

Title 1

GENERAL PROVISIONS

Chapters:

- 1.01 Code Adoption**
- 1.05 General Provisions**
- 1.10 Administrative Penalties – Citations**
- 1.15 Claims Against the City**

Chapter 1.01**CODE ADOPTION**

Sections:

- 1.01.010 Adoption by reference.
- 1.01.020 Ordinances included and repealed.
- 1.01.030 Effect of past actions on repealed ordinances.
- 1.01.040 Enforcement.

1.01.010 Adoption by reference.

That pursuant to City Charter Section 813, that certain Code entitled "The Code of the City of Santa Clara, California" ("Code"), not less than three copies of which are on file in the Office of the City Clerk for examination by the public, and which contains certain ordinances of a general and permanent nature (with clarifying changes) as compiled, consolidated, modified, constituted, codified and indexed in Titles 1 through 18, inclusive, is hereby referred to and adopted by reference as if incorporated and set out at length in this chapter. (Ord. 1785 § 1, 9-30-03).

1.01.020 Ordinances included and repealed.

All ordinances of a general and permanent nature finally passed and adopted by the City Council up to and including Ordinance No. 1781 (finally passed and adopted on July 15, 2003) and not contained in the foregoing Code are hereby repealed, except as hereinafter provided. (Ord. 1785 § 2, 9-30-03).

1.01.030 Effect of past actions on repealed ordinances.

The repeal provided for in SCCC 1.01.020 shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the City or authorizing the issue of any bonds of the City or any evidence of the City's indebtedness or any contract or obligation assumed by the City; nor shall it affect the annual tax levy; nor shall it affect the Capital Outlay Recreation Fund, established by Ordinance No. 631, as amended; nor shall it affect any right or franchise conferred by ordinances or resolution of the City or any person or corporation; nor shall it affect any

ordinances adopted for purposes which have been consummated; nor shall it affect any ordinance which is temporary, although general in effect, or special, although permanent in effect; nor shall it affect any ordinance relating to the salaries or the City officers or employees; nor shall it affect any ordinance naming, renaming, opening, accepting, or vacating streets or alleys in the City; nor shall it affect any ordinance finally adopted and passed by the City Council after Ordinance No. 1781 (finally passed and adopted on July 15, 2003), which subsequent ordinances will ultimately be placed into this Code. (Ord. 1785 § 3, 9-30-03).

1.01.040 Enforcement.

Enforcement of this Code shall be pursuant to SCCC 1.05.070, unless another section of this Code contains more specific provisions that are intended to supersede the provisions of SCCC 1.05.070. (Ord. 1785 § 4, 9-30-03).

Chapter 1.05

GENERAL PROVISIONS

Sections:

- 1.05.010 How Code designated and cited.
- 1.05.020 Definitions and rules of construction.
- 1.05.030 Interpretation – No City liability.
- 1.05.040 Catchlines of sections.
- 1.05.050 Provisions considered as continuations of existing ordinances.
- 1.05.060 Severability of parts of Code.
- 1.05.070 Prosecutorial discretion for enforcement – Continuing violations – Range of penalties – Enforcement cost recovery.
- 1.05.080 Adoption of California Code of Civil Procedure Section 1094.6.

1.05.010 How Code designated and cited.

The ordinances embraced in the following chapters and sections of this Code shall constitute and be designated “The Code of the City of Santa Clara, California,” or “Santa Clara City Code,” and may be so cited. (Formerly § 1-1).

Stat. Ref.: For State law as to power of City to codify ordinances, see Gov. C.A. §§ 50022.1 – 50022.8.

1.05.020 Definitions and rules of construction.

In the construction of this Code and all ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council or the context clearly requires otherwise:

- (a) Reserved for future use.
- (b) “B” definitions:
 - (1) Building Standards Code. See (c)(2) “California Code of Regulations,” below, for explanation.
- (c) “C” definitions:
 - (1) California Building Standards Code. See (c)(2) “California Code of Regulations,” below, for explanation.
 - (2) “California Code of Regulations” [“CCR”]. These are the regulations issued by State agencies. Titles 1 through 28 (with Title 24 omitted) of the California Code of Regulations are found in “Barclay’s Official California Code of Regulations.” The Barclay’s version of the CCR states the Building Standards are no longer contained in the California Code of Regulations. This

is not entirely accurate. Title 24 does exist, and it consists of 11 Parts. The California Building Standards Commission is responsible for publishing Title 24 as a separate title, and Title 24 is also known as the “California Building Standards Code.” These respective 11 Parts of Title 24 are now the States’ “building standards” and consist of subject matter such as the California Building Code (Part 2), California Electric Code (Part 3), California Plumbing Code (Part 5), California Fire Code (Part 9), etc. References are to the latest version of a CCR section, or its successor CCR section.

(3) “Charter” shall mean and refer to the Charter of the City of Santa Clara, as amended.

(4) “The City” or “this City” shall be construed as if followed by the words “of Santa Clara.”

(5) City Council. Whenever the words “Council” or “City Council” are used, they shall be construed to mean the City Council of the City of Santa Clara.

(6) “The Code” or “this Code” shall mean “The Code of the City of Santa Clara, California.” Throughout this Code, the Code is abbreviated “SCCC.”

(7) Codes – Various California Codes. Reference to California codes will not always be preceded by their California identification, i.e., Civil Code, Government Code, Health and Safety Code, Labor Code, Streets and Highway Code, Water Code, etc. It is understood, unless the context indicates otherwise, that code references are to California codes. References are to the latest version of a code section, or its successor code section.

(8) “Code of Federal Regulations” [“CFR”]. These are the administrative regulations issued by various agencies of the United States government. The CFR consists of Titles 1 through 50. Amendments to the CFR first appear in the Federal Register. References are to the latest version of a CFR section, or its successor CFR section.

(9) Computation of Time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday and then it is also excluded.

Stat. Ref.: For similar State law, see Gov. C.A. § 6800. See also C.C.P. § 12.

(10) “The County” or “this County” shall mean the County of Santa Clara, California.

(d) “D” definitions:

(1) “Day” is the period of time between any midnight and the midnight following. Unless expressly provided otherwise, “days” refers to calendar days.

Stat. Ref.: For similar State law, see Gov. C.A. § 6806.

(2) Daytime, Nighttime. “Daytime” is the period of time between sunrise and sunset. “Night-time” is the period of time between sunset and sunrise.

Stat. Ref.: For similar State law, see Gov. C.A. § 6807.

(3) “Department,” “board,” “commission,” “agency,” “officer” or “employee” shall mean a department, board, commission, agency, officer or employee of the City of Santa Clara.

(4) Designee. Whenever authority is granted to a City officer or employee (i.e., City Manager, Chief of Police, City Clerk, City Attorney, Director of Public Works, Director of Finance, etc.), whether explicitly provided or not, it is understood that the grant of authority includes the further delegation of that authority to a duly qualified and appointed designee.

(e) Reserved for future use.

(f) Reserved for future use.

(g) “G” definitions:

(1) Gender. The masculine gender includes the feminine and neuter.

Stat. Ref.: For similar State law, see Gov. C.A. § 12.

(h) “H” definitions:

(1) “Health Department” shall mean the Health Department of the County of Santa Clara.

(2) “Health Officer” shall mean the Health Authority of the County of Santa Clara.

(3) Hold Harmless. Whenever a third party is charged with holding the City harmless, the phrase (or variation of the phrase) “protect, defend, indemnify, and hold harmless,” shall be read to mean that party will protect, defend (including costs and reasonable attorney’s fees), indemnify, and hold harmless the City, its City Council, officers, employees, agents, assigns and successors in any administrative or judicial action in which the City is exposed to liability.

(i) “I” definitions:

(1) “In the City” shall mean and include all territory over which the City now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

(j) “J” definitions:

(1) Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Stat. Ref.: See C.C. § 12.

(k) Reserved for future use.

(l) Reserved for future use.

(m) “M” definitions:

(1) “Month” shall mean a calendar month.

Stat. Ref.: For similar State law, see Gov. C.A. § 6804.

(n) “N” definitions:

(1) Number. The singular number includes the plural, and the plural the singular.

Stat. Ref.: For similar State law, see Gov. C.A. § 13.

(o) “O” definitions:

(1) Oath. “Oath” includes affirmation.

Stat. Ref.: For similar State law, see Gov. C.A. § 15.

(2) Official Time. Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight Saving Time as may be in current use in the city.

(3) Or, And. “Or” may be read “and,” and “and” may be read “or,” if the sense requires it.

(4) “Owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

(p) “P” definitions:

(1) “Person” includes any individual, partnership, association (or other group however organized), organization, social club, fraternal organization, estate, trust, receiver, trustee, government agency, public corporation, corporation (*de jure* or *de facto*), company, limited liability company, business, firm, joint venture, joint stock club, or any other legal, business, or commercial entity and any lawful successor thereto or transferee thereof.

Stat. Ref.: For similar State law, see Gov. C.A. § 17.

(2) “Personal property” includes every species of property except real property, as defined in this section.

1.05.030

Stat. Ref.: See C.C. § 14, subsec. 3.

(3) “Preceding” and “following” mean next before and next after, respectively.

(4) “Process” includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Stat. Ref.: For similar State law, see Gov. C.A. § 22.

(5) “Property” shall include real and personal property.

Stat. Ref.: See C.C. § 14, subsecs. 1, 2, 3.

(q) Reserved for future use.

(r) “R” definitions:

(1) “Real property” shall include lands, tenements and hereditaments.

Stat. Ref.: See C.C. § 14, subsec. 2.

(s) “S” definitions:

(1) Shall, May. “Shall” is mandatory and “may” is permissive.

Stat. Ref.: For similar State law, see Gov. C.A. § 14.

(2) Signature or Subscription by Mark. “Signature” or “subscription” includes a mark when the signer or subscriber cannot write, such signer’s or subscriber’s name being written near the mark by a witness who writes his/her own name near the signer’s or subscriber’s name, but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

Stat. Ref.: For similar State law, see Gov. C.A. § 16.

(3) “The State” or “this State” shall be construed to mean the State of California.

(t) “T” definitions:

(1) “Tenant” or “occupant,” applied to a building or land, shall include any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

(2) Tenses. The present tense includes the past and future tenses, and the future includes the present.

Stat. Ref.: For similar State law, see Gov. C.A. § 11.

(u) “U” definitions:

(1) “United States Code” [“U.S.C.” or “U.S.C.A.”]. This is the codification of enactments of the Congress of the United States. It consists of Titles 1 through 28.

(v) Reserved for future use.

(w) “W” definitions:

(1) Week. A week consists of seven consecutive days.

Stat. Ref.: For similar State law, see Gov. C.A. § 6805.

(2) “Writing” includes any form of a 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.

Stat. Ref.: For similar State law, see Gov. C.A. § 8.

(x) Reserved for future use.

(y) “Y” definitions:

(1) “Year” shall mean a calendar year, except where otherwise provided.

Stat. Ref.: For State law definition of “year,” see Gov. C.A. § 6803.

(z) Reserved for future use. (Amended at request of city during 2003 recodification; formerly § 1-2).

1.05.030 Interpretation – No City liability.

None of the provisions in this Code or in any other ordinance or resolution of the City or in any rule or regulation promulgated pursuant thereto, whether preexisting, existing or in the future, are intended to create or to be construed to create an imposition of civil liability on the City, its Council, officers or employees while acting or failing to act in accordance with such provisions. (Ord. 1528 § 1, 7-16-85. Formerly § 1-2.1).

1.05.040 Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (Formerly § 1-3).

1.05.050 Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments. (Formerly § 1-4).

1.05.060 Severability of parts of Code.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the City Council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section. (Formerly § 1-5).

1.05.070 Prosecutorial discretion for enforcement – Continuing violations – Range of penalties – Enforcement cost recovery.

(a) Preliminary Statement. Throughout this Code are provisions utilizing some form of enforcement language, i.e., “enforcement,” “penalty,” “unlawful,” etc. Many of them refer to this SCCC 1.05.070. However, some sections have additional provisions that might include, but not be limited to, enforcement procedure, enforcement personnel, fine schedules, etc. Those provisions are intended to augment these basic provisions of SCCC 1.05.070.

(b) Acts or Omissions Constituting a Violation. Whenever in this Code, in any ordinance or resolution of the City, in any permit, use, rule or regulation promulgated or granted pursuant thereto, or in any authorization granted in writing by the City Council or the City Manager, or City Manager designee, (i) any act is prohibited or is made or declared to be unlawful, an offense, or a misdemeanor (or infraction), or (ii) the performance of any act is required or the failure to perform any act is declared to be unlawful, an offense, or a misdemeanor (or infraction) [all the above categories are hereinafter collectively referred to as “violation(s)”], the enforcement of a violation shall be in the discretion of the City Attorney’s office. Pursu-

ant to the City Attorney office’s prosecutorial discretion, the City may enforce violations as a criminal (infraction or misdemeanor), civil, and/or administrative action.

(c) Continuing Violations. Each and every day, or any part thereof, during which any violation [as defined hereinabove in subsection (b)] is committed, continued, permitted or allowed, it shall be a separate offense.

(d) Prohibited Acts. Whenever a violation, as defined hereinabove in subsection (b), occurs, the violation shall include not only the act or omission constituting the violation, but it shall also include causing, allowing, permitting, aiding, abetting, suffering, withholding or concealing the fact of such act or omission (or destroying or tampering the evidence associated with the act or omission).

(e) Criminal Enforcement.

(1) Prosecution. Every violation shall be deemed a misdemeanor. Provided, however, that in the sole discretion of the City Attorney’s office, a violation may be prosecuted as an infraction where the City Attorney’s office has determined that such action would be in the best interest of justice. The City Attorney may specify in the citation, accusatory pleading or by amendment during the prosecutorial process that the matter will be prosecuted as an infraction.

(2) Penalty for a Misdemeanor. Each and every violation of this Code that is deemed a misdemeanor is punishable by a penalty of not more than one thousand dollars (\$1,000.00), or by imprisonment in the City or County jail for a period not exceeding six months, or by both penalty and imprisonment.

(3) Penalty for an Infraction. Unless specifically provided otherwise in this Code, each and every violation of this Code that is deemed an infraction is punishable by:

(A) A fine not exceeding one hundred dollars (\$100.00) for the first violation;

(B) A fine not exceeding two hundred dollars (\$200.00) for the second violation of the same or similar provision within a one-year period; or

(C) A fine not exceeding five hundred dollars (\$500.00) for each additional violation, after the second, of the same or similar provision of this Code within a one-year period of the first violation.

(f) Civil Penalties. Any person who intentionally, accidentally, or negligently commits a violation of this Code, any written authority issued by the City, or any provision of any permit issued pur-

1.05.080

suant to this Code, is civilly liable to the City in the sum of not less than one hundred dollars (\$100.00) but not more than one thousand dollars (\$1,000.00) per day for each day in which such violation occurs or continues. Pursuant to subsection (h), hereinbelow, the City may petition the appropriate court to impose, assess, and recover such sums. The civil penalties provided in this subsection (f) explicitly exclude the cost of enforcement provided in subsection (h), which costs will be imposed in addition to the civil penalties. The civil penalties are cumulative and not exclusive, and the civil penalties herein provided shall be in addition to all other remedies available to the City under the laws, regulations, or requirements of Federal law, State law, or City law. These civil remedies include, but are not limited to, actions or legal proceedings for the abatement, removal and enjoinder of conditions or activities that constitute a public nuisance.

(g) Administrative Penalties. Whenever, pursuant to Chapter 1.10 SCCC, Administrative Penalties – Citations, a hearing officer finds that any person has violated any provision of this Code, City regulation or City requirement, the hearing officer may assess an administrative penalty in a sum not to exceed one thousand dollars (\$1,000.00) per day. The remedies provided in this section shall be pursuant to the applicable administrative procedures. The administrative penalties provided in this subsection (g) explicitly exclude the cost of enforcement provided in subsection (h), which costs will be imposed in addition to the administrative penalties. The administrative penalties are cumulative and not exclusive, and the administrative penalties herein provided shall be in addition to all other remedies available to the City under the laws, regulations, or requirements of Federal law, State law, or City law.

(h) Costs of Enforcement.

(1) In any criminal, civil, and/or administrative proceeding, appeal, hearing, or action commenced by the City under the laws (which include, but are not limited to, statutory enactments, resolutions, regulations, requirements, or conditions of approval) of the Federal government, State government, or City, the City shall be entitled to recover from the defendant(s) of such action the City's cost of enforcement, including, but not limited to, inspection costs, the cost of the services of personnel (which is not limited to City employees), forensic services, equipment utilized in the investigation, corrective actions (abatement, cleanup, etc.), and enforcement activities of the City.

(2) The prevailing party in any action shall be entitled to recover reasonable attorneys' fees only in those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. (Ord. 1531 § 1, 9-17-85; Ord. 1785 § 4, 9-30-03; Ord. 1833 § 1, 4-15-08. Formerly § 1-6).

Stat. Ref.: For State law authorizing cities to impose fines not exceeding one thousand dollars (\$1,000.00) and imprisonment for terms not exceeding six months, or both, for violations of ordinances, see Gov. C.A. § 36901. For provision declaring violation of ordinance to be a misdemeanor, see Gov. C.A. § 36900.

1.05.080 Adoption of California Code of Civil Procedure Section 1094.6.

The provisions of California Code of Civil Procedure Section 1094.6 are hereby adopted. (Ord. 1630 § 1, 11-5-91. Formerly § 1-7).

Chapter 1.10**ADMINISTRATIVE PENALTIES –
CITATIONS**

Sections:

- 1.10.010 Applicability.
- 1.10.020 Code enforcement officer – Defined.
- 1.10.030 Administrative citation.
- 1.10.040 Amount of administrative penalties.
- 1.10.050 Payment of administrative penalties.
- 1.10.060 Hearing request.
- 1.10.070 Advance deposit hardship waiver.
- 1.10.080 Hearing officer.
- 1.10.090 Hearing procedures.
- 1.10.100 Hearing officer’s decision.
- 1.10.110 Administrative penalties.
- 1.10.120 Administrative costs.
- 1.10.130 Failure to pay administrative penalties and costs.
- 1.10.140 Judicial review.
- 1.10.150 Collection of administrative civil penalties.
- 1.10.160 Lien procedure.
- 1.10.170 Public hearing and protests of proposed liens.
- 1.10.180 Recording of lien.
- 1.10.190 Satisfaction of lien.

1.10.010 Applicability.

(a) This chapter provides for administrative citations which are in addition to all other civil legal remedies and which are an alternative to any criminal legal remedies which may be pursued by the City to address any violation of the City Code, or to any regulations adopted under the authority of the City Code. References to “City Code” include adopted regulations.

(b) Use of the remedies and procedures of this chapter shall be at the sole discretion of the Code enforcement officers authorized to proceed under this chapter, and the availability of the remedies and procedures of this chapter shall not limit or preclude the use of criminal or civil injunctive Code enforcement proceedings.

(c) The provisions of this chapter are pursuant to the authority granted by California Government Code Section 53069.4, as amended from time to time, or successor legislative enactment. (Ord. 1759 § 2, 10-24-00).

1.10.020 Code enforcement officer – Defined.

For the purposes of this chapter, “Code enforcement officer” shall mean any City employee or

agent of the City with the authority to enforce any provision of the City Code. (Ord. 1759 § 2, 10-24-00).

1.10.030 Administrative citation.

(a) Whenever a Code enforcement officer charged with the enforcement of any provision of this Code to which this chapter is applicable determines that a violation of such Code provision has occurred, the Code enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

(b) Whenever the Director of Finance is mentioned, it is understood that the reference includes “or designee.”

(c) Each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The section or sections of the City Code violated and an abbreviated description of the acts or omissions constituting the violation;
- (4) The amount of the penalty for the Code violation;
- (5) A description of the penalty payment process, including a description of the time within which and the place to which the penalty shall be paid;
- (6) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained; and
- (7) The name and signature of the citing Code enforcement officer.

(d) Prior to the issuance of an administrative citation for a violation which pertains to building, plumbing, electrical, or similar structural or zoning matters that do not create an immediate danger to health or safety, the Code enforcement officer shall provide a reasonable period of time not less than five business days to correct or otherwise remedy the violation.

(e) An administrative citation may be served by personal delivery on any person determined to be responsible for the violation if the responsible person can be located. If the Code enforcement officer cannot readily locate a responsible party for personal delivery of an administrative citation, then the citation may be served by certified mail, postage prepaid, return receipt requested, addressed to a location reasonably calculated to give notice to

This page left intentionally blank.

the responsible party of the administrative citation. All notices required by this chapter to be served subsequent to service of a citation may be served either by personal delivery or by certified mail, postage prepaid, return receipt requested, and shall be deemed effective on the date of personal delivery or when the certified mail is either delivered or delivery is attempted.

If the certified mail receipt is returned unsigned, then service may instead be effected by regular first class mail, postage prepaid; provided, that the notice sent by regular mail is not returned by the postal service as undeliverable, and shall be deemed effective on the date three days following deposit in the mail.

Where a violation of Code provisions concerning the condition of real property is involved, an administrative citation or subsequent written notices authorized by this chapter may be served by certified mail at the address as shown on the last equalized County assessment roll.

Where a violation of Code provisions concerning the condition of real property is involved and personal delivery or service by certified mail upon the property owner is unsuccessful, service may be effected alternately or additionally by posting a copy of the order at a conspicuous location on the property which is the subject of the order.

Where service of any notice required under this chapter is effected in compliance with the requirements of this section and with due process the asserted failure of any person to receive the notice shall not affect the validity of any proceedings taken under this chapter.

(f) If the Director of Finance determines not to issue an advance deposit hardship waiver (see SCCC 1.10.070, Advance deposit hardship waiver), the person shall remit the deposit to the City within ten days of the date of that decision in order to secure the hearing.

(g) The Director of Finance shall issue a written determination within ten days, listing the reasons for determining to issue or not issue the advance deposit hardship waiver. The written determination of the Director of Finance shall be final, subject only to judicial review as provided by law.

(h) The written determination of the Director of Finance shall be served upon the person who applied for the advance deposit hardship waiver. (Ord. 1759 § 2, 10-24-00).

1.10.040 Amount of administrative penalties.

(a) The amounts of administrative penalties for Code violations imposed pursuant to this chapter

shall be set forth in the schedule of administrative penalties established by resolution of the City Council.

(b) The schedule of administrative penalties shall specify any increased penalties for repeat violations of the same Code provision by the same person within thirty-six (36) months from the date of an administrative citation.

(c) The schedule of administrative penalties shall specify the amount of any late payment charges imposed for the payment of an administrative penalty after its due date. (Ord. 1759 § 2, 10-24-00).

1.10.050 Payment of administrative penalties.

(a) The administrative penalty for an administrative citation shall be paid to the City through its Finance Department within thirty (30) calendar days from the date the administrative citation is served. If a hearing is requested pursuant to SCCC 1.10.060, the administrative penalty shall be deposited with the Finance Department or an advance deposit hardship waiver shall be submitted to the City Clerk as required in SCCC 1.10.070.

(b) Any administrative citation penalty shall be refunded in accordance with SCCC 1.10.100 if it is determined, after a hearing, that the person charged in the administrative citation was not responsible for the violation or that there was no violation by the person charged in the administrative citation.

(c) Payment of an administrative penalty under this chapter shall not bar enforcement proceedings for any continuation or repeated occurrence of any Code violation that is the subject of an administrative citation. (Ord. 1759 § 2, 10-24-00).

1.10.060 Hearing request.

(a) Any recipient of an administrative citation may contest that there was a violation of the Code or that the party contesting is responsible for the violation by completing a request for hearing form and returning it to the City Clerk within thirty (30) calendar days from the date of service of the administrative citation, together with an advance deposit of the administrative penalty or notice that a request for an advance deposit hardship waiver has been filed pursuant to SCCC 1.10.070.

(b) A request for hearing form may be obtained from the City Clerk.

(c) The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.

1.10.070

(d) If the Code enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing. (Ord. 1759 § 2, 10-24-00).

1.10.070 Advance deposit hardship waiver.

(a) Any person who intends to request a hearing to contest an administrative citation and who claims to be financially unable to make the advance deposit of the fine as required in SCCC 1.10.060 may file a request for an advance deposit hardship waiver.

(b) The request shall be filed with the City Clerk within thirty (30) days following the date of service of the administrative citation.

(c) The requirement of depositing the full amount of the administrative penalty shall be stayed unless or until the Director of Finance makes a determination not to issue the advance deposit hardship waiver.

(d) The Director of Finance may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited party submits to the Director of Finance a sworn declaration, together with any supporting evidence demonstrating to the satisfaction of the Director of Finance the person's actual financial inability to deposit the full amount of the fine in advance of the hearing.

(e) If the Director of Finance determines not to issue an advance deposit hardship waiver, the person shall remit the deposit to the City within ten days of the date of that decision in order to secure the hearing.

(f) The Director of Finance shall issue a written determination listing the reasons for determining to issue or not issue the advance deposit hardship waiver. The written determination of the Director of Finance shall be final, subject only to judicial review as provided by law.

(g) The written determination of the Director of Finance shall be served upon the person who applied for the advance deposit hardship waiver. (Ord. 1759 § 2, 10-24-00).

1.10.080 Hearing officer.

The City Manager shall designate a hearing officer for the administrative citation hearing. (Ord. 1759 § 2, 10-24-00).

1.10.090 Hearing procedures.

(a) No hearing to contest an administrative citation before a hearing officer shall be noticed unless the administrative penalty has been deposited in advance in accordance with SCCC 1.10.060 or an advance deposit hardship waiver has been issued in accordance with SCCC 1.10.070.

(b) A hearing before the hearing officer shall be set for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter. The party contesting the administrative citation may request one continuance for any reason; provided, that the hearing officer is given the request for continuance at least twenty-four (24) hours in advance of the scheduled hearing and that the deferred hearing shall not be deferred more than ninety (90) days after the request for hearing was made. A request for continuance made less than twenty-four (24) hours before the scheduled hearing may be granted by the hearing officer based upon exigency only.

(c) At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence and cross-examine witnesses concerning the administrative citation. That contestant may appear personally or through an attorney. Prehearing discovery is not authorized, but subpoena of witnesses and documents shall be permitted as authorized by law. The hearing officer may conduct the hearing informally, both as to rules of procedure and admission of evidence, in any manner which will provide a fair hearing.

(d) The failure of any recipient of an administrative citation to appear at the administrative citation hearing or, in the alternative, to present written or demonstrative evidence, shall constitute an admission of the violation by the recipient and an admission that the amount of the administrative penalty is appropriate as well as a failure to exhaust administrative remedies that may bar judicial review.

(e) The administrative citation and any additional report submitted by the Code enforcement officer shall constitute presumptive evidence of the respective facts contained in those documents.

(f) 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. 1759 § 2, 10-24-00).

1.10.100 Hearing officer's decision.

(a) After considering all the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and the reasons for that decision. The decision of the hearing officer shall be issued within thirty (30) days following completion of the hearing. The decision of the hearing officer shall be final upon service on the responsible party, subject only to judicial review as allowed by law.

(b) The hearing officer shall consider any written or oral evidence submitted at the hearing consistent with ascertainment of the facts regarding the violation and compliance with the order.

(c) Within a reasonable time following the conclusion of the hearing, the hearing officer shall make findings and issue a decision regarding:

- (1) The existence of the violation;
- (2) The extent of compliance with the order;
- (3) Person cited for the violation(s) is the responsible party.

(d) The hearing officer shall issue written findings on each violation. The findings shall be supported by evidence received at the hearing.

(e) If the hearing officer determines from a preponderance of the evidence that the contestant committed the violation charged in the administrative citation, then the administrative penalty on deposit shall be used to satisfy the penalty assessed by the hearing officer and shall become a debt to the City collectable through the processes provided herein.

(f) If the hearing officer determines that the administrative citation should be upheld and the administrative penalty has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the administrative penalty as well as for payment of any administrative costs assessed by the hearing officer.

(g) If the hearing officer determines that the administrative citation should not be sustained, then the hearing officer shall issue a decision canceling the administrative citation, and if the administrative penalty was deposited with the City, then the City shall promptly refund the amount of the deposited administrative penalty.

(h) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision within ten calendar days following its issuance.

(i) The employment, performance evaluation, compensation, and benefits of the hearing officer

shall not be directly or indirectly conditioned upon the amount of administrative citation penalties upheld by the hearing officer. (Ord. 1759 § 2, 10-24-00).

1.10.110 Administrative penalties.

(a) The hearing officer may impose administrative penalties in an amount not to exceed the maximum provided in the schedule of administrative penalties adopted by Council resolution in effect on the date when the violation occurred.

(b) In determining the amount of the administrative penalty, the hearing officer may take any or all of the following factors into consideration:

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

(c) Late payment charges shall accrue and be payable in the amount and by the terms specified in the schedule of administrative penalties.

(d) Administrative penalties sustained by the hearing officer are a debt owed to the City and in addition to all other means of enforcement, if the violation concerns the condition of real property, may be enforced by means of a lien against the real property on which the violation occurred in accordance with SCCC 1.10.160. Failure to pay administrative penalties within the time allowed under this chapter shall constitute a violation of this Code punishable as a misdemeanor. (Ord. 1759 § 2, 10-24-00).

1.10.120 Administrative costs.

(a) The hearing officer may assess administrative costs against the violator when the hearing officer determines that a violation has occurred and that compliance was not achieved.

(b) Administrative costs may include any and all costs incurred by the City (both direct and indirect costs) in investigating and commencing administrative proceedings for the violation as well as any and all costs incurred by the City in connection with the hearing before the hearing officer, including but not limited to costs of the Code enforcement officer incurred in preparation for the hearing and for participating in the hearing itself

1.10.130

and costs of the City to conduct the hearing. Failure to pay administrative costs in the amount specified in the administrative hearing officer's decision on or before the date specified in that decision shall constitute a violation of this Code punishable as a misdemeanor and shall further be subject to collection and late charges as otherwise provided for administrative penalties herein. (Ord. 1759 § 2, 10-24-00).

1.10.130 Failure to pay administrative penalties and costs.

Failure to pay the assessed administrative penalties and/or administrative costs specified in a hearing officer's decision may be enforced as:

- (a) A personal obligation of the violator; and/or
- (b) If the violation is in connection with real property, a lien upon the real property in accordance with SCCC 1.10.160, which shall remain in effect until all of the administrative penalties, interest, and administrative costs are paid in full; and/or
- (c) A criminal misdemeanor. (Ord. 1759 § 2, 10-24-00).

1.10.140 Judicial review.

Any person subject to a decision of the hearing officer may obtain review of the decision in the appropriate court pursuant to the provisions of California Government Code Section 53069.4. The administrative order shall provide notice of this right of judicial review and the time allowed therefor by law. (Ord. 1759 § 2, 10-24-00).

1.10.150 Collection of administrative civil penalties.

The City may collect the assessed administrative penalties and administrative costs by use of all available legal means, including recordation of a lien pursuant to the provisions of this chapter. (Ord. 1759 § 2, 10-24-00).

1.10.160 Lien procedure.

(a) Whenever the amount of any administrative penalty and/or administrative cost imposed pursuant to this chapter in connection with real property has not been satisfied in full within ninety (90) days after the administrative penalty and/or administrative cost imposition becomes final, unless tolled by a timely request for judicial review pursuant to California Government Code Section 53069.4 or reversed by court order, this obligation may constitute a lien against any real property involved where any violation was determined to concern the condition of that real property.

(b) The lien provided herein shall have no force and effect until recorded with the County Recorder. Once recorded, the administrative order shall have the force and effect and priority of a judgment lien governed by the provisions of Section 697.340 of the California Code of Civil Procedure and may be extended as provided in Sections 683.110 through 683.220 of the California Code of Civil Procedure.

(c) Interest shall accrue on the principal amount of the judgment remaining unsatisfied pursuant to law.

(d) Prior to recording any such lien, a report shall be prepared and filed with the City Clerk stating the amounts due and owing.

(e) The City Clerk shall fix a time, date, and place for hearing such report and any protests or objections thereto by the City Council.

(f) A written notice to be served on each property owner whose interest is disclosed by the current County equalized assessment roll not less than 10 days prior to the time set for the hearing. (Ord. 1759 § 2, 10-24-00).

1.10.170 Public hearing and protests of proposed liens.

(a) Any person owning a legal or equitable interest in real property proposed to be subject to a lien pursuant to SCCC 1.10.160 may file a written protest with the City Clerk and/or may protest orally at the City Council hearing.

(b) Each written protest or objection must contain a description of the property in which the protesting party has a legal or equitable interest and the grounds of such protest or objection. The grounds for protest or objection, and any evidence or testimony submitted in support or in opposition to the imposition of a lien, shall be confined to whether the amount of any administrative penalty and/or administrative cost imposed was satisfied in full within the time allowed by law and/or was successfully challenged by a timely writ of mandate.

(c) The City Council, after the hearing, shall adopt a resolution confirming, discharging, or modifying the amount of the lien based upon evidence produced at the hearing. (Ord. 1759 § 2, 10-24-00).

1.10.180 Recording of lien.

Thirty days following the adoption of a resolution by the City Council imposing a lien, the City Clerk may file the same as a judgment lien in the Office of the County Recorder of Santa Clara County. The lien may carry such additional admin-

istrative charges as set forth by resolution of the City Council. (Ord. 1759 § 2, 10-24-00).

1.10.190 Satisfaction of lien.

Once payment in full is received by the City for outstanding penalties and costs, the City Clerk shall either record a notice of satisfaction or provide any property owner or financial institution having a legal or equitable interest in the property with a notice of satisfaction so they may record this notice with the Office of the County Recorder. Such notice of satisfaction shall cancel the City's lien. (Ord. 1759 § 2, 10-24-00).

Chapter 1.15

CLAIMS AGAINST THE CITY

Sections:

- 1.15.010 State provisions – Applicability of chapter.
- 1.15.020 Presentation of claims – Prerequisite for bringing suit.
- 1.15.030 Contents of claim – Review of sufficiency.
- 1.15.040 Time limitation for presentation of claims.
- 1.15.050 Time for action by City.
- 1.15.060 Application to file a late claim.
- 1.15.070 Time barred claim.
- 1.15.080 Effective date of chapter.

1.15.010 State provisions – Applicability of chapter.

The provisions of this chapter recognize that the general claims procedures applicable to the City are governed by the provisions of the Government Code, Chapters 1 and 2 of Chapter 3.6, commencing with Section 900 and following. The provisions of this chapter are enacted pursuant to Government Code Section 935 and shall apply to all claims against the City for money or damages; provided, that such claims are not governed by any other statutes or regulations. (Ord. 1830 § 1, 2-12-08).

1.15.020 Presentation of claims – Prerequisite for bringing suit.

No suit subject to this chapter may be brought against the City until a claim has been presented to and acted upon by the City, pursuant to the provisions of Government Code Section 945.4. Any action brought against the City on a claim after it has been presented to and acted upon by the City shall be subject to the provisions of Government Code Sections 945.6 and 946. (Ord. 1830 § 1, 2-12-08).

1.15.030 Contents of claim – Review of sufficiency.

A claim shall be presented to the City Clerk by the claimant or by a person acting on the claimant's behalf and shall show all information as required by Government Code Section 910. The City Manager, or his or her designee, shall review all claims for sufficiency of information. The City Manager, or his or her designee, may, within twenty (20) days of receipt of a claim, either personally deliver or mail to the claimant a notice stating the deficien-

1.15.040

cies in the claim presented. If such notice is delivered or sent to the claimant, the City shall not act upon the claim until at least fifteen (15) days after such notice is sent. (Ord. 1830 § 1, 2-12-08).

1.15.040 Time limitation for presentation of claims.

Any claim specified in this chapter shall be presented within the following time limitations pursuant to Government Code Section 911.2:

(a) Claims relating to a cause of action for death, injury to person or to personal property, or growing crops shall be presented within six months after the accrual of the cause of action.

(b) Claims relating to any other cause of action shall be presented within one year after the accrual of the cause of action. (Ord. 1830 § 1, 2-12-08).

1.15.050 Time for action by City.

Pursuant to Government Code Section 912.4, the City shall act on a claim within forty-five (45) days after the claim has been presented. By mutual agreement of the claimant and the City, such forty-five (45) day period may be extended by written agreement. If the claim is not acted on within forty-five (45) days, it shall be deemed to have been rejected on the forty-fifth (45th) day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement. (Ord. 1830 § 1, 2-12-08).

1.15.060 Application to file a late claim.

Any applicant who fails to file a claim within the time period required by this chapter may submit a written application to the City for leave to present a late claim, pursuant to the provisions of Government Code Section 911.4. The City shall grant or deny the application to present a late claim within forty-five (45) days after it is presented to the City, in accordance with the provisions of Government Code Sections 911.6 through 912.2, inclusive. (Ord. 1830 § 1, 2-12-08).

1.15.070 Time barred claim.

Nothing in this chapter revives or reinstates any cause of action that, on the effective date of the ordinance codified in this chapter, is barred by failure to comply with any previously applicable statute, ordinance, or regulation requiring the presentation of a claim prior to a suit, or by failure to commence any action thereon within the period prescribed by an applicable statute of limitation. (Ord. 1830 § 1, 2-12-08).

1.15.080 Effective date of chapter.

Subject to SCCC 1.15.070, the provisions of this chapter shall apply retroactively to any causes of action occurring prior to the effective date of the ordinance codified in this chapter. (Ord. 1830 § 1, 2-12-08).