

CHAPTER 1.04 GENERAL PROVISIONS

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1.04.010 DEFINITIONS.

For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CENTRAL BUSINESS DISTRICT or CENTRAL TRAFFIC DISTRICT. All streets and portions of streets within the area described as follows: All that area bounded by Pine Street on the north [including some parcels on the northern side of Pine Street](#), Oak Street on the south, Main Street on the west, ~~and Franklin Street~~ [McPherson Street](#) on the east [and Harrison Street heading east on Redwood Avenue](#).

CHIEF OF POLICE. The Chief of Police of Fort Bragg or his or her authorized subordinate.

CITY. The City of Fort Bragg, California, or the area within the territorial limits of the City of Fort Bragg, California, and the territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

CITY MANAGER. The City Manager of the City of Fort Bragg, or his or her designee.

CITY COUNCIL. The City Council of the City of Fort Bragg, California. "All its members" or "all Councilmembers" means the total number of Councilmembers provided by the general laws of the State of California.

CODE, THIS CODE, or MUNICIPAL CODE. The City of Fort Bragg's Municipal Code, all uniform codes that have been incorporated into the City's Municipal Code, and any applicable local, state or federal laws and regulations that are or may be enforced by the City, including without limitation, the State Housing Law (Cal. Health and Safety Code § [17910](#), et. seq.).

COUNTY. The County of Mendocino, California.

FIRE CHIEF. The Fire Chief of Fort Bragg Fire Protection Authority or his or her authorized subordinate.

HOLIDAYS. The City observes the following legal holidays: New Year's Day, Martin Luther King Jr. ~~Birth~~~~day~~~~Day~~, President's' Day, Memorial Day, Independence Day, Labor Day, ~~Columbus~~ ~~Day~~[Indigenous Peoples' Day](#), Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas

Eve Day, and Christmas. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday.

LAW. Denotes applicable federal law, the Constitution and statutes of the State of California, the ordinances of the City of Fort Bragg, California, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

MAY. Is permissive.

MUST and SHALL. Each is mandatory.

OATH. Includes affirmation.

OFFICE. The use of the title of any officer, employee, or any office, means the officer, employee, or office of Fort Bragg unless otherwise specifically designated.

OFFICIAL TIME STANDARDS. Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in this City.

ORDINANCE. A law of the City; provided that a temporary or special law, administrative action, order or directive, may be in the form of a resolution.

PERSON. Natural person, joint venture, joint stock company, organization, partnership, association, club, company, corporation, business, trust, or the manager, lessee, agent, servant, officer, or employee of any of them.

POLICE OFFICER. Every officer of the Police Department of this City or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

STATE. The State of California.

STREET. Includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

VEHICLE CODE. The Vehicle Code of the State of California.

WRITTEN. includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language, unless it is expressly provided otherwise. Includes printed, typewritten, mimeographed, or multigraphed.

(Ord. 447, § 1, passed -- 1974; Am. Ord. 870, § 2, passed 8-25-2008; Am. Ord. 900, § 2, passed 12-12-2011)

1.04.020 GRAMMATICAL INTERPRETATION.

The following grammatical rules shall apply in the ordinances of the City.

A. *Gender.* Any gender includes the other genders.

- B. *Singular and plural.* The singular number includes the plural and the plural includes the singular.
- C. *Tenses.* Words used in the present tense include the past and the future tenses and vice versa.
- D. *Use of words and phrases.* Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

(Ord. 447, § 2, passed -- 1974)

1.04.030 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING, AND THE LIKE.

Whenever in this code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of the act or omission.

(Ord. 447, § 3, passed -- 1994)

1.04.040 CONSTRUCTION.

The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice.

(Ord. 447, § 4, passed -- 1974)

1.04.050 REPEAL SHALL NOT REVIVE ANY ORDINANCES.

The repeal of an ordinance shall not repeal the repealing clause of the ordinance or revive any ordinance which has been repealed thereby.

(Ord. 447, § 5, passed -- 1974)

1.04.060 MISDEMEANOR VIOLATIONS

Whenever in this code any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, such violation of this code or failure to comply with its requirements shall constitute a misdemeanor, unless expressly provided otherwise. Any violation constituting a misdemeanor under this code, may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine only as follows: Upon a first conviction by a fine not exceeding \$100 and for a second conviction of the same ordinance within one year by a fine not exceeding \$200 and for any conviction of the same ordinance within a period of one year, by a fine not exceeding \$500 for each subsequent violation.

CHAPTER 1.06

ADMINISTRATIVE HEARING ORDINANCE

Section

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1.06.010 TITLE OF CHAPTER.

This chapter shall be known as the Administrative Hearing Ordinance. (Ord. 897 § 1, passed 11-14-2011)

1.06.020 PURPOSE AND AUTHORITY.

The City Council establishes the procedures set forth in this chapter to provide administrative hearing procedures pursuant to Cal. Government Code §§ [36900](#), et seq., [38660](#), [38771](#) through [38775](#), inclusive, [53069.4](#), [54988](#) and all other statutes and laws referenced herein. (Ord. 897 § 1, passed 11-14-2011)

1.06.030 DEFINITIONS.

For the purpose of this chapter, ~~and~~ Chapter [1.08](#), ~~and~~ Chapter [1.12](#) the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CODE, THIS CODE, or MUNICIPAL CODE. The City of Fort Bragg's Municipal Code, all uniform codes that have been incorporated into the City's Municipal Code, and any applicable local, state or federal laws and regulations that are or may be enforced by the City, including without limitation, the State Housing Law (Health and Safety Code § [17910](#), et. seq.).

DAY or DAYS. Calendar days.

HEARING BODY. For Land Use Development Code-related matters governed by Titles [17](#) and [18](#) of this Code, the Hearing Body is the Planning Commission, with appeals to the City Council. For all

other Municipal Code violations, the initial hearing shall be conducted before a Hearing Officer, as defined below.

HEARING OFFICER. The City Manager or any person or persons appointed by the City Manager to conduct hearings pursuant to this chapter.

RESPONSIBLE PARTY or RESPONSIBLE PARTIES. Any person, firm, association, club or organization (including informal clubs or organizations), corporation, partnership, trust(ee), or entity, and a parent or legal guardian of any person(s) under eighteen years of age, whose acts or omissions have caused or contributed to a violation of this Code, and shall include any owner(s) or occupant(s) of the affected property, or any party with a legal interest in the affected property.

(Ord. 897 § 1, passed 11-14-2011; Am. Ord. 906, § 2, passed 04-22-2013)

1.06.040 SERVICE OF NOTICES AND OTHER WRITINGS.

Service of a writing on, or giving of notice to, a Responsible Party in a procedure provided for in this chapter is subject to the following provisions:

A. The writing or notice shall be delivered personally or sent by mail or other means to the Responsible Party at the Responsible Party's last known address or, if the Responsible Party is a party with an attorney or other authorized representative of record in the proceeding, to the Responsible Party's attorney or other authorized representative. If the Responsible Party has an address on file with the City, the Responsible Party's last known address is the address on file with the City;

B. Unless otherwise specified in the Municipal Code, service or notice by mail may be by first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile transmission if complete and without error, or by other electronic means as provided by law, at the discretion of the sender. Service by mail or mail delivery service shall be effective on the date of deposit, and service by facsimile or other electronic means shall be effective when sent.

(Ord. 897 § 1, passed 11-14-2011)

1.06.050 FORM OF NOTICE OF HEARING.

The Notice of Hearing shall be served as provided in § [1.06.040](#) at least twenty (20) calendar days prior to the date set for the hearing. The Notice of Hearing shall be in substantially the following form, but may include other information:

"You are hereby notified that a hearing will be held before [insert the name of the Hearing Body or Hearing Officer] at [insert the place of the hearing] on the _____ day of _____, 20____, at the hour of _____, regarding

_____. You may be present at the hearing. You have the right to be represented by an attorney at your own expense, or to represent yourself without legal counsel. You may present any relevant evidence, question any witnesses testifying or evidence presented against you, and call witnesses on your behalf."

If any City representative submits a written report or other material concerning the subject matter of the hearing to the Hearing Officer or Hearing Body for consideration at the hearing, then a copy of

the report or other material shall be served on the person requesting the hearing and the Responsible Parties at least five (5) calendar days before the hearing.

(Ord. 897 § 1, passed 11-14-2011)

1.06.060 HEARING AND HEARING OFFICER.

A. *Hearing Officer.* A person may not serve as a Hearing Officer or as part of a Hearing Body in any of the following circumstances:

1. If the person has served as an investigator, prosecutor or advocate in the proceeding or in its pre-hearing stage; or
2. If the person is subject to the authority, direction or discretion of a person who has served as an investigator, prosecutor or advocate in the proceeding or its pre-hearing stage.

B. *Powers of the Hearing Officer.* The Hearing Officer shall have the following powers:

1. Conduct Administrative Citation hearings and administrative appeal hearings as provided under the authority of this Code.
2. Continue a hearing based on good cause shown by one of the parties to the hearing or upon his/her/its own independent determination that due process has not been adequately afforded to a Responsible Party.
3. Exercise continuing jurisdiction over the subject matter of an appeal hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Citation, modifying an Administrative Citation, or where extraordinary circumstances exist, granting a new administrative hearing.
4. Require and direct a Responsible Party to post a performance bond to ensure compliance with an Administrative Citation.
5. Rule upon the merits of an appeal hearing upon consideration of the evidence submitted and issue a written decision resolving the case.
6. Uphold, award, impose, assess, or deny a fine or penalty authorized under this Code;
7. Assess administrative costs according to proof.
8. Set, increase, or decrease, according to proof, the amount of fine or penalty or the daily rate of such fine or penalty sought by the City to be awarded, imposed, or assessed in those cases where the fine or penalty is not fixed but is subject to a range as otherwise established by this Code.
9. In those cases where the fine or penalty is not fixed but is subject to a range as otherwise established by this Code, determine the date certain upon which the assessment of civil penalties shall begin; and, where the corrections are subsequently completed to the City's satisfaction, the date certain upon which the assessment of civil penalties shall end. If the violations have not been so corrected, the daily accrual of the penalties assessed shall continue until the violations are corrected or the legal maximum limit is reached.

10. Where appropriate and as a condition of compliance in correcting the violations at issue, require each Responsible Party to cease violating this Code and to make all necessary corrections as specified by the City

BC. *Evidence.* Each party shall have the right to call and examine witnesses and introduce exhibits. The hearing need not be conducted according to technical rules relating to evidence and witnesses. The Hearing Officer or Hearing Body has the right to ask questions and the discretion to exclude evidence if its tendency to prove or disprove an issue is substantially outweighed by the likelihood that its admission will not assist in proving or clarifying a material issue or consume an undue amount of time. Evidence offered during a hearing must be credible and relevant in the estimation of the hearing body or hearing officer, but formal rules governing the presentation and consideration of evidence shall not apply. Evidence presented by staff or other official of the City tending to support an administrative decision shall constitute prima facie evidence that the decision was justified. The burden of proof shall then be on the aggrieved party or other person challenging the decision to refute such evidence. The standard to be applied for meeting such burden shall be a preponderance of evidence.

(Ord. 897 § 1, passed 11-14-2011)

1.06.070 EMERGENCY HEARING/DECISION.

A. A Hearing Officer or Hearing Body may issue an emergency decision for temporary, interim relief if a situation exists that involves an immediate danger to the public health, safety or welfare that requires immediate action. The underlying issue giving rise to the temporary, interim relief is subject to the regular hearing procedures set forth herein.

B. Before issuing an emergency decision under this section, the Hearing Officer or Hearing Body shall, if practicable, give the person who is the subject of the decision notice and an opportunity to be heard. Such notice may be oral or written, including notice by telephone, facsimile transmission or other electronic means, as the circumstances permit.

C. The Hearing Officer or Hearing Body shall issue an emergency decision, including a brief explanation of the factual and legal basis and reasons for the emergency decision, to justify the determination of an immediate danger and the decision to take the specific action. The City shall give notice to the extent practicable to the Responsible Party(ies). The emergency decision is effective when issued or as provided in the decision.

D. After issuing an emergency decision under this section for temporary, interim relief, a regular hearing shall be conducted to resolve the underlying issues giving rise to the emergency decision. The City shall commence the regular hearing proceeding within ten (10) calendar days after issuing an emergency decision under this section. COMMENCE for purposes of this section means serving a Notice of Hearing pursuant to § [1.06.040](#) of this chapter.

(Ord. 897 § 1, passed 11-14-2011)

1.06.080 HEARING PROCEDURES AND RULES.

A. At any time prior to or after the Hearing, the Hearing Officer may:

1. Request relevant documents or information from any party to the appeal, however, the substance of the request and response, including any responsive documents, shall be shared with all parties to the appeal;
2. Request that a pre-hearing conference be held by telephone, video conference, or by written correspondence, such as email, for the purpose of addressing preliminary matters of fact, law, or logistics;
3. Request that the City Clerk send out notices or provide correspondence on behalf of the Hearing Officer.
- B. At any time prior to the Hearing, any party to the appeal may contact the Hearing Officer in writing with respect to the appeal so long as the correspondence is also sent to all other parties to the appeal.
- C. At the prescribed time and place for the hearing, the Hearing Officer shall consider relevant evidence and arguments from all parties, including but not limited to whether or not to confirm, alter or strike down the penalties imposed by the Citation.
- D. The Administrative Citation and any additional documents submitted by the City shall constitute prima facie evidence of the respective facts contained in those documents.
- E. Appellant bears the burden of proving that the citation was flawed and/or that the penalties imposed by the Citation should either be modified or stricken.
- F. The standard of proof shall be a preponderance of the evidence.
- G. Personal information about any reporting party related to the violation(s) shall not be disclosed.
- H. Parties may choose to be represented by an attorney. However, formal rules of evidence or procedure in any proceeding subject to this Chapter shall not apply. Nonetheless, any failure to make a timely objection to offered evidence constitutes a waiver of the objection. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The Hearing Officer has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will cause undue consumption of time.
- I. The failure of any appellant of an Administrative Citation to appear at the scheduled hearing shall constitute a failure to exhaust administrative remedies.
- J. The Hearing Officer may continue the hearing and request additional information from the parties prior to issuing a written decision.
- K. The Hearing Officer may issue any orders respecting the logistical administration of the hearing that it deems appropriate and just.

1.06.~~080-090~~ DECISION.

- A. Within ten (10) calendar days following the conclusion of the hearing, the Hearing Officer or Hearing Body shall make a decision regarding the issues presented during the course of the

hearing, and the decision shall be based on a preponderance of the evidence. After making a decision, the Hearing Officer or Hearing Body may issue an appropriate order.

B. A ~~Responsible Party and any interested party requesting a~~ copy of an abatement order, administrative order, or decision of the Hearing Officer or Hearing Body shall be served ~~with a copy on the Responsible Party of said order or decision~~ in the same manner as used for service of a Notice of Hearing as described in § [1.06.040](#). Proof of service of the order or decision shall be certified by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time, and manner that service was made.

C. An order shall become effective and enforceable immediately after announcement or service of such order unless the order includes a later effective date.

D. An order may include any combination of the following remedies:

1. Impose or uphold an administrative penalty, subject to Cal. Government Code §§ [36900](#)(b) and [§53069.4](#), ~~as set forth in chapter 1.12~~.

2. Issue a “cease and desist” order requiring the Responsible Party(ies), or any agent, representative, employee, or contractor of a Responsible Party, to immediately stop any act, conduct, or condition that is a violation of this Code. A cease and desist order issued pursuant to this section shall be effective upon issuance and shall be served on the Responsible Party(ies) in the manner specified in § [1.06.040](#).

3. Require the Responsible Party(ies) to correct or eliminate any violation, including a proposed schedule for correction or elimination of said violation within a reasonable time. If a violation pertains to building, plumbing, electrical, or any other structural or zoning issues and the violation does not create an immediate threat to health or safety, the Responsible Party(ies) shall be provided at least fifteen (15) calendar days to correct, abate, or otherwise remedy the violation.

4. Require the Responsible Party(ies), or authorize the City, to restore a site or location that has been damaged or disturbed as a result of a violation of this Code to a pre-violation condition. Any order authorizing the City to undertake restoration efforts shall include provisions for the City to recover all restoration costs and expenses, including administrative costs, from the Responsible Party(ies).

5. Require the Responsible Party(ies), or authorize the City, to mitigate any damage or disturbance to protected or environmentally sensitive areas as a result of any violation, including without limitation, off-site replacement of damaged or destroyed natural resources where on-site restoration or mitigation is not feasible, as determined by the City. Any order authorizing the City to undertake mitigation efforts shall include provisions for the City to recover all costs of abatement, including mitigation costs and expenses, and may include attorneys’ fees, from the Responsible Party(ies).

6. Impose conditions that restrict or regulate the development of, use of, or activity on real property where a nexus exists between a Code violation(s) and the development, use or activity. Conditions may be imposed until the violations are fully abated. Restrictions and regulations on current or future development, use or activity may include site restoration and/or the suspension or revocation of any entitlements issued by the City.

7. Authorize the City to abate or cause the abatement of any nuisance condition, including without limitation those conditions described in § [6.12.040](#) of this Code, where the Responsible Party has refused or has otherwise neglected or is unable to take steps to correct or eliminate said conditions. The order shall specify that if the City undertakes to abate or eliminate any nuisance condition, the City shall be entitled to recover all costs of abatement incurred in performing such work and other costs necessary to enforce the order, in accordance with §§ [6.12.040](#) and [6.12.050](#) of this Code. Such costs may be recovered by the City as a personal obligation and/or through a lien or a special assessment on the affected property as provided in § [6.12.160](#) of this Code.

8. Sustain, modify, or overrule a Notice of Violation issued by a Code Enforcement Officer, pursuant to § [6.12.060](#) of this Code.

9. Any other order or remedy that serves the interests of justice.

E. The City may seek to enforce any administrative order by confirmation from a court of competent jurisdiction. Any order that is judicially confirmed may be enforced through all applicable judicial enforcement measures, including without limitation, contempt proceedings upon a subsequent violation of such order.

(Ord. 897 § 1, passed 11-14-2011)

~~1.06.090-100~~ DECISION IN WRITING.

The decision of a Hearing Officer or Hearing Body shall be in writing and shall include a statement of the factual and legal basis for the decision. The statement of the factual basis for the decision shall be based on the evidence presented at the hearing and in the record on the proceedings. (Ord. 897 § 1, passed 11-14-2011)

~~1.06.100-110~~ PAYMENT AND COLLECTION OF PENALTIES.

A. If an administrative penalty is imposed and the Responsible Party fails to timely request an administrative hearing in accordance with this chapter, the Responsible Party shall pay the amount of the penalty within thirty (30) days of the effective date of the penalty, unless an extension of time is requested by the party against whom the penalty is imposed and the request is granted by the City Manager in the case of a penalty imposed by a Code Enforcement Officer pursuant to § [6.12.155](#) of this Code, or by the Hearing Officer or Hearing Body if the penalty was imposed as part of an administrative order after a hearing pursuant to this chapter. Any penalty imposed shall be payable to the City, or to a collection agency if the penalty has been assigned to a collection agency pursuant to subsection C of this section.

B. If the amount of any penalty imposed for a violation relating to an affected property has not been satisfied in full within sixty (60) days of the date due and has not been successfully challenged by appeal pursuant to Chapter [1.08](#) of this Code or in court, the penalty amount may become a special assessment or lien against the affected property, as provided in § ~~1.06.130~~[1.06.140](#). If the City elects to make any penalty a special assessment or lien against the affected property, a statement of the amount due, and any additional costs or expenses that may be recoverable as part of the enforcement action, shall be prepared and submitted to the City Council for confirmation in accordance with the procedures described in § ~~1.06.120~~[1.06.130](#).

C. Notwithstanding subsection B of this section, the amount of any unpaid penalty may be collected by commencement of a civil action to collect such penalty, or in any other manner provided by law for the collection of debts, including assignment of the debt to a collection agency. Subject to the requirements of this Code and other applicable law, amounts assigned for collection are subject to collection agency rules, regulations and policies. The City shall be entitled to recover any and all costs, including attorneys' fees, associated with collection of any such penalty.

D. The payment of a penalty by or on behalf of any Responsible Party shall not relieve such party from the responsibility of correcting, removing or abating any nuisance condition, or performing restoration where required, nor prevent further proceedings under this Code or any other authority to achieve the correction, removal or abatement of a nuisance, or any required restoration.

(Ord. 897 § 1, passed 11-14-2011)

1.06.110-120 DEFAULTS AND UNCONTESTED CASES.

~~Any~~ Responsible Party who either fails to file a request for a hearing or an appeal or fails to appear at a duly noticed hearing, shall be deemed to have waived their right to a hearing, the adjudication of the issues related to the hearing, any and all rights afforded under this Code, and shall be deemed to have failed to exhaust their administrative remedies. ~~the~~The City may take action based on the record without further notice to the Responsible Party(ies), except as otherwise provided herein. (Ord. 897 § 1, passed 11-14-2011)

1.06.120-130 COST ACCOUNTS.

A. If an administrative order authorizes the City to recover its costs associated with the administrative proceeding, the City shall keep an accounting of such costs, and shall render a written report ("the cost report") to the City Council showing the costs incurred by the City. The cost report shall be agendaized as a "public hearing" item by the City Clerk at a subsequent City Council meeting following the required notice periods.

B. At least ten (10) days prior to the submission of the cost report to the City Council, the City Clerk shall cause a copy of the cost report to be mailed to the Responsible Party(ies) and/or to the owner of the property that was the subject of the administrative hearing. If the administrative hearing concerns conditions or uses of real property, a copy of the cost report shall be mailed to the owner(s) at the address shown for such owner(s) in the most recent tax assessor's records. The City Clerk shall also cause a Notice of Hearing to be mailed to the same person(s) or entity receiving a copy of the cost report. The Notice of Hearing shall set forth the date, time and location of the City Council meeting at which the cost report shall be submitted to the City Council.

C. At the time and place fixed for receiving and considering the cost report, the City Council shall hear a summary of the cost report and any objections by the Responsible Party(ies) or property owner against whom such costs are being charged or against whose property an abatement lien or special assessment may be imposed. After considering the cost report and any objections thereto, the City Council may make such modifications to the cost report as it deems appropriate, after which the report may be confirmed by order of the City Council.

D. At the hearing on the cost report, the City Council may also authorize the imposition of a lien or special assessment on the property that was the subject of the administrative hearing pursuant to ~~§ 1.06.130~~1.06.140.

E. A copy of a Council order confirming costs against the Responsible Party(ies) shall be served on the Responsible Party(ies) within ten (10) days of such order in the manner described in § [1.06.040](#). Any Responsible Party against whom costs are awarded by Council order shall have the right to seek judicial review of such order by filing a petition for writ of mandate in accordance with Cal. Code of Civil Procedure § [1094.5](#).

(Ord. 897 § 1, passed 11-14-2011)

1.06.~~130-140~~ IMPOSITION OF LIENS OR SPECIAL ASSESSMENTS.

A. Any penalty imposed pursuant to this chapter, any administrative costs or other expenses that are levied in accordance with this Code, whether imposed or levied judicially or administratively, may be enforced by the recordation of a lien against the property of the owner of the real property where the nuisance condition existed. Any such lien shall be recorded in the office of the Mendocino County Recorder, and from the date of recording shall have the force, effect, and priority of a judgment lien. A lien authorized by this subsection shall specify the amount of the lien, that the lien is being imposed on behalf of the City, the date of any administrative order issued pursuant to this chapter, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel.

B. Before recordation of a lien authorized by this section, a Notice of Lien shall be served on the Responsible Party(ies) and/or owner of record of the parcel of land to which the lien is directed, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The Notice of Lien shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found, after a diligent search, the Notice of Lien may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in Mendocino County.

C. Any fee imposed on the City by the County Recorder for costs of processing and recording the lien as well as the cost of providing notice to the owner in the manner described herein may be recovered from the owner in any foreclosure action to enforce the lien or upon sale of the property on which the City has placed a lien following recordation.

D. As an alternative to the lien procedure described above, ~~any penalty imposed pursuant to this section, and~~ any associated costs or expenses, whether imposed or levied judicially or administratively, may become a special assessment against the real property that was the subject of the administrative hearing. Any special assessment imposed on real property pursuant to this section 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 is provided for ordinary municipal taxes. Notice of any special assessment that is levied on real property pursuant to this section shall be given to the owner by certified mail, and shall contain the information set forth in Cal. Government Code § [38773.5\(c\)](#). All laws applicable to the levy, collection, and enforcement of municipal taxes, including those described in Cal. Government Code § [38773.5\(c\)](#), shall be applicable to such special assessment.

(Ord. 897 § 1, passed 11-14-2011)

1.06.~~140-150~~ JUDICIAL REVIEW OF DECISION OF HEARING BODY OR HEARING OFFICER.

A. Except for an administrative decision made by the Planning Commission as the Hearing Body (which may be appealed to the City Council), or any decision that may be appealed to the Coastal Commission pursuant to the California Coastal Act, any Responsible Party who is aggrieved by a decision of a Hearing Officer or Hearing Body, and who has exhausted the administrative remedies provided in this Code, or any other applicable law, shall have the right to seek judicial review of such decision by filing a petition for writ of mandate in accordance with Cal. Code of Civil Procedure § [1094.5](#). A petition for writ of mandate must be filed within ninety days (90) after the administrative decision becomes final (as determined in Cal. Code of Civil Procedure § [1094.6](#)). Notwithstanding these time limits, where a shorter time limitation is provided by any other law, including that set forth in Cal. Government Code § [53069.4](#) (see subsection E of this section), such shorter time limit shall apply.

B. Written notice of the time limitation in which a party may seek judicial review of an administrative order or decision (except for the imposition of an administrative penalty) shall be given to all Responsible Parties in the matter by the City in substantially the following form:

“Judicial review of this decision may be sought by following the procedure outlined in Cal. Code of Civil Procedure § [1094.5](#). Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except that where a shorter time is provided by any state or federal law, such shorter time limit shall apply.”

C. This section shall not be deemed to revive any cause of action or grounds for relief through a special proceeding that is barred by law or equity.

D. All costs of preparing an administrative record that may be recovered by a local agency pursuant to Cal. Code of Civil Procedure § [1094.5](#)(a) or successor statute shall be paid by the petitioner prior to delivery of the record to petitioner.

E. Any Responsible Party against whom an administrative penalty has been imposed pursuant to this chapter and who has exhausted the administrative remedies provided in this Code or other applicable law may obtain judicial review of said penalty pursuant to Cal. Government Code § [53069.4](#) by filing an appeal with the Mendocino County Superior Court, subject to the time limits described therein. Any such appeal shall be filed as a limited civil case. Written notice of the subject time limits shall be given to all Responsible Parties against whom a penalty is imposed in substantially the following form:

“The time within which judicial review of the penalty imposed by this order must be sought is governed by Government Code § [53069.4](#). Judicial review must be sought not later than 20 days after service of the order imposing or confirming such penalty.”

(Ord. 897 § 1, passed 11-14-2011)

CHAPTER 1.08 APPEAL OF ADMINISTRATIVE DECISION

Section

[1.08.010](#) **Appeal of administrative decision and citation**

[1.08.020](#) **Enforcement stayed during appeal**

[1.08.030](#) **Procedure for a request for hearing/appeal of an administrative citation**

1.08.010 APPEAL OF ADMINISTRATIVE DECISION AND CITATION.

A. Any challenge to an administrative decision to revoke, suspend, limit or condition a right, activity, license or privilege, ~~or from an administrative citation issued pursuant to Chapter 1.12, may or from a determination, action or decision of any staff person, except as otherwise set provided in the Fort Bragg Municipal Code, shall~~ be appealed by a Responsible Party in the administrative decision to revoke, suspend, limit or condition a right, activity, license or privilege to a Hearing Officer pursuant to the procedures set forth in Section 1.08.030. Any appeal hearing before a Hearing Officer or Hearing Body, except as may otherwise be provided in the Fort Bragg Municipal Code, shall be subject to, and conducted in accordance with, the Administrative Hearing Ordinance, codified in Chapter 1.06 of the Fort Bragg Municipal Code, as the same may be amended from time to time (referred to hereinafter in this chapter as “Administrative Hearing Ordinance”). This chapter shall not apply to actions, determinations, or decisions that are appealable to the California Coastal Commission pursuant to §§ 17.71.045, 17.92.040 and any other provision of the Coastal Land Use and Development Code.

B. Except for appeals to the Coastal Commission, ~~a person requesting all requests for~~ an appeal hearing must be filed a Request for Hearing with the City Clerk within ~~fifteen ten (15/10)~~ days from the date of service of any determination, action or decision unless another provision of this code provides an alternate timeline for appeal.

~~C. At the time of filing the Request for Hearing, the person or entity requesting the appeal hearing shall pay a processing fee as set forth in the City’s master fee schedule, as may be amended from time to time, and shall deposit the amount of any administrative penalty that has previously been imposed. No appeal hearing shall proceed without payment of the processing fee and deposit of the administrative penalty, if any, with the City Clerk at the time the Request for Hearing is filed; provided, however, that the City Manager may waive or defer the processing fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts and/or good faith efforts to address and remedy the subject matter of any administrative penalty or hearing.~~

~~DC.~~ Failure to timely submit a Request for Hearing ~~or to pay the appeal processing fee and advance deposit~~ of any administrative penalty or decision constitutes a waiver of the right to an administrative hearing and a failure to exhaust administrative remedies.

(Ord. 897 § 2, passed 11-14-2011)

1.08.020 ENFORCEMENT STAYED DURING APPEAL.

Enforcement of an administrative penalty, decision or order shall be stayed during the pendency of an appeal therefrom which is properly and timely filed, unless the City obtains an order from a court of competent jurisdiction, based on a showing of good cause, requiring or authorizing the enforcement of such penalty, decision or order. Good cause may be shown by evidence indicating that a stay of enforcement (1) will result in harm to the City and/or to persons or property; (2) has burdens or consequences that outweigh the benefit(s) of the condition or activity that is the subject matter of the administrative penalty, decision or order; (3) will allow conditions or activities that are otherwise illegal or are in clear violation of a provision of law that the City is authorized to enforce; or (4) is contrary to the interests of justice. The foregoing examples of “good cause” are not intended to be exhaustive. (Ord. 897 § 2, passed 11-14-2011)

1.08.030 PROCEDURE FOR A REQUEST FOR HEARING/APPEAL OF AN ADMINISTRATIVE CITATION.

A. Time to file an Appeal. Within ten (10) days from the date that an administrative decision is made -or a penalty pursuant to chapter 1.12 becomes due, any Responsible Party may contest any aspect of the administrative decision, Citation or penalty imposed.

B. To appeal, the Responsible party must give notice to the City Clerk before the time to appeal ~~the~~ expires by either completing and returning a notice of appeal of Citation form, or by providing a document, in writing, bearing the title, "Appeal of Administrative Decision/Citation", containing:

1. The name, address and phone number of the appellant who is the Responsible Party or a representative of the Responsible Party;

2. Sufficient information to identify the administrative decision and/or Citation; and

3. The grounds on which the administrative decision and/or Citation is being contested, including, but **not** limited to, denial that a violation occurred, denial that a violation was not corrected within the applicable correction period, denial that the Responsible Party is responsible for the violation, or denial that the circumstances warrant imposition of the fine(s) prescribed.

C. Every appeal received by the City pursuant to this section may be reviewed to determine if the appeal is complete, valid and timely. If the City determines that the request for appeal is not timely, or is based on grounds not authorized by this Chapter, or is missing information required by this section, the request for appeal may be rejected by the City, and the City will notify the appellant of the same using the contact information provided in the appeal documents, or if no contact information was provided, using the address at which the administrative decision and/or Citation at issue was delivered. The rejection of an appeal, which is determined to be incomplete, invalid or untimely, does not extend the time in which the appellant has to file its appeal.

D. The City Clerk, having received a complete, valid and timely appeal, ~~When a Request for Hearing is filed, the City Clerk~~ shall set the time and place for hearing and shall serve a Notice of Hearing in a form and in the manner described in the Administrative Hearing Ordinance, Chapter 1.06. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal.

~~BE.~~ An appeal hearing shall be set for a date not less than ~~ten-twenty (4020)~~ calendar days nor more than sixty (60) calendar days from the date the Request for Hearing appeal is filed, unless the Hearing Officer or Hearing Body determines that the matter is urgent or that good cause exists for an extension of time, in which case the hearing date may be shortened or extended, as warranted by the circumstances.

~~CE.~~ At the place and time set forth in the Notice of Hearing, an appeal hearing shall be conducted according to the procedures described in the Administrative Hearing Ordinance. The failure of a responsible party, as that term is defined in the Administrative Hearing Ordinance, or of any other interested party, to appear at the hearing following proper notice shall constitute a waiver of the right to be heard and a failure by such party to exhaust his/her/its administrative remedies, as further set forth in section 1.06.120.

DG. Within ten (10) calendar days following the conclusion of the hearing, the Hearing Officer or Hearing Body shall make a decision regarding the issues presented during the course of the hearing, and the decision shall be based on a preponderance of the evidence. The decision of the Hearing Officer can include whether or not to grant a hardship waiver, and whether or not the city is entitled to reimbursement for costs for the Hearing Officer's services. After making a decision, the Hearing Officer or Hearing Body shall issue a written decision on the appeal. The decision of the Hearing Officer shall be final.

EH. Any person who is aggrieved by a decision of a hearing shall have the right to seek judicial review of such decision in accordance with § 1.06.1401.06.150 of the Administrative Hearing Ordinance.

(Ord. 897 § 2, passed 11-14-2011; Am. Ord. 906, § 3, passed 04-22-2013)

CHAPTER 1.12

GENERAL PENALTY ADMINISTRATIVE CITATIONS AND PENALTIES

<u>1.12.010</u>	<u>Findings and Purpose</u>
<u>1.12.020</u>	<u>Citation</u>
<u>1.12.030</u>	<u>Definitions</u>
<u>1.12.040</u>	<u>Scope of Chapter</u>
<u>1.12.050</u>	<u>Nonexclusivity and Election of Proceedings</u>
<u>1.12.060</u>	<u>Recordation of Notice of Violation</u>
<u>1.12.070</u>	<u>Administrative Penalty; Amounts</u>
<u>1.12.080</u>	<u>Citation for Violation of the Code</u>
<u>1.12.090</u>	<u>Service Procedures</u>
<u>1.12.100</u>	<u>Appeal of an Administrative Citation</u>
<u>1.12.110</u>	<u>Hardship Waiver</u>

1.12.010 Findings and Purpose.

The City Council finds and declares all of the following:

- A. The enforcement of the Fort Bragg Municipal Code is an important public service and is vital to the protection of the public's health, safety and quality of life.
- B. There is a need to establish various mechanisms for the remediation of violations of City ordinances.
- C. Traditional methods of code enforcement through civil litigation and criminal prosecution can be time-consuming and ineffective.
- D. Enforcing the Fort Bragg Municipal Code through administrative citations enhances the City's ability to recover its costs and maintain the integrity of the code enforcement system. It also improves the City's ability to impose and collect penalties from violators, which helps to deter future violations.

E. Pursuant to Section 53069.4 of the California Government Code, the City Council elects to create a system of administrative citations and hearings to ensure prompt and responsive compliance with the Fort Bragg City Code and state law.

1.12.020 Citation.

This chapter shall be referred to as the “Fort Bragg City Administrative Citation Ordinance.”

1.12.030 Definitions.

The definitions set forth in Section 1.04.010 and 1.06.030 apply in addition to the following:

A. “Administrative Costs” means all costs incurred by or on behalf of the City from the first discovery of the violation of the Code through the appeal process and until compliance is achieved, including but not limited to, staff time in investigating the violation, inspecting the property where the violation occurred, preparing investigation reports, sending notices, preparing for and attending any appeal hearing, attorneys’ fees, and fees paid to the Hearing Officer. “Administrative Cost” shall not mean the administrative citation fines and the administrative civil penalties assessed pursuant to this chapter. “Administrative Costs” shall not mean late payment charges that accrue, or collection costs incurred, as a result of unpaid administrative citation fines.

B. “Administrative Code Enforcement Remedies” means administrative abatement, summary abatement, administrative citations, and administrative civil penalties as provided in this Code; and recordation of any notice, including notice of pendency of administrative proceeding, to the property owner and all other interested parties of violations of any provisions contained in this Code.

C. “Citation” or “Administrative Citation” means a civil citation issued pursuant to this chapter stating that there has been a violation of one (1) or more provisions of the Code and setting the amount of the administrative penalty to be paid by the Responsible Party.

D. “Department” means the City department that issued the Citation.

E. “Enforcement Officer” shall mean any City employee or officer of the City with the authority to enforce any provision of this Code, or such employee’s or officer’s designee.

1.12.040 Scope of Chapter.

A. This chapter may be used by any officer, agent or employee of the City who is authorized to enforce this Code, or any non-codified City ordinance or law.

B. Use of this chapter for the enforcement of code provisions shall be at the sole discretion of the City, its officers, agents and employees.

C. This chapter may be utilized to the extent that the provisions herein do not conflict with due process or any other law.

D. This chapter shall not apply to the extent that other provisions of the Code, or other applicable local, state or federal law provide an exclusive remedy.

1.12.050 Nonexclusivity and Election of Proceedings.

This chapter provides for enforcement proceedings that are supplemental to all other enforcement proceedings provided elsewhere in the Code, or by state or federal law, whether administrative, civil or criminal in nature. As such, the provisions of this chapter may be utilized alone or in conjunction with other provisions of the Code to enforce all the provisions of the Code. This chapter shall not apply to the extent that other provisions of the Code state an exclusive remedy within a particular title or chapter. Election to employ one (1) or more proceedings provided in this chapter shall be at the sole discretion of the City, and shall be without prejudice to the City choosing to also proceed simultaneously or subsequently by pursuing different enforcement proceedings with respect to the same violation.

1.12.060 Recordation of Notice of Violation.

A. Whenever a person authorized by the City issues a Citation or notice regarding a violation of this Code that relates to real property, the City may record a notice with the Mendocino County Recorder pursuant to the provisions in this section.

B. The provisions of this section do not limit or otherwise restrict the recording of notices that are permitted to be recorded by some other authority, such as a different ordinance or statute.

C. The notice of violation to be recorded shall:

1. Specify the names of the record owners,
2. Describe the real property, and
3. Describe the violations on the property.

D. At least thirty (30) days prior to recording such notice the City shall advise the owner or owners of the property to be affected by the notice of violation about the City's intent to record the notice of violation.

1. Such advisement about the City's intent to record shall be provided to the owner(s) in writing, and may be served on the owner(s) in person, or by first class mail, postage prepaid.

2. If service is made by mail, the City may use the address as reported on the latest equalized assessment roll, and the notice shall not be recorded until after at least thirty-five (35) days from the date of mailing.

E. The notice of intent to record shall specify a date certain, prior to recordation, on or before which evidence and/or arguments may be presented or submitted to the issuing department as to why the notice of violation should not be recorded.

F. Evidence that is timely submitted or presented to the issuing Department shall be reviewed and considered by the issuing Department, and the Department's written response shall become the final administrative determination.

G. If evidence is not timely presented or submitted as to why a notice should not be recorded, then the owner(s) and any other responsible party(ies) waive their right to administrative review, and the notice of intent to record will become the final administrative determination.

H. After issuance of the notice of intent to record, the notice of violation may be recorded immediately after the requisite time period has expired if evidence was not timely presented or submitted, and if evidence was timely presented or submitted, such notice of violation may be recorded after the department's written response and after expiration of the requisite time period.

1.12.070 Administrative Penalty; Amounts.

A. Any Responsible Party violating any provision of the Code, any non-codified ordinance or other Fort Bragg City law, or any law that is specifically adopted or otherwise incorporated into the Code, may be issued an Administrative Citation by an Enforcement Officer in accordance with the provisions of this chapter.

B. Each and every day a violation of the provisions of the Code exists constitutes a separate and distinct offense.

C. The Enforcement Officer may issue a Citation for a violation not committed in the official's presence, if the Enforcement Officer has determined through investigation that the Responsible Party did commit or is otherwise responsible for the violation.

D. A civil fine shall be assessed by means of an Administrative Citation issued by the Enforcement Officer and shall be payable directly to the City of Fort Bragg.

E. Unless otherwise provided for in this chapter or elsewhere in the Code, the amount of the fine for each violation shall be:

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 one (1) year from the date of the first violation;

3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same Code provision within one (1) year from the date of the first violation.

F. Unless otherwise provided for in this chapter or elsewhere in the Code, the amount of the fine for each violation of any local building or safety code shall be:

1. A fine not exceeding one hundred dollars (\$130.00) for a first violation;

2. A fine not exceeding five hundred dollars (\$700.00) for a second violation of the same Code provision within one (1) year from the date of the first violation;

3. A fine not exceeding one thousand dollars (\$1300.00) for each subsequent violation of the same Code provision within one (1) year from the date of the first violation.

G. If the maximum fines allowed to be charged by California Government Code section 36900, for violations that are infractions increases or decreases, then the revised amounts allowed or permitted by California state law shall automatically apply to subsections 1.12.070 (E) and (F), as of the effective date of the change in State law, for all offenses for which a different penalty has not otherwise been provided by this Code.

H. Whenever the City finds that a person is maintaining a public nuisance as defined by this Code or a non-codified Fort Bragg City ordinance, such maintenance of the public nuisance is a violation of this Code and may be enforced by imposition of administrative penalties pursuant to the provisions of this Chapter as an additional or alternative enforcement mechanism.

I. The administrative penalty shall become effective immediately upon service of the Administrative Citation. Failure to correct a violation within twenty-four (24) hours of service of a Citation, unless the Citation indicates a longer period of time, may result in the issuance of a subsequent Citation or Citations, which may impose a higher penalty or penalties.

J. If a Citation indicates that penalties will accrue daily, then for each twenty-four (24) hour period that the violation remains uncorrected, an additional penalty will be imposed as stated in the Citation, for up to ninety (90) days.

K. A Citation will have the following effects if it is issued for an uncorrected violation for which a Citation had previously been issued:

1. The penalty imposed by the new Citation will take effect on the day it is served;

2. If a penalty had been accruing daily as a result of the prior Citation, then the prior penalty imposed will cease to accrue upon imposition of the new Citation.

L. A penalty imposed by a Citation for a single occurrence shall become due immediately upon service of the Citation, and shall be paid to the City no later than thirty (30) days after service of the Citation unless otherwise agreed to by the City.

M. A penalty imposed by a Citation that specifies a daily accrual amount shall become due on the first day that the penalties no longer accrue - the earlier of either the violation being confirmed by the City as corrected, the service of a subsequent Citation for the same recurring violation, or the expiration of ninety (90) days after service of the Citation; such penalty due shall be paid to the City no later than thirty (30) days after the penalty becomes due unless otherwise agreed to by the City.

N. Rescission and Modification of Citation:

1. The daily accrual of penalties associated with an issued Citation may be paused by the Department if such pause is part of a strategy to obtain code compliance.

2. A Citation, along with any associated monetary penalty, may be rescinded and voided by the director of the Department, or authorized designee, if done for the purpose of correcting a mistake by the City, or as part of a strategy to obtain code compliance.

3. Citation penalties may be reduced by informal agreement with the Responsible Party by the director of the Department, or authorized designee, if such reduction is part of a strategy to obtain code compliance. However, in the absence of City Council approval, such informal reduction may not exceed twenty-five thousand dollars (\$25,000.00).

1.12.080 Citation for Violation of the Code.

A. Pursuant to Government Code section 53069.4(a)(2)(A), when a Code violation involves a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues, which also does not create an immediate danger to health or safety, the Enforcement Officer shall first provide the Responsible Party notice of the violation and a reasonable amount of time to

correct or otherwise remedy the violation. A Code Enforcement Officer may determine a reasonable time based on the type of violation and the particular circumstances, however, the provision of thirty (30) days to correct a violation will be considered reasonable in the absence of a showing by the Responsible Party that a longer period of time was necessary. At minimum, the notice of a violation must provide sufficient notice to the Responsible Party of the violation and the time permitted to correct the violation.

B. The Administrative Citation shall be issued on a form containing:

1. The name and address of the Responsible Party;
2. The date, approximate time, and address or definite description of the location where the violation was observed;
3. The Code sections or provisions violated and a description of the violation as needed;
4. The amount of the fine imposed;
5. A statement explaining how, where, to whom, and within what number of days the penalty shall be paid;
6. Identification of appeal rights, including the time within which the Administrative Citation may be contested and how to request a hearing and/or the process to submit a request for hearing with advance deposit hardship waiver to contest the Citation;
7. The signature of the Enforcement Officer issuing the Citation along with the date of issuance of the Citation; and
8. Any other information deemed necessary or appropriate by the Enforcement Officer.

C. The Administrative Citation shall be served upon the Responsible Party pursuant to Section 1.12.090.

D. Upon receipt of a Citation, the Responsible Party shall correct the violations and pay the fine to the issuing Department, or file a written request for appeal of the Citation pursuant to the provisions in this Chapter.

E. Payment of the fine shall not excuse or discharge the Responsible Party from correcting the violation nor shall it bar further enforcement action by the City. If the Responsible Party fails to correct the violation, subsequent Administrative Citations may be issued for maintaining, continuing or repeating the same violation. The amount of the fine for subsequent violations shall increase at a rate specified in [this Chapter](#).

1.12.090 Service Procedures.

A. An Administrative Citation shall be served on the Responsible Party by an Enforcement Officer in one (1) of the following ways:

1. Personal service; or
2. First class mail, postage prepaid, to the Responsible Party's mailing address as shown on the City's last equalized property tax assessment rolls, if such address is available, or otherwise to the last known address of the Responsible Party; or

3. Posting the Administrative Citation conspicuously on or in front of the property which is the subject of the violation and mailing a copy of the notice to the Responsible Party by first class mail. This method of service is only effective if personal service fails, but posting may be done in addition to the service under subsections (1) or (2).

4. Alternative Service. If the person being served agrees, service may be accomplished in any agreeable manner, including but not limited to fax, email, or overnight delivery.

B. The date of service shall be the date on which the Citation is either personally served, mailed, posted, or in the case of alternative service, the date the City initiates the delivery of the agreed method of service. For the purpose of this section, "mailed" means deposited for mailing with the United States Postal Service, or placed for collection and mailing by way of the City Department's ordinary business practices through which mail is collected and placed for mailing with the United States Postal Service, with postage prepaid.

C. The time in which an act is to be performed according to law, which is based on the service date described in this section, shall be extended by five (5) days if the service was provided by either mailing or posting.

1.12.100 Appeal of an Administrative Citation.

A. An appeal of a Citation shall follow the procedures set forth in chapter 1.08 of this Code.

1.12.110 Hardship Waiver.

A. Any Responsible Party who is issued a second, third, or other subsequent Citation pursuant to Fort Bragg City Code section 1.12.070(E) or (F) may seek a financial hardship waiver to reduce the penalty amount imposed by the citation.

B. An appellant may apply for a hardship waiver by identifying their hardship as grounds for contesting the Administrative Citation, and by following the procedures in this Chapter to contest the Citation.

C. Such hardship waiver may be granted upon a showing by the Responsible Party that:

1. The responsible party has made a bona fide effort to comply after the first violation, and

2. Payment of the full amount of the fine would impose an undue financial burden on the Responsible Party.

Section

1.12.010 — Penalty

Statutory reference:

For statutory provisions authorizing cities to impose fines up to \$500 or imprisonment up to 6 months, or both, see Cal. Government Code § 36901

1.12.010 PENALTY.

~~A.—Whenever in this code any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, such violation of this code or failure to comply with its requirements shall constitute a misdemeanor, unless expressly provided otherwise. Any violation constituting a misdemeanor under this code, may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. Any person convicted of a misdemeanor under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine of not more than \$1,000 or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this code, unless otherwise provided in this chapter, shall be punishable by a fine only as follows: Upon a first conviction by a fine not exceeding \$100 and for a second conviction of the same ordinance within one year by a fine not exceeding \$200 and for any conviction of the same ordinance within a period of one year, by a fine not exceeding \$500 for each subsequent violation.~~

~~B.—Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by a fine not exceeding \$100 and for a second conviction of the same ordinance within one year by a fine not exceeding \$500 and for any conviction of the same ordinance within a period of one year, by a fine not exceeding \$1000 for each subsequent violation.~~

~~C.—In addition to or in lieu of the remedies provided in subsection A. and B. of this section, the City Attorney may commence an action for abatement, including, but not limited to, an injunction thereof, in the manner required by law and shall take such other steps to obtain such relief as will abate or remove a violation and restrain and enjoin any person from violating any provisions of this code, or other applicable laws and rules and regulations. All costs, including attorney's fees, incurred for the abatement of a public nuisance may be assessed against any property on which the nuisance condition(s) existed in accordance with Government Code Section 38773.5, as the same may be amended from time to time.~~

~~D.—Each day any violation of this code shall continue shall constitute a separate offense.~~

~~(Ord. 874, § 2, passed 8-25-2008)~~