

Chapter 1

Article I. In General

GENERAL PROVISIONS

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Article I. In General

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§ 1-1. How code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated “The Code of the City of South Lake Tahoe, California”, and may be so cited. Such code may also be cited as the “South Lake Tahoe City Code (SLTCC).”

§ 1-2. Definitions and rules of construction.

Repealed. (Ord. 2 § 1; Ord. 758 § 1)

§ 1-3. Provisions considered as continuations of existing ordinances.

The provisions appearing in this code, so far as they are in substance 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.

§ 1-4. Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinance in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

§ 1-5. Catchlines of sections.

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, 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 re-enacted.

§ 1-6. 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 or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitu-

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tionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

**§ 1-7. Violations and penalties – General penalty, continuing violations.**

A. Whenever in this code or in any other ordinance or resolution of the city or in any order, rule or regulation issued or promulgated pursuant thereto, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, any person who willfully violates any such ordinance, regulation or duty to act shall be charged with an infraction or a misdemeanor at the discretion of the district attorney or the city attorney depending upon the prosecuting entity.

B. In any case where no specific penalty is provided therefor, the violation of any such provision of this code or any other ordinance or resolution of the city or any such order, rule, or regulation shall be punishable by a fine not exceeding \$1,000 or imprisonment for a term not exceeding six months, or by both such fine and imprisonment. (Ord. 804 § 1)

**§ 1-7.1. Refusal to sign a citation upon request – Separate offense – Misdemeanor.**

Repealed. (Ord. 874 § 2)

**§ 1-8. Same – Imprisonment – Working of prisoners.**

Repealed. (Ord. 2 § 1; Ord. 758 § 1)

**§ 1-9. Same – More than one violation arising from the same action.**

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced. (Ord. 2 § 1)

**§ 1-10. Same – Liability of agents.**

When the provisions of any section of this code prohibit the commission of an act, not only the person actually doing the prohibited act, but also the

employer and all other persons concerned with or aiding in or abetting such person, shall be guilty of the offense described and liable to the penalty set forth for violations of this code. (Ord. 2 § 1)

**§ 1-11. Same – Nonliability of city officers and employees.**

No provision of this code designating the duties of any city officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the city council to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty. (Ord. 2 § 1)

**Article II. Administrative Notice to Appear – Citation, Hearing, and Appeals Process**

**§ 1-12. Notice to appear citation authority granted to specific city employee positions.**

For purposes of enforcement of zoning and other provisions of this code not ordinarily enforced by sworn law enforcement officers, specific employee positions may be granted notice to appear citation authority. Such employee positions shall be designated in a duly adopted resolution of the city council.

Such citation authority shall be granted conditioned upon the following provisions:

A. Completion by the employee of introductory law enforcement training to be offered by the South Lake Tahoe police department. Such training shall include but not be limited to instruction on proper conduct of personnel issuing citations.

This requirement may be waived for employees who can demonstrate to the satisfaction of the chief of police that they have had previous experience or instruction which may be substituted for the introductory training required by this section.

Employees shall be granted a six-month grace period from their initial authorization date in which to obtain the required training. If, after such grace period, an employee granted citation authority has failed to receive the required training, citation authority shall be revoked until such time as the required training has been successfully completed.

B. At no time shall such employee be authorized to carry firearms.

C. Citation authority shall be granted only for purposes of issuing citations in accordance with this article. At no time shall an employee granted citation authority under this provision be authorized to take any suspect into physical custody for purposes of arrest.

D. Any employee granted citation authority must possess at all times during his or her employment a valid California driver’s license and the loss of such license shall be grounds for termination. (Ord. 874 § 3)

**§ 1-13. Specific elements of enforcement required prior to issuance of notice to appear.**

In those cases where a zoning, planning, building or other similar structural violation not creating an immediate danger to health or safety is cited through the administrative notice to appear process, the following enforcement activities shall be required to be completed prior to issuance of a notice to appear citation:

A. Upon discovery of the violation, a letter or other similar notice describing the violation, the corrective action to be taken, and a reasonable time within which to make the correction shall be sent, certified mail, to the property owner or business owner of record to the customary business address. For purposes of this subsection, the term “reasonable time” shall be construed to mean not less than 15 calendar days from the date of the notice. Said notice shall also include a warning to the responsible party that in the event the violation is not corrected within the specified time frame, a notice to appear citation may be issued in accordance with the provisions of this article, and fines and/or penalties may be imposed through the hearing process. The amount of the potential fine and/or penalty which may be imposed shall also be included in said notice.

B. If, after the expiration of the time frame identified in the notice referred to in subsection (A) the violation has not been corrected, an administrative notice to appear citation shall be issued to the property owner or business owner of record, providing a minimum of 10 days’ notice in advance of the scheduled hearing. Said notice to appear citation shall be personally served upon the property owner, business owner or agent, if possible, with

service documented by an affidavit. For purposes of this subsection, the term “agent” shall mean the on-site manager of the property or business.

If such personal service cannot be reasonably accomplished, said citation shall be mailed, via certified mail, to the property owner or business owner of record at the customary business address.

C. Copies of the required notice, together with certified mail receipts and other similar documentation, shall be presented at the time of hearing as evidence of proper service.

D. Where there is a subsequent violation by the same property owner or business of the same code section for which a notice to appear citation has previously been issued, the specific elements of enforcement set forth in subsections (A) and (B) of this section shall be waived, and no additional notice prior to issuance of a subsequent notice to appear citation shall be required. (Ord. 874 § 3; Ord. 878 § 1)

**§ 1-14. Issuance of notice to appear citations.**

Employees authorized to issue notice to appear citations pursuant to SLTCC 1-12 shall adhere to the specific issuance procedures established by state law and set forth herein. The city manager or his designee may, from time to time, modify issuance procedures, provided the minimum requirements contained in this article are met. (Ord. 874 § 3)

**§ 1-15. Refusal to sign citation upon request – Separate misdemeanor offense.**

Whenever a citation is issued for violation of any section of the city code which requires the recipient to sign the citation form, the recipient’s refusal to sign said citation form shall constitute a separate misdemeanor offense for which a separate citation may be issued. (Ord. 874 § 3)

**§ 1-16. Setting of bail – Fines and penalties.**

Bail, fines and penalties which may be imposed through the administrative hearing process shall be set forth in a duly adopted resolution of the city council; provided, that any bail amounts established pursuant to California Vehicle Code Section 40200, et seq., shall be set in accordance with California law. (Ord. 874 § 3)

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**§ 1-17. Hearing officer authority granted to specific employee positions – Authority to administer oath of truthfulness.**

Only those employees who hold the specific employment positions designated within a duly adopted resolution of the city council may conduct hearings pursuant to this article.

Designation of specific employment positions authorized to conduct hearings pursuant to this article shall only be made when the incumbent in a specified employment position can successfully demonstrate to the city attorney that he or she possesses a basic understanding of legal premises and can exercise sound judgment in decision making.

Only those employees so designated by a duly adopted resolution of the city council shall be authorized to administer the oath of truthfulness in administrative hearing proceedings. (Ord. 874 § 3)

**§ 1-18. Administrative hearing process.**

All violations of this code which are cited through issuance of a notice to appear citation or which have been referred to the administrative hearing process shall be subject to hearing before the city's administrative hearing officer, unless the recipient's right to hearing has been waived by virtue of payment of the bail, fine or administrative penalty. Hearings shall be conducted in accordance with the following procedures:

A. Notice. All persons ordered to appear at such a hearing shall be provided with written notice of the hearing date, time and location at least 10 days prior to the hearing. Such notice shall be in the form of a notice to appear citation or notice, either personally served or sent via certified mail to the responsible business owner or manager in those instances where the violation has been issued to a business entity.

B. Record of Hearing. Hearings shall be recorded to ensure completeness of the hearing record.

C. Sworn Testimony. All persons who will testify in the hearing shall be duly sworn.

D. Explanation of Appeals. The hearing officer shall fully explain the process by which an appeal of the decision may be filed, as set forth in SLTCC 1-20.

E. Citations – Prima Facie Evidence. Notice to appear and other similar citations shall be considered prima facie evidence of the violation.

F. Hearings Not Formal Judicial Proceedings. Rules of evidence, as adopted by the state of California, shall not apply in administrative hearing proceedings. Any relevant evidence may be admitted if it is the sort of evidence responsible persons are accustomed to relying upon in the conduct of serious affairs. The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions and irrelevant or unduly repetitious evidence shall be excluded.

G. Testimony of Violation Notice Recipient. Following reading of the citation into the record, the recipient of the violation notice shall be given an opportunity to be heard, to call witnesses, and to provide any evidence which would support their position that the violation notice should not be upheld.

H. Testimony of City Officers and/or Other Staff. If there is evidence or testimony to further support the citation, it shall be offered.

I. Rebuttal. The violation recipient shall then have a final opportunity to rebut evidence supporting the citation.

J. Decision. The hearing officer shall announce a decision, or, in the alternative, state a date by which a written decision shall be rendered and mailed.

K. Bail – Fines – Penalties. In the event bail, a fine or penalty is imposed, the appropriate monetary amount shall be due and payable at the conclusion of the hearing. (Ord. 874 § 3)

**§ 1-19. Failure to appear at hearing – Separate offense.**

A. In any case where the recipient of a notice to appear citation or other similar notice of administrative hearing fails to appear at the scheduled hearing and has not made a request for rescheduling of the hearing, said failure to appear shall constitute a separate offense for which the hearing officer may impose an additional penalty in an amount not to exceed \$150.00. Such failure to appear shall constitute a waiver of rights to future hearing or appeal of the citation.

B. At the discretion of the hearing officer, any person who fails to appear at the scheduled hearing and has not requested a continuance may be cited for a separate misdemeanor offense in lieu of

imposition of the additional penalty referred to in subsection (A) of this section. (Ord. 874 § 3; Ord. 878 § 2)

**§ 1-20. Appeals of decisions of administrative hearing officer.**

Any decision of the administrative hearing officer may be appealed through the applicable appeals process, as specified herein or pursuant to California State law. Appeals processes vary according to the nature of the violation. Requests for appeal shall be made in accordance with the procedures specified herein.

A. Parking Citations. Appeals of any decision of the hearing officer with respect to any parking violation shall be made in accordance with the procedure set forth in California Vehicle Code Section 40230, or any successor section thereto.

B. Specific Planning and Building Violations Enforced by the City Pursuant to City/Tahoe Regional Planning Agency Memorandums of Understanding. Appeals of administrative hearing decisions relating to planning or building matters enforced by the city on behalf of the Tahoe Regional Planning Agency (TRPA) by virtue of entry into memorandums of understanding shall be directly to the TRPA. Appeals must be filed with that agency within 20 days of the date of the hearing officer's decision, and all applicable filing fees must be paid at the time of filing. All such appeals shall be subject to the administrative processes of the Tahoe Regional Planning Agency. (Article XI – Appeals, TRPA Rules of Procedure.)

Appeals of decisions of the hearing officer which do not directly relate to enforcement undertaken by the city pursuant to such memorandums of understanding shall be made in accordance with subsection (C) of this section.

C. Violations of Other Municipal Ordinances. Appeals of decisions rendered by the administrative hearing officer relating to any violation of a municipal ordinance, other than those specifically set forth in subsections (A) and (B) of this section, shall be made by filing an appeal with the El Dorado County municipal court. Such appeal must be filed within 20 days of the date of the hearing officer's decision, and shall be accompanied by a filing fee, as set forth in California Government Code Section 53069.4, or any successor section thereto. (Ord. 874 § 3)

**§ 1-21. Collection of fines, bail, or penalties.**

With the exception of payment of bail in connection with any parking citation, whenever a fine, penalties or bail is imposed pursuant to any decision of the administrative hearing officer, said payment shall be due and payable at the conclusion of the hearing. In the event said payment is not received prior to the expiration of the period within which an appeal may be filed, the delinquency may be turned over to a collection agency. In the event of such turnover to a collection agency, a \$25.00 administrative fee shall be added to the delinquent amount.

Payment of parking citation bail shall be subject to the provisions of California Vehicle Code Section 40220, or any successor section thereto. (Ord. 874 § 3)

**§ 1-22. Administrative mandamus.**

A. Judicial review of any decision of the city council, any board, commission, officer or agent of the city may be had pursuant to Section 1094.5 of the California Code of Civil Procedure only if the petition for writ of mandate pursuant to such section is filed within the time limits specified therein.

B. Any such petition shall be filed not later than the ninetieth day following the date on which the decision becomes final. If there is no provision for reconsideration of the decision in any applicable provision of any statute, charter, or rule, for the purposes of this section, the decision is final on the date it is made. If there is such provision for reconsideration, the decision is final for the purposes of this section upon the expiration of the period during which such reconsideration can be sought; provided, that if reconsideration is sought pursuant to any such provision the decision is final for the purposes of this section on the date that reconsideration is rejected.

C. The complete record of the proceedings shall be prepared by the local agency or its commission, board, officer, or agent which made the decision and shall be delivered to the petitioner within 90 days after he has filed a written request therefor. The local agency may recover from the petitioner its actual costs for transcribing or otherwise preparing the record. Such record shall include the transcript of the proceedings, all pleadings, all notices and orders, any proposed decision by a hearing officer, the final decision, all admitted exhibits, all rejected exhibits in the possession of the local

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agency or its commission, board, officer, or agent, all written evidence, and any other papers in the case.

D. If the petitioner files a request for the record as specified in subsection (C) of this section within 10 days after the date the decision becomes final as provided in subsection (B) of this section, the time within which a petition pursuant to Section 1094.5 of the California Code of Civil Procedure may be filed shall be extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the petitioner or his attorney of record, if he has one.

E. As used in this section, “decision” means adjudicatory administrative decision made, after hearing, suspending, demoting, or dismissing an officer or employee, revoking or denying an application for a permit or a license, or denying an application for any retirement benefit or allowance.

F. In making a final decision as defined in subsection (E) of this section, the local agency shall provide notice to the party that the time within which judicial review must be sought is governed by this section.

As used in this subdivision, “party” means an officer or employee who has been suspended, demoted or dismissed, a person whose permit or license has been revoked or whose application for a permit or license has been denied, or a person whose application for a retirement benefit or allowance has been denied. (Ord. 874 § 3)