

Title 1

GENERAL PROVISIONS

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Chapter 1.01

CODE ADOPTION*

(Reserved)

* For statutory provisions authorizing cities to codify their ordinances, see Gov. Code §§ 50022.1--50022.8 and 50022.10

Chapter 1.04

GENERAL PROVISIONS

Sections:

- 1.04.010 Definitions.
- 1.04.020 Title of office.
- 1.04.030 Interpretation of language.
- 1.04.040 Grammatical interpretation.
- 1.04.050 Acts by agents.
- 1.04.060 Prohibited acts include causing and permitting.
- 1.04.070 Computation of time.
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- 1.04.090 Repeal shall not revive any ordinances.

1.04.010 Definitions. The following words and phrases, whenever used in the ordinances of the city of Wasco, California, shall be construed as defined in this section, unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- A. "City" and "town" each mean the city of Wasco, California, or the area within the territorial limits of the city of Wasco, California, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.
- B. "Council" means the city council of the city of Wasco. "All its members" or "all councilmen" means the total number of councilmen holding office.
- C. "County" means the county of Kern.
- D. "Law" denotes applicable federal law, the Constitution and statutes of the state of California, the ordinances of the city of Wasco, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.
- E. "May" is permissive.
- F. "Month" means a calendar month.
- G. "Must" and "shall" are each mandatory.
- H. "Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."
- I. "Owner," applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.
- J. "Person" includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

K. "Personal property" includes money, goods, chattels, things in action and evidences of debt.

L. "Preceding" and "following" mean next before and next after, respectively.

M. "Property" includes real and personal property.

N. "Real property" includes lands, tenements and hereditaments.

O. "Sidewalk" means that portion of a street between the curblin and the adjacent property line intended for the use of pedestrians.

P. "State" means the state of California.

Q. "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.

R. "Tenant" and "occupant," applied to a building or land, include any person who occupies the whole or a part of such building or land, whether alone or with others.

S. "Written" includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

T. "Year" means a calendar year. (Ord. 77-218 §1, 1977).

1.04.020 Title of office. Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city. (Ord. 77-218 §2, 1977).

1.04.030 Interpretation of language. All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning. (Ord. 77-218 §3, 1977).

1.04.040 Grammatical interpretation. The following grammatical rules shall apply in the ordinances of the city of Wasco, unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter 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, unless manifestly inapplicable. (Ord. 77-218 §4, 1971).

1.04.050 Acts by agents. When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 77-218 §5, 1977).

1.04.060 Prohibited acts include causing and permitting. Whenever in the ordinances of the city of Wasco any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 77-218 §6, 1977).

1.04.070 Computation of time. Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday or Sunday or a holiday, in which case it shall also be excluded. (Ord. 77-218 §7, 1977).

1.04.080 Construction. The provisions of the ordinances of the city of Wasco and all proceedings under them are to be construed with a view to effect their objects and to promote justice. (Ord. 77-218 §8, 1977).

1.04.090 Repeal shall not revive any ordinances. The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 77-218 §9, 1977).

Chapter 1.08

GENERAL PENALTY*

Sections:

- 1.08.010 Violation deemed misdemeanor.
- 1.08.020 Penalty--Misdemeanor.
- 1.08.030 Penalty--Infraction.
- 1.08.040 Each day a separate offense.

1.08.010 Violation deemed misdemeanor. Any person violating any of the provisions or failing to comply with any of the mandatory requirements or the ordinances of the city of Wasco, shall be guilty of a misdemeanor, unless the violation is made an infraction by ordinance. (Ord. 77-219 §1(A), 1977).

* For statutory provisions authorizing cities to impose fines up to five hundred dollars or imprisonment up to six months, or both fine and imprisonment, see Gov. Code §36901; for provisions authorizing the reduction of city ordinance violations to infractions, see Gov. Code §36900.

1.08.020 Penalty--Misdemeanor.

Except in cases where a different punishment is prescribed by any ordinance of the city of Wasco, any person convicted of a misdemeanor for violation of an ordinance of the city is punishable by a fine of not more than one thousand dollars, or by imprisonment not to exceed six months, or by both such fine and imprisonment. (Ord. 568 § 2(part), 2008: Ord. 77-219 § 1(B), 1977).

1.08.030 Penalty--Infraction.

Any person convicted of an infraction for violation of an ordinance of the city of Wasco is punishable by:

A. A fine not exceeding one hundred dollars for a first violation;

B. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year;

C. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year. (Ord. 568 § 2(part), 2008: Ord. 77-219 § 1(C), 1977).

1.08.040 Each day a separate offense.

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 the ordinances of the city of Wasco is committed, continued or permitted by any such person, and he shall be punishable accordingly. (Ord. 77-219 § 1(D), 1977).

Chapter 1.20

ADMINISTRATIVE CITATIONS

Sections:

- 1.20.010 Purpose and intent.
- 1.20.020 Definitions.
- 1.20.030 General citation authority and applicability.
- 1.20.040 Notice of violation.
- 1.20.050 Service procedures.
- 1.20.060 Administrative citation procedure.
- 1.20.070 Assessment of administrative citation fine.

Sections: (Continued)

- 1.20.080 Satisfaction of administrative citation.
- 1.20.090 Collection of unpaid fines and penalties.
- 1.20.100 Request for administrative hearing.
- 1.20.110 Administrative hearing procedure.
- 1.20.120 Administrative hearing decision.
- 1.20.130 Right to judicial review.

1.20.010 Purpose and intent.

The enforcement of the city's municipal code is vital to the protection of the public's health, safety and quality of life. Under Government Code Section 53069.4, the city is authorized to adopt an administrative citation program, which program offers an alternative method of enforcing code violations. The purpose of issuing administrative citations pursuant to this chapter is to encourage compliance with the provisions of this code and to provide a method of holding persons responsible when they fail or refuse to comply with the provisions of this code. The use of this chapter is also intended to minimize the expense and delay associated with pursuing code violations through the civil or criminal justice system. (Ord. 568 § 1(part), 2008).

1.20.020 Definitions.

For the purposes of this chapter, the following definitions apply to these words and phrases:

"Administrative citation" or "citation" means a written notice to a responsible person that a violation of this code has occurred and an assessment of a civil fine issued by a code enforcement officer.

"City manager" means the city manager of the city of Wasco or the manager's designee.

"Code enforcement officer" means any person authorized to enforce certain provisions of this code.

"Continuing violation" means either (1) a particular violation of the code continuing for more than thirty days without correction or abatement, or (2) a repeated, consecutive violation of the same offense without intervening days.

"Legal interest" means any interest that is represented by a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other

similar instrument, which is recorded with the county recorder.

"Notice of violation" means a written notice to a responsible person that a violation of this code has occurred and a warning that an administrative citation assessing fines will be issued unless the violation is ceased and abated.

"Responsible person" means any person or persons that a code enforcement officer determines is responsible for causing or maintaining a violation of this code. The term "responsible person" includes but is not limited to a property owner, tenant, person with a legal interest in real or personal property, or person in possession or control of real or personal property. (Ord. 568 § 1(part), 2008).

1.20.030 General citation authority and applicability.

A. This chapter authorizes use of administrative citations that are in addition to all other legal remedies, criminal or civil, that the city may pursue to address any violation of this code.

B. The use of this chapter is at the sole discretion of the city manager, city attorney, and the city's code enforcement officers.

C. Any code enforcement officer, upon determining that a provision of this code which such officer is charged to enforce has been violated, has the authority to issue an administrative citation to any responsible person.

D. Any responsible person violating any provision of this code, or causing, permitting or maintaining a violation of any provision of this code may be issued an administrative citation by a code enforcement officer.

E. Each and every thirty days a violation of this code exists constitutes a separate and distinct offense and will be subject to a separate fine. A single citation may charge for the violation of one or more code sections. Continuing violations will automatically accrue fines beginning on the date the citation is issued until verification of abatement pursuant to Section 1.20.080(C).

F. The owner of any property, building or structure within the city has the responsibility for keeping such property, building or structure free of violations related to its use or condition. The owner of such property,

building or structure is a responsible person and is separately liable for violations committed by tenants or occupants relative to the use or condition of the property. (Ord. 568 § 1(part), 2008).

1.20.040 Notice of violation.

A. Whenever a code enforcement officer determines that a violation of this code exists, the code enforcement officer shall issue a notice of violation to a responsible person. The notice of violation serves as a written warning of responsibility and requires immediate action by the responsible person to cease and abate the violation. The notice of violation shall include the information set forth in Section 1.20.060(B)(1) through (B)(5) and a date by which the violation can reasonably be ceased and abated. If the violation is not ceased or abated by the end of the correction period stated in the notice, the code enforcement officer shall issue a final notice of violation to a responsible person prior to issuing an administrative citation. The final notice of violation serves as a second written warning of responsibility and requires immediate action by the responsible person to cease and abate the violation within seven days of the date of mailing of the final notice. If the violation has not ceased or abated within seven days of final notice, the code enforcement officer may issue an administrative citation.

B. In accordance with Government Code Section 53069.4, no responsible person will be assessed an administrative fine under this chapter for a continuing violation pertaining to a building, plumbing, electrical or similar structural or zoning issue that does not create an immediate danger to the public health or safety without first receiving a notice of violation and a reasonable opportunity to correct or otherwise remedy the violation. In such circumstance, the stated period available to correct the violation prior to the assessment of a fine must be appropriate to the violation as determined by the code enforcement officer, but in no event less than seven days. If, after the correction period stated in the notice, the violation is not ceased or abated, the code enforcement officer may issue an administrative citation.

C. Any responsible person receiving notice for a continuing violation may petition the city manager for an extension of time to correct the violation so long as the petition is received before the end of the correction period. The city manager may grant an extension of time to correct the violation if the responsible person has supplied sufficient evidence showing that the correction cannot reasonably be made within the stated period or has demonstrated that substantial progress has been made towards abating the violation.

D. The requirement of a reasonable opportunity to cure a violation does not apply in instances where in the discretion of the city manager, a code violation poses an immediate danger to the public health or safety. (Ord. 568 § 1(part), 2008).

1.20.050 Service procedures.

A. Except as otherwise provided in this chapter, whenever notice is required to be given under this chapter, it must be given in one of the following ways:

1. Personal service;
2. Certified mail, postage prepaid, return receipt requested. Concurrently, the same notice should be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then service will be deemed effective by regular mail, provided that notice is not returned. Service by mail will be effective on the date of mailing;
3. Posting the notice conspicuously on or in front of the affected property or any other real property within the city in which the city has knowledge that the responsible person has a legal interest.

B. The failure of any interested person to receive any notice served in accordance with this section will not affect the validity of any proceedings taken under this chapter.

C. The notice procedures in this section do not apply to an initial notice of violation, which may be sent by regular mail or personally served. Service of a notice of violation by mail is effective on the date of mailing. (Ord. 568 § 1(part), 2008).

1.20.060 Administrative citation procedure.

A. Upon determining that a violation of this code exists, a code enforcement officer may issue an administrative citation to any responsible person.

B. Administrative citations will be issued on a form approved by the city attorney, and at a minimum will contain the following information:

1. Name of the person who is charged as a responsible person for the violation;
2. Date, approximate time, and address or definite description of the location where the violation was observed;
3. The code sections or conditions violated and a description of the violation;
4. A description of the actions necessary to correct the violation;
5. An order to the responsible person to immediately correct the violation and an explanation of the consequences of the failure to correct the violation;
6. Whether the offense is a continuing violation which will accrue fines until properly ceased and abated;
7. The amount of the fine for the violation, including the amount due for the initial violation and any prospective daily fine for failure to abate the violation (if applicable to a continuing violation);
8. An explanation of how the fine must be paid and the time period by which it must be paid;
9. Identification of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for hearing form to contest the administrative citation;
10. The name and signature of the enforcement officer and if possible the signature of the responsible person;
11. Notice that the violation is a nuisance and that collection of unpaid fines and costs can be enforced as a lien against the property where the violation occurs and that an unpaid lien can result in the property being involuntarily sold. (Ord. 568 § 1(part), 2008).

1.20.070 Assessment of administrative citation fine.

A. The amount of the fine will be assessed according to a schedule of fines adopted by the city council.

The schedule may include escalating fine amounts for repeat violations occurring within specified periods of time, and fines may vary depending on the particular code provision violated.

B. Where no amount is specified by resolution of the city council, the following fines will apply:

1. A fine not exceeding one hundred dollars every thirty days for a first violation;

2. A fine not exceeding two hundred dollars every thirty days for a second violation of the same code provision or permit within one year from the date of the first violation;

3. A fine not exceeding five hundred dollars every thirty days for each additional violation of the same code provision or permit within one year from the date of the first violation.

C. A penalty of ten percent will be added on any delinquent fines on the last day of each month after the due date.

D. In addition to the late penalty provided by this section, delinquent fines will accrue interest at the rate of one percent per month, exclusive of penalties, from the due date. (Ord. 568 § 1(part), 2008).

1.20.080 Satisfaction of administrative citation.

A. Upon receipt of a citation, the responsible person must do the following:

1. Pay the fine within thirty days from the date of the administrative citation. All fines assessed are payable to the city. Payment of a fine does not excuse or discharge the failure to correct the violation nor will it bar further enforcement action by the city.

2. Cease and abate the violation. If the offense is a continuing violation and the responsible person fails to properly cease and abate the violation, fines will accrue for each day until the abatement is properly verified. Additionally, subsequent administrative citations may be issued for the same violation. The amount of the fine for failure to correct the violation will increase at the rate specified in this chapter or as established by city council resolution.

B. At any time following thirty days after the issuance of the citation, the city may deliver a collection bill to the responsible person requiring payment for all

outstanding amounts owed for the violation, including the amount due for the initial violation and any accrual of daily fines from the date the citation was issued to the date the abatement of the offense is properly verified (if applicable) plus any appropriate late payment charge, less any amount remitted pursuant to subsection A of this section.

C. The abatement of a continuing violation must be verified by a code enforcement officer. The responsible person must contact the phone number designated on the citation and schedule an inspection by a code enforcement officer. Fines will accrue until the abatement is verified, less any days delayed by action of the city in scheduling such inspection. (Ord. 568 § 1(part), 2008).

1.20.090 Collection of unpaid fines and penalties.

A. The failure of any person to pay a fine or penalty assessed by administrative citation within the time specified on the citation constitutes a debt to the city. To enforce that debt, the city may file a civil action, lien the subject property as set forth below, or pursue any other legal remedy to collect such debt. A person who fails to pay any fine or other charge owed to the city under this chapter is liable in any action brought by the city for all costs incurred in securing payment of the delinquent amount, including, but not limited to, administrative costs and attorneys' fees. Such collection costs are in addition to any fines, interest, and late charges.

B. In addition to any other legal remedy, the city may place a lien on property that is the subject of a citation if the citation has been issued to the property owner. The following procedure will apply:

1. The city's finance director may initiate proceedings to record a lien against the subject property.

2. Before recording the lien, the finance director shall submit a report to the city clerk stating the amounts due and owing. The report may include a fee, for the administrative costs associated with the preparation and recordation of the lien.

3. The city clerk shall fix a time, date, and place for a hearing before the city manager to consider the report and any protests or objections to it.

4. The city clerk must serve the property owner with a hearing notice not less than ten days before

the hearing date. The notice must set forth the amount of the delinquent administrative fine, and any penalties and interest that is due. Notice must be delivered first class mail, postage prepaid, addressed to the property owner's address as it appears on the last equalized assessment roll or supplemental roll of Kern County, whichever is more current. Service by mail is effective on the date of mailing and failure of property owner to actually receive notice does not affect its validity.

5. At the conclusion of the hearing, the city manager may adopt a report confirming, discharging, or modifying the lien amount.

6. Following the adoption of the report imposing a lien, the city clerk shall cause the lien to be filed in the county recorder's office.

7. After confirmation and recordation, the city shall present a copy of the lien to the county tax collector to add the amount of the lien to the next regular property tax bills levied against the parcel for municipal purposes. This amount will be collected at the same time and in the same manner as ordinary property taxes are collected, and will be subject to the same penalties and procedures under foreclosure and sale as provided for with ordinary municipal taxes. Or, after recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law.

8. Once the city receives full payment for outstanding principal, penalties, and costs related to a lien, the city clerk will cause to be recorded a notice of satisfaction or provide the property owner with a notice of satisfaction for recordation at the county recorder's office. This notice of satisfaction will cancel the city's lien. (Ord. 568 § 1(part), 2008).

1.20.100 Request for administrative hearing.

A. Any person receiving an administrative citation may contest the citation by completing a request for hearing form and returning it to the city within ten business days after the issuance date of the administration citation. Any request for hearing must be accompanied by an advance deposit of the fine assessed by the citation for the initial violation, unless waived by subsection C of this section. If it is determined, after a hearing, that

there was no violation as charged in the administrative citation, the advance deposit will be refunded.

B. A request for hearing will not postpone or avoid the requirement of a responsible person to abate a violation nor toll the daily fines accruing for a continuing violation until the abatement of the offense is properly verified. In the event the hearing officer upholds the citation, the responsible person will be liable for the total fines accrued from the issuance of the citation to the date the abatement is properly verified, and any costs incurred to provide a hearing officer.

C. A person seeking an administrative hearing may request a hardship waiver of the fine deposit by filing with the city clerk a completed city form, which must be signed under penalty of perjury. The request must be submitted along with the request for hearing. The person requesting the waiver bears the burden of establishing that such person does not have the financial ability to make the deposit. The request will be decided by the city manager within five business days from date the request is received, and the city manager's decision is final. The applicant will be notified by telephone, facsimile, or in person of the decision on the request. The filing of a request for hardship waiver does not extend the time to file for an administrative hearing or pay the fine when due. If the request for hardship waiver is denied, an administrative hearing will not be scheduled unless the fine deposit is paid within five business days following the city manager's determination on the request for a hardship waiver.

D. The failure to submit a timely and complete request for hearing will terminate a person's right to contest the citation and result in a failure to exhaust administrative remedies, and the order of the citation will serve as a final determination and conclusive evidence of the named responsible person's liability for the citation.

E. The city clerk shall set a hearing before a city hearing officer on a date that is not less than fifteen and not more than sixty days from the date that the request for hearing is filed in accordance with the provisions of this section. Additional fines shall not accrue from the time the city clerk receives a timely and complete request for hearing until the hearing date. The city shall notify the person requesting the hearing by regular mail of the date, time and place set for the hearing at

least ten days prior to the date of the hearing and give that person any additional written reports filed concerning the violation that are provided to the hearing officer. (Ord. 568 § 1(part), 2008).

1.20.110 Administrative hearing procedure.

A. A city hearing officer will conduct the administrative citation hearing.

B. No hearing to contest an administrative citation before a hearing officer will be held until a request for hearing form has been completed and submitted, and the fine has been deposited in advance, unless a hardship waiver is granted in accordance with Section 1.20.100(C).

C. The hearing officer may only consider evidence that is relevant to whether the violation occurred and whether the responsible person has caused or maintained the violation of this code on the date specified in the administrative citation.

D. At least ten days prior to the hearing, the city must provide the recipient of an administrative citation with copies of the citation, reports and other documents to be submitted to the hearing officer. No other discovery is permitted. Formal rules of evidence will not apply.

E. The person contesting the administrative citation will be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

F. Unless requested in advance by the person contesting the administrative citation, neither the code enforcement officer nor any other representative of the city is required to attend the hearing, provided that any such appearance may be made at the discretion of the code enforcement officer or city manager.

G. The failure of any recipient of an administrative citation to appear at the administrative citation hearing will constitute a forfeiture of the fine and a failure to exhaust administrative remedies, and the order of the citation will become the final determination.

H. The administrative citation and any additional documents submitted by the code enforcement officer to the hearing officer will constitute prima facie evidence of the violation and the respective facts contained in those documents.

I. The hearing officer may continue the hearing and request additional information from the code enforcement officer or the recipient of the administrative citation prior to issuing a written decision. (Ord. 568 § 1(part), 2008).

1.20.120 Administrative hearing decision.

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within fourteen calendar days after the hearing to uphold or deny the administrative citation and must list in the decision the reasons for that decision. The hearing officer will use preponderance of evidence as the standard of evidence in deciding issues. The decision of the hearing officer will be final.

B. If the hearing officer determines that the administrative citation should be upheld, then any applicable fine amount on deposit with the city will be retained by the city. The hearing officer may also impose conditions and deadlines to correct the violation or require payment of any outstanding fines, penalties, and interest.

C. If the hearing officer determines that the administrative citation should be canceled or reduced because of an error in calculating the fine, the city will promptly refund the applicable amount of the deposited fine.

D. The city shall serve the recipient of the administrative citation with a copy of the hearing officer's written decision by certified mail. (Ord. 568 § 1(part), 2008).

1.20.130 Right to judicial review.

Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the Kern County Superior Court in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. (Ord. 568 § 1(part), 2008).