Designation of a building violation (if applicable), date the thirty-day correction period expires, and how to request an extension of that period, and designation of a notice of noncorrection for a building violation that has not been corrected.
 - (9) Designation of prior civil citations issued for the same Code violation, if known by the Enforcement Officer.
 - (10) Description of the procedure for requesting a waiver of fine deposit and/or an administrative review to contest a civil citation.
 - (11) Designation of an assigned hearing date, time and location for use if a request for waiver of fine deposit and/or an administrative review is made.
 - (12) A notice that the Code violation is a nuisance and that collection of unpaid fines and/or nuisance abatement costs can be enforced as an assessment or lien against the property where a property related code violation occurs and that unpaid assessments can result in the property being sold after three years by the county assessor as set forth in section 1-1-40.15 of this Code.
 - (13) Signature of the Enforcement Officer issuing the civil citation.
 - (14) Date the civil citation is issued.
 - (15) A self-addressed envelope in which the violator can send to the county the fine or a request for a waiver of fine deposit and/or an administrative review.
 - (16) Any other information deemed necessary by the County Counsel for enforcement or collection purposes.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.6. - Service of civil citation.

A civil citation may be served as follows:

- (a) An Enforcement Officer may personally serve the civil citation on the violator. The violator is required to sign a copy of the civil citation showing his or her receipt of the civil citation.
- (b) An Enforcement Officer may mail the civil citation by first class mail, if the violator is not present for personal service when the officer determines there has been a violation. The civil citation shall be mailed to the violator's address shown on the county's last equalized property tax assessment rolls for a property related violation, or to any address known for the violator for all other violations.
- (c) An Enforcement Officer may post a copy of the civil citation on the property in a conspicuous place for a property-related violation when the violator resides at an unknown address other than where the violation occurs. A copy of the civil citation will also be mailed to the violator at the property address.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.7. - Amount of civil fines.

- (a) The amount of the fines for violating particular provisions of this Code shall be set in a schedule of fines adopted by resolution by the Board of Supervisors. The schedule may include escalating fine amounts for repeat Code violations occurring within specified periods of time.
- (b) The resolution may also set forth the procedure for setting the amount of the fine on a case by case basis for violations of the County Grading Code where the Director determines that the violation cannot be corrected by restoring the land to its pre-existing condition prior to the violation. The amount of any such individually set fine may be contested by following the administrative review procedures in section 1-1-40.10.
- (c) The schedule of fines may also specify the amount of interest and late payment penalty owed for any fine not paid when due. A late payment penalty and interest shall be owed for fines not paid within thirty (30) days of their due date.
- (d) Fines are due on the day the civil citation is issued, except (i) fines for building violations shall be due on the day the second civil citation containing the notice of noncorrection is issued and the day any subsequent citation is issued and (ii) when a fine deposit has been waived pursuant to section 1-1-40.11 and the Hearing Officer upholds the civil citation, the fine shall be due on the date the decision is made and personally served on the violator or the date the notice of decision is mailed to the violator.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.8. - Payment of civil fines.

- (a) Fines shall be paid to the Director of the Issuing Department within thirty (30) days of the due date. Payment shall be made by mailing the envelope attached to the civil citation and enclosing the fine amount paid by check or money order. The Director for purposes of convenience and ease of processing may authorize payment to be made in accordance with any other method, at any location within the County, or to any address.

- (b) Payment of a fine shall not excuse the violator from correcting the Code violation. The issuance of a civil citation and/or payment of a fine does not bar the County from taking any other enforcement action regarding a Code violation that is not corrected, including issuing additional civil citations and/or criminal complaints.
- (c) In the event that a fine imposed pursuant to civil citations issued under the authority granted by Section 2-5-3(e) remains unpaid for ninety (90) days after such civil citation is issued, the amount of such fine shall be doubled as a late penalty and become due immediately. In the event that such fine or citation is reviewed pursuant to this division, the late penalty will be assessed if the fine remains unpaid sixty (60) days after final decision by the Hearing Officer, as provided herein.

(Ord. No. 99-8, § 1, 5-11-99; Ord. No. 05-019, § 4, 9-27-05)

Sec. 1-1-40.9. - Preliminary review.

- (a) A person issued a civil citation may request a preliminary review, if the request is made within fourteen (14) days of the date the civil citation is issued, except a civil citation containing a notice of noncorrection of a building violation shall not be subject to a request for preliminary review.
- (b) To obtain a review, the violator shall go to the public service counter for the issuing department. The violator must present a copy of the civil citation and a completed and signed request form provided by the department stating the reasons why there was no violation or why he or she is not a responsible person for the violation. All requests shall be date stamped upon receipt.
- (c) The preliminary review shall be conducted by a County employee designated by the Director. The reviewer shall not be the Enforcement Officer who issued the civil citation. The purpose of the review is to uncover and cancel any mistakenly issued civil citations due to errors that are easily verifiable, and not to resolve factual disputes concerning the violation that is the subject of the civil citation.
- (d) The preliminary review will be decided at the time the request is filed if reasonably practical as determined by the reviewer. It shall consist of a review of the civil citation and the written request form and any other evidence submitted at the time of the request by the violator and, at the discretion of the reviewer, any other related information. The review shall be completed within five (5) working days of receipt of the request.
- (e) The violator shall be notified of the results of the review by being given a notice of decision form stating the review decision. The violator may also be given additional notice by telephone or facsimile when practicable.
- (f) A request for preliminary review does not extend any time periods for compliance, including the fine due date, the time any correction period ends, and the time to request an administrative review.
- (g) If the reviewer concludes that no Code violation occurred or that the violator was not responsible for the violation, the civil citation shall be canceled.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.10. - Request for administrative review.

- (a) Any person receiving a civil citation may contest it by filing a request for an administrative review, except that a review for a building violation may not be requested unless and until a second civil citation containing a notice of noncorrection is issued. To obtain an administrative review, the violator shall file a signed written request form contained on the reverse side of the civil citation and indicate the grounds for contesting the civil citation and fine. A violator may contest the civil citation by denying that a violation occurred, by denying that it was not corrected within the correction period, if applicable, by denying that the violator is a responsible person for the violation, or by denying contesting the amount of an individually set fine pursuant to section 1-1-40.7(b).
- (b) To be effective and complete, the request must be received by the Director of the issuing department within thirty (30) days of the date the civil citation was issued, and be accompanied by a deposit of the full amount of the fine. Where a request and fine deposit are mailed by the violator, the request and fine deposit shall be deemed filed on the date received by the Director. All requests shall be date stamped upon receipt. The Director is authorized to designate an address to which such requests shall be mailed in satisfaction of this subsection.
- (c) The person requesting the administrative review shall personally attend the hearing on the date, time and place specified on the civil citation. A failure to personally attend the hearing will be considered a non-appearance. Non-appearance by the violator shall constitute an abandonment of the request, unless the hearing was continued pursuant to section 1-1-40.12(f).

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.11. - Waiver of fine deposit.

- (a) A person who files a request for an administrative review may also request at the same time a hardship waiver of the fine deposit. To seek such a waiver and obtain a separate hearing on the request, the violator must check the box indicating this request on the form contained on the reverse side of the civil citation and attach a statement of the grounds for the request. To be effective, the form requesting the waiver and the administrative review must be received by Director within thirty (30) days of the date the civil citation is issued. The procedure governing the filing of such requests shall be the same as provided in section 1-1-40.10(b).
- (b) The person requesting the waiver bears the burden of establishing by substantial evidence that he or she does not have the financial ability to make the deposit of the fine. The violator shall personally appear at the hearing on the request. A failure to personally attend the hearing will be considered a non-appearance. Non-appearance shall constitute an abandonment of both the requests unless the hearing was continued pursuant to section 1-1-40.12(f).
- (c) The request will be decided by the Hearing Officer at the hearing date, time and place specified on the civil citation. The request shall be heard at a separate hearing before the administrative review hearing on the contest of the civil citation. At the conclusion of the hearing on the waiver request, the Hearing Officer shall issue a decision that the fine deposit is or is not waived. The Hearing Officer shall then insert on the notice of decision form the new date set for the administrative review, which shall be within forty-five (45) days. A copy of the notice of decision shall be delivered to the violator at the end of the hearing on the waiver request.
- (d) If the waiver is denied, the Hearing Officer shall give the violator a self-addressed envelope to use in making the fine deposit. The violator shall mail the deposit in the envelope provided so that it is postmarked at least five (5) calendar days before the date designated on the notice of decision for

the administrative review. The director is authorized to designate the address to which the deposit is mailed. Failure to make the deposit by the time required shall be deemed an abandonment of the contest.

- (e) The filing of a request for hardship waiver of the fine deposit does not extend any time periods set forth in this subarticle, except the time when the fine deposit must be made. The Hearing Officer's decision on the waiver is final and not subject to an appeal pursuant to section 1-1-40.14.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.12. - Hearing procedures.

- (a) Hearings shall be conducted by a Hearing Officer either: (i) on the date, time and place specified in the civil citation, or (ii) on the date designated on the notice of decision when there was a request to waive the fine deposit which was heard on the date noted on the civil citation.
- (b) The director shall ensure that the pertinent civil citation records are delivered to the Hearing Officer for a civil citation set for a hearing, including information showing all fine deposits and waivers granted. The director shall also make available to the violator before the hearing a copy of any additional reports concerning the civil citation that are provided to the Hearing Officer.
- (c) The violator shall be given the opportunity to testify and to present evidence relevant to financial hardship or the Code violation specified in the civil citation. A parent or legal guardian of a violator, who is a juvenile, under eighteen (18) years of age, shall accompany the violator.
- (d) The civil citation and any other reports prepared by the Enforcement Officer, or at his or her request, concerning the Code violation or attempted correction of the Code violation that are provided to the Hearing Officer shall be accepted by the Hearing Officer as prima facie evidence of the Code violation and the facts stated in such documents.
- (e) Neither the Enforcement Officer nor any other representative of the County shall be required to attend the hearing, nor shall the Hearing Officer require that there be submitted any evidence, other than the civil citation, that may exist among the public records of the County on the violation. However, any such appearance and/or submission may be made at the discretion of the Enforcement Officer or any County employee or agent.
- (f) The Hearing Officer may continue a hearing if a request is made showing good cause by the violator or a representative of the County. All continuance requests shall either: (i) be made in person at the hearing by the violator or his or her representative if the violator is physically unable to attend, or (ii) be made by a written request received by the Director at least twenty-four (24) hours before the hearing date. If the continuance is granted, a new hearing date shall be set for within forty-five (45) days and noted on the notice of decision. If the continuance is denied, the hearing shall proceed then and there as scheduled, and if the violator is not present the request(s) shall be deemed abandoned in accordance with subsection (h) below. The Hearing Officer's decision is final and he or she shall notify the violator in writing by certified letter within ten (10) days of the date of the hearing.
- (g) The hearing shall be conducted informally and the legal rules of evidence need not be followed. The Hearing Officer does not have the authority to issue a subpoena.
- (h) The failure of the violator to appear at the hearing, unless the hearing was continued per subsection (f) above, shall constitute an abandonment of the request for waiver of the fine deposit

and/or administrative review, and a failure to exhaust administrative remedies concerning the violation set forth in the civil citation. The fine deposit shall be credited by the County upon the fine due for the violation. The failure to appear by the violator shall be noted on the notice of decision by the Hearing Officer, which will be mailed to the violator by the Director.

(Ord. No. 99-8, § 1, 5-11-99; Ord. No. 05-019, § 5, 9-27-05)

Sec. 1-1-40.13. - Administrative review decision.

- (a) After considering all the evidence and testimony submitted at the administrative review, the Hearing Officer shall issue a written decision to uphold or cancel the civil citation based upon a conclusion of whether or not a violation occurred for which the violator was a responsible person. The Hearing Officer has no discretion or authority to reduce or modify a fine, except an individually set fine pursuant to section 1-1-40.10(a). The decision will be made on a notice of decision form and will state the reasons and evidence considered for the decision. The Hearing Officer shall notify the violator in writing by certified letter within ten (10) days of the hearing date.
- (b) If the decision is to uphold the civil citation, the County shall keep the fine deposited as payment upon the fine due. If the decision is to cancel the civil citation, the County shall retire the fine deposit to the violator within thirty (30) days of the filing of the decision. If the civil citation is upheld and the fine deposit has been waived, the fine shall be due on the date the decision is given to the violator at the end of the hearing by the Hearing Officer, who may collect the fine at that time.
- (c) The Hearing Officer's continued employment, performance evaluation, compensation, and benefits shall not directly or indirectly be linked to the amount of civil citations upheld or canceled, or the amount of fines upheld, by the Hearing Officer.

(Ord. No. 99-8, § 1, 5-11-99; Ord. No. 05-019, § 6, 9-27-05)

Sec. 1-1-40.14. - Right to judicial review.

- (a) The violator may seek judicial review of the administrative review decision by filing an appeal with the Municipal Court within twenty (20) calendar days after the violator receives a copy of the notice of decision at the conclusion of the hearing in accordance with the provisions of California Government Code Section 53069.4. The appeal filed with the court must also contain a proof of service showing a copy of the appeal was served upon "County of Orange (Attention: County Counsel)." The violator must pay to the Municipal Court a twenty-five dollar (\$25.00) filing fee when the appeal is filed.
- (b) No appeal is permitted from a decision on a request for preliminary review, or an extension of the thirty-day correction period for building violations, or a request for waiver of the fine deposit, or where the violator is deemed to have abandoned the contest of the civil citation by an unexcused nonappearance at the hearing or failure to deposit the fee.
- (c) The County Counsel or the County Counsel's designee shall forward to the Municipal Court within fifteen (15) days of its request, the pertinent civil citation documents for any case appealed to that court. If the Municipal Court cancels any civil citation, the County will refund any fine deposit made and the twenty-five dollar (\$25.00) appeal filing fee.

(Ord. No. 99-8, § 1, 5-11-99)

Sec. 1-1-40.15. - Collection of unpaid fines.

- (a) The County at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties.
 - (1) Pursuit of one (1) remedy does not preclude the pursuit of any other remedies until the total fines, interest and penalties owed by a person under this subarticle have been collected.
 - (2) The County may refuse to issue, extend, or renew to any person, who has unpaid delinquent fines, interest, penalties, liens or assessments, any County permit, license, or other County approval pertaining to the property that is the subject of the fine and civil citation.
 - (3) Any permit, license, or any type of land use approval issued by the County to a person who has unpaid fines, interest and penalties totaling five hundred dollars (\$500.00) or more that remain delinquent for thirty (30) days or longer shall automatically be suspended. The suspension becomes effective ten (10) days after the day notice of the suspension is placed in the U.S. mail, postage prepaid addressed to the person. The suspension continues until the delinquency is paid in full. The person may request a review hearing pursuant to the procedures in section 1-1-40.9 on the issue of delinquency only, if the request is filed before the ten-day period ends. Continuing to operate under a suspended permit, license or approval shall be grounds for the Board of Supervisors to revoke the permit, license or approval. Revocations may be made by the Board of Supervisors at a public hearing for which the person is given at least ten (10) days prior written notice.
- (b) Any violation of this Code shall constitute a nuisance. To compel Code compliance, the County may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where a property related violation occurred in accordance with the procedures in Government Code sections 38773.1 and 38773.5. Any unpaid delinquent civil fines, interest and penalties may be recovered as such a lien or special assessment against the property of the responsible person who is the owner of the property where the violation occurred.
- (c) To pursue an abatement of a Code violation as a nuisance and recover any delinquent civil fines, interest and penalties as a lien or special assessment, the following conditions must be met:
 - (1) The Director must submit to and receive from the Board of Supervisors a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner; and
 - (2) The total amount of the delinquent fine, interest and penalty against the property owner must be two hundred fifty dollars (\$250.00) or more and be delinquent for sixty (60) days or more.
- (d) The Director may take any steps necessary to enforce collection of the lien or special assessment, including but not limited to the following:
 - (1) Request the County Recorder to record a notice of any lien or special assessment certified by the Board of Supervisors.
 - (2) Request the County Tax Collector to collect any special assessments certified by the Board of Supervisors.

The Director may pursue these remedies whether or not the County is pursuing any other action to terminate an ongoing Code violation that was the basis for the fine.

- (e) All civil citations shall contain a notice that unpaid fines, interest and penalties are subject to the assessment and lien collection procedures of this section. This notice shall satisfy the notice requirements of Government Code sections 38773.1 and 38773.5, when a civil citation is personally served on the violator. In addition, the Director shall by first class mail send notice to each property owner at least ten (10) days before the Board of Supervisors considers the resolution to certify the amounts of the liens and special assessments stating the date, time and location of the meeting. The lien and/or special assessment shall be imposed on the date the civil citation for the Code violation is issued to the responsible person and becomes effective upon the recording of a notice of lien or special assessment by the County Recorder.
- (f) A violator may contest the amount and/or validity of any lien or special assessment for a civil fine at the public hearing when the Board of Supervisors considers the resolution to certify the liens and assessments. Such contests by a violator shall be limited to the issue of the amount and/or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a violator is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or special assessment.
- (g) The mother, father, and the legal guardian if there is no living parent, of a violator who is a minor shall be liable for any fines imposed upon the minor pursuant to the provisions of this subarticle. Any such fines may be collected from the minor or a parent or guardian of the minor.

(Ord. No. 99-8, § 1, 5-11-99)

Secs. 1-1-41—1-1-47. - Reserved.