

CHAPTER 1.12

ADMINISTRATIVE ADJUDICATION

Sections:

- 1.12.010 Declaration and Purpose**
- 1.12.020 Definitions**
- 1.12.030 Procedures -- Generally**
- 1.12.040 Procedures -- Issuance of Administrative Citation**
- 1.12.050 Contents of Notice**
- 1.12.060 Appeal of Administrative Citation**
- 1.12.070 Civil Penalty**
- 1.12.080 Allocation of Administrative Civil Penalties**
- 1.12.090 Incompatible Provisions; Severability**

1.12.010 Declaration and Purpose

The City Council finds and determines that there is a need for an alternative method of enforcement for violations of the Ripon Municipal Code. The Council further finds and declares that an appropriate method of enforcement for these types of violations is an administrative citation program. The City Council further finds that the facts and circumstances surrounding its adoption of amendments to this Chapter via Ordinance No. 896 (namely, the continuing public health crisis surrounding the Covid-19 virus) constitute emergency circumstances requiring immediate action for the preservation of the health and safety of the citizens of Ripon. The procedures for all violations enumerated and established in this part shall be in addition to criminal, civil, or any other legal remedy established by law which may be pursued to address violations of this Municipal Code. (Ord. 526 §1, 1994; Ord 896 §1, 2020)

1.12.020 Definitions

For purposes of sections 1.12.010 through 1.12.090, the following definitions shall apply:

A. The term “Director” shall include each of the directors of the following City Departments: Planning, Public Works, Engineering, Municipal

utilities, Finance, and the Fire and Police Chiefs and any of their designated agents or representatives within their jurisdiction.

B. The term “person” means any natural person, firm, association, business, trust, organization, corporation, partnership, business, trust, company, or any other entity which is recognized by law as the subject of rights or duties.

C. The term “enforcement officer” means persons authorized to enforce violations of the Ripon Municipal Code within their jurisdiction.

D. The term “hearing officer” means any person appointed by the Administrative Officer to preside over the administrative hearings provided for herein. (Ord. 526 § 2, 1994)

1.12.030 Procedures – Generally

A. Any person violating any provision of this Municipal Code or any provision of any emergency order of the State of California or the County of San Joaquin or any urgency ordinance or resolution adopted by the City Council of the City of Ripon in response to any such emergency order which are adopted in calendar year 2020 (collectively, “2020 Emergency Orders”), may be issued an administrative citation by an enforcement officer as provided in this chapter.

B. Each and every day a violation of any provision of this Municipal Code exists constitutes a separate and distinct offense. Notwithstanding the foregoing, in the case of alleged violations of any 2020 Emergency Order, the timely filing of an appeal of civil penalties shall operate as a stay of said penalty until the appeal is heard pursuant to the terms of this Chapter.

C. A civil penalty shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable to the City of Ripon, unless otherwise noted on the administrative citation.

D. Administrative civil penalties assessed by means of an administrative citation shall be collected in accordance with the administrative procedures specified in this chapter. (Ord. 526 §3, 1994)

1.12.040 Procedures – Issuance of Administrative Citation

A. Upon discovering or observing any violations of the Ripon Municipal Code, an enforcement officer may issue an administrative 1.12.040 citation to the responsible party or property owner in the manner prescribed in this section.

B. The enforcement officer shall locate the responsible party for the violation. If the violation is associated with a business, the enforcement officer shall attempt to locate the business owners and issue the business owner an administrative citation. If the enforcement officer is only able to locate the manager or other person with apparent control of the business, then the administrative citation may be given to such person. A copy of the administrative citation shall also be mailed to the business owner or property owner as prescribed in this section.

C. Once the person responsible for the violation is located, the enforcement officer shall attempt to obtain the signature of the responsible person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall in no way affect the validity of the citation and subsequent proceedings.

D. If the enforcement officer is unable to locate the responsible party for the violation, then the administrative citation shall be mailed to the responsible party or property owner in the manner prescribed in subsection 1.12.040-G or 1.12.040-H.

E. If no one can be located at the property, the administrative citation shall be posted in a conspicuous place and a copy of the citation subsequently mailed to the property owner or person determined to be the party responsible for the violation.

F. The administrative citation shall contain the signature of the enforcement officer.

G. The administrative citation shall be mailed by first-class mail to the violator(s), or the property owner(s) or their agent(s), at the address shown on the last equalized assessment roll of the San Joaquin County Assessor's Office. The failure of any person with an interest in the property to

receive such notice shall not affect the validity of any proceedings taken under this section. Notice by first-class mail in the manner described above shall become effective on the date of mailing.

H. In lieu of the enforcement officer issuing an administrative citation, the Director may cause to be issued, in accordance with this section, an administrative complaint containing all of the required information in accordance with section 1.12.050. Such administrative complaint shall be construed to be the same as an administrative citation for purposes of this chapter. (Ord. 526 § 4, 1994)

1.12.050 Contents of Notice

A. The administrative citation shall refer to the date and locations of the violation(s) and the approximate time the violation(s) were observed.

B. The administrative citation shall refer to the section(s) of the Municipal Code violated and describe how the section(s) are violated.

C. Where appropriate, the administrative citation shall describe the action required to correct the violation(s).

D. The administrative citation shall require the violator(s) or property owner(s) to immediately correct the violation(s). Failure to correct the violation(s) may result in the violator(s) or property owner(s) being issued additional administrative citation(s) and being liable for additional civil penalties.

E. The administrative citation shall state the amount of civil penalties imposed for the violation(s).

F. The administrative citation shall explain how the civil penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the civil penalty.

G. The administrative citation shall specify the initial appeal procedure.

H. The enforcement officer shall sign the citation and attempt to obtain the signature of the violator or responsible party if they can be located, as outlined in subsection 1.12.040-C. (Ord. 526 § 5, 1994)

1.12.060 Appeal of Administrative Citation

A. Except as provided herein, any person receiving an administrative citation may appeal the citation to the Director of the issuing department and/or such Director's designated agent within the (10) business days from the date the citation was issued or within the time frame specified elsewhere in this code or specified by state law, except that in the case of citations issued for Category One violation of any 2020 Emergency Order, the appeal shall be automatic and must be heard within 45 days, and in the case of Category Two violations, the appeal must be filed within 3 business days and heard within 7 business days. When an administrative citation is issued by mail, the appeal must be made within ten (10) business days from the date the citation was mailed. Such appeal may be made in person, by telephone, or in writing.

B. Upon receipt of the request for review of the administrative citation, the director shall cause such citation to be reviewed for compliance with all applicable codes and appropriateness.

C. If the reviewing department finds there are grounds for cancellation, the findings shall be entered on the record and the administrative citation shall be cancelled.

D. Results of the initial review shall be sent to the contesting party within fifteen (15) days from the date the request is received.

E. If the contesting party is dissatisfied with the result of the initial review the contesting party may, within ten (10) days of mailing of the results of the initial review or within the time frame specified by state law, request an administrative hearing. The request for an administrative hearing shall be made in writing, specifying the grounds for contesting the results of the initial review, and depositing the full amount of all applicable civil penalties and a \$25.00 fee to cover the cost of the hearing. As soon as practicable after receiving the request for an administrative hearing, the Administrative Officer shall appoint a hearing officer. The hearing officer shall fix a date, time, and place for the hearing, but in no instance shall such hearing be set later than forty-five (45) days after the

request is received. Written notice of the time and place of the hearing shall be served not less than five (5) days prior to the date of the hearing, unless otherwise provided elsewhere in this code, to the party responsible for the violation and anyone else who received notice of the citation by any one of the following means:

1. personal service
2. first-class mail; or
3. posting the Notice of Hearing conspicuously on or in front of the property on which the violation is located.

The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this section. Service by first-class mail in the manner described above shall become effective on the date of mailing.

F. Failure of any person to request an administrative hearing in accordance with the provisions of this section shall constitute a waiver of such person's right to an administrative hearing for adjudication of the administrative citation, or any portion thereof, and adjudication of the total amount of the civil penalty.

G. The hearing officer shall consider any written or oral evidence consistent with its rules and procedures for public hearings regarding the following issues:

1. the Director shall present information or testimony relating to the violation and the appropriate means of correcting the violation;
2. the owner or agent or person responsible for the violation or any other interested person may present testimony or evidence concerning the violation and the means and time frame for correction.

H. The Administrative Officer and/or his designee shall establish and promulgate all appropriate rules and procedures for conducting hearings and rendering decisions pursuant to this section. The decision of the hearing officer regarding any appeal shall be the final and binding administrative order and decision. The right to appeal the final decision of the hearing

officer to a court of law shall be governed by applicable Federal, State, County, or City laws.

I. The hearing officer may reduce, waive, or conditionally reduce the civil penalties stated in the citation or any late fees assessed, but in no event shall the hearing officer reduce said civil penalty below the minimum amount established by resolution of the City Council. The hearing officer may also impose conditions and deadlines by which violations must be corrected and outstanding civil penalties must be paid.

J. Failure of any person to appear at the scheduled time and place for the administrative hearing shall not preclude the hearing officer from conducting the hearing at such time.

K. The person requesting the administrative hearing shall, upon request, be entitled to a single continuance of the hearing time and date. (Ord. 526 §6, 1994; Ord. 533 §1 (part) 1995; Ord. 541 §1, 1995; Ord 896 §1, 2020)

1.12.070 Civil Penalty

A. The City Council shall, by resolution, fix or establish from time to time the amounts of civil penalties to be assessed for administrative citations issued.

B. If the violator or property owner fails to correct the violation, subsequent administrative citations may be issued for the same violation(s).

C. The amount of civil penalty assessed for each administrative citation issued for a reoccurrence of the same violation(s) shall be in an amount as may be fixed or established from time to time by resolution of the City Council. Notwithstanding the foregoing, the civil penalty for violation(s) of any 2020 Emergency Orders shall be as follows:

1. Category 1: Entity operating in violation of the 2020 Emergency Orders, but following all CDC guidance to provide safeguards to keep workers and the public safe. Penalty is \$25 per occurrence.

2. Category 2: Entity operating in violation of the 2020 Emergency Orders and not following all CDC guidance to provide safeguards to keep workers and public safe. Penalty is \$250 per occurrence.

D. Payment of the civil penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City, including injunctive relief as appropriate.

E. All civil penalties assessed shall be payable to the City of Ripon or as otherwise noted on the administrative citation.

F. The failure of any person to pay a civil penalty assessed by administrative citation within the time specified on the citation shall result in the assessment of an additional late fee to be charged, the amount of which shall be set by resolution of the City Council.

G. The failure of any person to pay a civil penalty assessed by administrative citation within the time specified on the citation may result in the filing a claim with the small claims court or pursuing any other legal remedy to collect such penalty.

H. If the failure by any person to pay a civil penalty assessed by administrative citation results in the filing of an action with the small claims court or any other court to collect the civil penalty, the Director shall be entitled to collect all costs associated with the filing of such action, including, but not limited to, filing fees, court costs, and any attorney's fees. (Ord. 526 § 7, 1994 and Ord. 533 §1 (part) 1995; Ord 896 § 1, 2020)

1.12.080 Allocation of Administrative Civil Penalties

Administrative civil penalties collected in the manner described in this part shall be deposited in either the General Fund or the applicable fund pursuant to which the original administrative citation was issued. (Ord. 526 § 8, 1994)

1.12.090 Incompatible Provisions; Severability

To the extent any provision of this chapter is incompatible with, or at variance with, any prior adopted ordinance or resolution, the provisions of this chapter shall take precedence, and all prior ordinances shall be interpreted to harmonize with and not change the provisions of this part. If any section, subsection, paragraph, sentence, clause,

phrase, or word of this chapter is declared by a court of competent jurisdiction, adjudication to a final determination, to be void, this City Council finds that said voided part is severable, and that this City County would have adapted the remainder of this part without the severed and voided part, and that the remainder of this part shall remain in the full force and effect. (Ord. 526 § 9, 1994)