

REPORT TO CITY COUNCIL

DATE: AUGUST 11, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: DENICE THOMAS, COMMUNITY DEVELOPMENT DIRECTOR
JESSICA CLEAVENGER, SENIOR PLANNER

SUBJECT: INTRODUCTION OF ORDINANCE NO. 21-457; AMENDING ARTICLE I (GENERAL PROVISIONS) OF THE AGOURA HILLS MUNICIPAL CODE TO ADD A NEW CHAPTER 5 REGARDING ADMINISTRATIVE CITATION REGULATIONS CONSISTENT WITH STATE LAW AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND ADOPTING RESOLUTION NO. 21-1984; ESTABLISHING ADMINISTRATIVE CITATION FINES AND PENALTIES

The request before the City Council is to conduct a public hearing and introduce, read by title only, and waive further reading of Ordinance No. 21-457, approving an Administrative Citation Ordinance that would enact legislation making a violation of any local ordinance subject to an administrative fine or penalty and adopt Resolution No. 21-1984, establishing Administrative Citation Fines and Penalties. The City is the applicant for this Zoning Ordinance Amendment (Case No. ZOA-2021-0001).

The purpose of an Administrative Citation Program is to: (1) impose a non-judicial administrative fine for offenses of the Agoura Hills Municipal Code (AHMC) and other state laws, as authorized by statute, (2) encourage prompt abatement or correction of prohibited conditions, uses or activities in the City of Agoura Hills and, (3) create deterrence against future violations of the AHMC. The administrative citation remedy is not intended to replace any other remedy allowed within the AHMC or state law. It is intended to provide an alternative and/or additional means by which the AHMC may be enforced.

Approval of Ordinance No. 21-457 will establish an Administrative Citation Program that is consistent with the California Government Code and will provide a tool to better assist staff with enforcing both the AHMC and state laws. The creation of an Administrative Citation Program requires City Council to adopt both an ordinance (proposed Ordinance No. 21-457) and a resolution establishing a fee structure for fines and penalties (Resolution No. 21-1984). Ordinance No. 21-457 and Resolution No. 21-1984 are attached as Exhibits A and C.

Currently, the City of Agoura Hills does not have an Administrative Citation Program in place. The existing tools available to Code Enforcement staff, in the event that a violation of the municipal code occurs, include the issuance of a Notice of Violation and/or criminal prosecution. The criminal process, though practical when dealing with some of the more extreme violations, such as the construction of an unpermitted second story, may not be appropriate when dealing with more minor offenses. Examples of these minor offenses could include waste bins set out early or left out past the collection day, conducting a business without a business license, inoperable vehicles stored on public streets, signs containing flashing lights, and illegal dumping or illicit discharges.

The proposed Ordinance (attached as Exhibit A) establishes an administrative citation process similar to those used in the Cities of Beverly Hills, Calabasas, Camarillo, Malibu, Thousand Oaks, and many other Southern Californian cities. Similar to these cities' ordinances, the Agoura Hills Administrative Citation Ordinance offers an escalating fine schedule with different fines or penalties based on the number of offenses that have occurred. Exhibit B (Jurisdictional Penalty Matrix) is a table showing the escalating fines imposed under similar municipal ordinances. Government Code §36900 sets the maximum allowable fine for infractions at a \$100 fine for the first offense, a \$200 fine for the second offense, and a \$500 fine for the third offense. Staff is recommending that City Council adopt, by resolution, the maximum fines allotted for infractions pursuant to State law. Resolution No. 21-1984, Administrative Citation Fines and Penalties, is attached as Exhibit C. Approval of Resolution No. 21-1984 will allow the City to adopt a fine and penalty schedule that is consistent with State law.

In the event a violation of the AHMC does not create an immediate danger to health and safety and may require a reasonable amount of time to correct, the proposed Ordinance empowers Code Enforcement staff or anyone acting as an agent of the City and designated by the City Manager, to issue a compliance order. There is no initial fine associated with a compliance order; however, if the violation has not been abated within the authorized correction period, the City may issue an administrative citation. Examples of violations for which a compliance order may be issued include, but are not limited to, overgrown vegetation, failure to obtain a landscaping approval, and failure to obtain a sign permit.

When a compliance order is not the appropriate tool to rectify the violation, Code Enforcement staff will issue an administrative citation to the responsible person, defined in the proposed Ordinance, "as any person whom an enforcement official determines is responsible for causing or maintaining a violation of the Code." The issued citation will notify the responsible person of the availability to request an administrative hearing should they wish to appeal the citation.

If a responsible person requests a hearing, they must first pay the fine or seek a hardship waiver before a hearing will be scheduled. Pursuant to Government Code §36900, "a city levying a fine shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible person that they have made a bona

vide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible person.”

When a hearing has been requested and the fine or hardship waiver is in place, the director of the department through which the administrative citation was issued, or their designee, shall select a Hearing Officer to consider the matter and issue a decision. Under the proposed Ordinance, the Hearing Officer’s decision is final, unless it is appealed to the Los Angeles Superior Court within 20 days of the decision. The appeal process to the Superior Court has been established by Government Code §53069.4(b).

Lastly, the proposed Ordinance provides a mechanism for the City to collect unpaid fines and costs through a standard lien procedure. If the responsible person fails to pay the assessed fines and costs by the time specified in the Hearing Officer’s decision or the administrative citation, and no timely appeal of the Hearing Officer’s decision has been filed with the Los Angeles Superior Court, the City may recover the outstanding fines and costs by imposing a lien against the real property on which the violation occurred. Prior to the recording of the lien, the City Council shall conduct a hearing to hear any protest or objection to the lien. If the City Council determines that the lien should be imposed, the responsible person will be given forty-five (45) days to satisfy the assessed fines. If the fines are not satisfied within that period of time, the Enforcement Official shall file a report with the City Clerk which is then recorded with the Los Angeles County Recorder.

The proposed Ordinance is consistent with the objectives of Article I (General Provisions) of the Agoura Hills Municipal Code and with the City General Plan. The Ordinance is consistent with Goal LU-7 of the General Plan Livable and Quality Neighborhoods Element, which calls for the City to provide neighborhoods that contain a mix of uses and services that support the needs of their residents. The proposed Ordinance is consistent with Policy LU-7.12 of Goal LU-7, which encourages the development of nuisance abatement programs to ensure that Agoura Hills’ neighborhoods remain attractive, safe, and free of public nuisances.

The proposed Ordinance is also consistent with the state law authorizing the use of administrative citations, which provides, “A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein.” (Cal. Gov. Code § 53069.4(b)).

The enforcement of the Agoura Hill Municipal Code and adopted ordinances throughout the City is an important public service and a program for the enforcement of the Code is vital to protect public health, safety, and welfare. The establishment of a comprehensive and effective code enforcement program that is able to utilize both administrative and judicial remedies against violations of the City’s Code is best equipped to protect public health, safety, and welfare.

Resolution No. 21-1984 shall not become operative until the effective date of Ordinance No. 21-457.

RECOMMENDATION

Staff respectfully recommends the City Council, conduct a public hearing and introduce, read by title only, and waive further reading of Ordinance No. 21-457, amending Article I (General Provisions) of the Agoura Hills Municipal Code to add a new Chapter 5 regarding administrative citation regulations consistent with State law and making a finding of exemption under the California Environmental Quality Act, and adopt Resolution No. 21-1984; establishing Administrative Citation Fines and Penalties.

Attachments:

- Exhibit A: Ordinance No. 21-457 (Administrative Citation Ordinance)
- Exhibit B: Jurisdictional Penalty Matrix
- Exhibit C: Resolution No. 21-1984 (Administrative Citation Fines and Penalties)

Exhibit A

*Ordinance No. 21-457
(Administrative Citation Ordinance)*

ORDINANCE NO. 21- 457

AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ARTICLE I (GENERAL PROVISIONS) OF THE AGOURA HILLS MUNICIPAL CODE TO ADD A NEW CHAPTER 5 REGARDING ADMINISTRATIVE CITATION REGULATIONS CONSISTENT WITH STATE LAW AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the enforcement of the Agoura Hill Municipal Code (also referred to as the “Code” pursuant to section 1100) and adopted ordinances throughout the city is an important public service. A program for enforcement of the Code is vital to protect public health, safety, and welfare. The establishment of a comprehensive and effective code enforcement program that is able to utilize both administrative and judicial remedies against violations of the Code is best equipped to protect public health, safety, and welfare.

WHEREAS, Government Code section 53069.4 authorizes local jurisdictions to make a violation of any local ordinance subject to an administrative fine or penalty. The City Council intends, pursuant to this statute, to establish an administrative citation program that: (1) imposes a non-judicial administrative fine for offenses of the Code (and any other codes and regulations adopted therein) and other state laws as authorized by statute, (2) encourages prompt abatement or correction of prohibited conditions, uses or activities in the city and, (3) creates deterrence against future violations of the Code.

WHEREAS, the administrative citation remedy is not intended to replace any other remedy allowed within the Code or State law. It is intended to provide an alternative and/or additional means by which the Code may be enforced.

WHEREAS, on August 11, 2021, the City Council of the City of Agoura Hills conducted and concluded a duly noticed public hearing concerning the Ordinance as required by law.

NOW, THEREFORE, the City Council of the City of Agoura Hills does ordain as follows:

Section 1. The facts set forth in the recitals of this Ordinance are true and correct.

Section 2. The proposed amendments are consistent with the objectives of Article I (General Provisions) of the Agoura Hills Municipal Code and with the City General Plan. The Ordinance is consistent with Goal LU-7 of the General Plan Livable and Quality Neighborhoods Element, which calls for the city to provide neighborhoods that contain a mix of uses and services that support the needs of their residents. The Ordinance is consistent with Policy LU-7.12 of Goal LU-7, which encourages the development of nuisance abatement programs to ensure that Agoura Hills’ neighborhoods remain attractive, safe, and free of public nuisances.

Section 3. A new Chapter 5 (ADMINISTRATIVE CITATIONS) is hereby added to Article I (GENERAL PROVISIONS) of the Agoura Hills Municipal Code to read as follows:

“Chapter 5. ADMINISTRATIVE CITATIONS

1500. - Definitions.

The following definitions shall apply to this chapter.

“Administrative citation” means the written notice provided to a responsible person that a violation of the Code has occurred, and is subject to assessment of a civil administrative fine as issued by an Enforcement Official, as defined herein.

“Administrative fine” means a monetary sanction established by resolution of the city council that is imposed upon a responsible person by means of a citation. An administrative fine may also be referred to as an administrative penalty.

“Code” means: a) the Agoura Hills Municipal Code and any code adopted by reference, b) any uncodified ordinance adopted by the city council of Agoura Hills, c) any rule or regulation promulgated pursuant to the provisions of this Code, d) any condition of any approval, permit, license, or entitlement issued pursuant to this Code, and e) other state laws as authorized by statute.

“Compliance order” means the written notice provided to a responsible person that a continuing violation of the Code pertaining to building, plumbing, electrical, or other similar structural or zoning issues exists that does not create an immediate danger to health or safety.

“Enforcement Official” means: (1) members of the Los Angeles County sheriff’s department or such other police agency under contract to provide police services to the city; (2) members of the Los Angeles County fire department or such other fire agency under contract to provide fire and emergency services to the city; (3) persons employed by the city whose job descriptions require the person to enforce the provisions of this Code, including, but not limited to, directors, senior planners, enforcement officers as defined in Code section 2401, and building inspectors; (4) and such other employees of the city or contractors as may be designated by resolution of the City Council.

“Hearing Officer” means the impartial person appointed by the City Manager or other appointed authority designated under the Code to preside over administrative citation appeal hearings under this chapter.

“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.

“Owner” means any person having legal title to, or who leases, rents, occupies or has charge, control or possession of, or responsibility for, any real property in the city, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor's Office. Owners include persons with powers of attorney, executors of estates, trustees, or who are court-appointed administrators, conservators, guardians or receivers. An owner of personal property shall be any person who has legal title, charge, control, responsibility for, or possession of such property.

“Property” means any real property, or improvements thereon, or portions thereof, as the case may be. “Property” also includes any parkway, sidewalk, street, and other public property. “Property” also includes all forms of personal property or animals, where applicable.

“Reasonable period of time” means ten (10) days, or such longer period as may be authorized by the Enforcement Official.

“Responsible person” means any person whom an enforcement official determines is responsible for causing or maintaining a violation of the Code. The term “responsible person” includes, but is not limited to, a property owner, tenant, person with a legal interest in real property, person in possession of real property, partnership or corporation of any kind, limited liability company, association or other organization or entity, however formed, as well as fiduciaries, trustees, heirs, executors, administrators, or any combination of such persons. “Responsible Person” also includes any public entity or agency that acts as an owner in the city.

“Violation” means an act or omission of any act, or use or condition that constitutes an offense of the Code, as well as a breach or violation of any condition of a permit, approval or license issued pursuant to the Code.

1501. - Administrative citations.

Any person violating any section of the Code that is subject to this chapter may be issued an administrative citation by an Enforcement Official as provided in this chapter. The procedures established in this chapter may be in lieu of, or in addition to any criminal, civil or other legal remedy established by law that may be pursued to address violations of the Code. Issuance of an administrative citation shall not be deemed a waiver or any other remedies authorized by law.

1502. - Code enforcement authority.

- (a) This Chapter provides for an administrative remedy for any violation of the Code. This remedy may be exercised in place of, or in addition to, any administrative, criminal, civil, or equitable remedy allowed by law. The City Prosecutor shall have sole discretion to determine whether a violation will be prosecuted criminally.
- (b) Enforcement Officials are vested with the authority to gain compliance with the provisions of the Code. These powers include, but are not limited to, the power to use all judicial and administrative remedies available, including issuance of administrative citations.

1503. - Content of administrative citation.

An administrative citation shall contain all of the following information:

- (a) A description of the violation(s) and the Code section(s) violated;
- (b) The date and location of the violation(s) and the approximate time the violation(s) occurred;
- (c) The amount of the fine imposed for the violation(s), and the time within which and the place at which the fine shall be paid;
- (d) An order to correct the violation(s) described, the action(s) required to correct the violation(s), and, if applicable, any deadlines or time limitations for commencing and completing such actions(s);
- (e) A description of the administrative citation appeal process, including the time within which to appeal the administrative citation and the place from which to obtain a request for hearing form to contest the administrative citation;
- (f) The name and signature of the citing Enforcement Official and if he or she was physically present; and
- (g) Any other information deemed necessary by the City Manager.

1504. - Procedure for serving administrative citation.

Any notice or order given pursuant to any provision of this chapter shall be served in the manner provided for in this section, unless otherwise stated.

When the violation pertains to building, plumbing, electrical or other similar structural or zoning issues that create an immediate danger to health or safety, a citation may be issued immediately. In the absence of an immediate danger, a citation for a violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues shall not be issued pursuant to this chapter unless the responsible person has first been provided with a reasonable period of time in which to complete the abatement or compliance actions pursuant to section 1505.

An Enforcement Official may issue an administrative citation, on a form approved by the City Manager, to a responsible person, as follows:

- (a) If the responsible person is a corporation, the Enforcement Official shall attempt to locate any one of the following individuals and issue to that individual an administrative citation: the president or other head of the corporation, a vice-president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or a person authorized by the corporation to receive service of process in a civil action. If the office address of any of the above-listed individuals is known to the city, a copy of the administrative citation also shall be mailed to one of those individuals by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.
- (b) If the responsible person is a business other than a corporation, the Enforcement Official shall attempt to locate the business owner and issue the business owner an administrative citation. If the Enforcement Official can locate only the manager of the business, the administrative citation may be given to the manager of the business. If the address of the business is known, a copy of the administrative citation also shall be mailed to that address to the attention of the business owner or a responsible person. The mailing shall be sent by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to a regular mail, provided the notice that was sent by regular mail is not returned.
- (c) The Enforcement Official shall attempt to obtain on the administrative citation the signature of the responsible person, or in cases in which the responsible person is a corporation or business, the signature of the person served with the administrative citation. If a responsible person or person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation or of subsequent proceedings.
- (d) If the Enforcement Official is unable to locate a responsible person for the violation, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.
- (e) If the Enforcement Official does not succeed in serving the responsible person personally, or by certified mail or regular mail, the Enforcement Official shall post the administrative citation on any real property within the city in which the city has knowledge that the responsible person has a legal interest, and such posting shall be deemed effective service.
- (f) If the Enforcement Official does not succeed in serving the responsible person personally, by certified mail or regular mail, and the city is not aware that the responsible person has a legal interest in any real property within the city, the Enforcement Official shall cause the administrative citation to be published once a week for four successive weeks in a local newspaper published at least once a week.

- (g) Failure of a responsible person to receive a citation or order shall not invalidate any fine, late charge, fee, action or proceeding that is imposed or brought pursuant to this chapter, if service was given in a manner stated in this section.
- (h) An Enforcement Official may issue a citation for a violation not committed in the official's presence if the officer has determined, through investigation that the responsible person did commit, or is otherwise responsible for, the violation.

1505. - Compliance order.

When an Enforcement Official determines that a continuing violation of the Code exists that does not create an immediate danger to health or safety, the Enforcement Official may provide a reasonable period of time to correct or otherwise remedy the violation. The Enforcement Official may issue a compliance order that serves as a written warning of responsibility and requires the responsible person to immediately cease the violation, and abate the violation within the reasonable period of time. .

In the event that the violation has not been abated within the authorized correction period, the city may issue an administrative citation. An Enforcement Official need not, as a prerequisite for issuing a citation, issue a compliance order for violations of the Code that do not pertain to building, plumbing, electrical or other similar structural or zoning issues.

The compliance order will include the same information reasonably available to the Enforcement Official as required in issuance of an administrative citation, as set forth in section 1503.

If the Enforcement Official determines that all violations specified in the compliance order have been corrected within the time set forth in the order, no further action shall be taken against the responsible person regarding the violations.

Upon service of a compliance order, the responsible person shall comply with the compliance order to remedy the violation within the time specified on the compliance order.

1506. – Interference or obstruction.

- (a) No person shall interfere with or obstruct in any way any Enforcement Official in their enforcement of the Code provisions, or any other city, county or state law.
- (b) Any person who resists, delays, obstructs, threatens, or attempts to intimidate an Enforcement Official in the discharge of, or attempted discharge of their duty shall be guilty of a misdemeanor.

1507. - Payment of administrative fine.

- (a) The amount of the fine associated with the administrative citation 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. Each responsible person shall be guilty of a separate offense for each and every day during any portion of which a violation of any provision or section of the Code or condition of approval is committed, continued or permitted by such person, and shall be punished accordingly.

- (b) The fine shall be paid to the city within twenty (20) days from the date of service of the administrative citation. Any person who fails to pay any fine imposed by the city shall also be liable for the payment of any applicable late payment charges set forth in the schedule of fines.
- (c) In addition to any fine imposed pursuant to this chapter, a re-inspection fee shall be assessed against a responsible person in an amount established by resolution of the City Council if the responsible person does not timely and completely correct or abate a violation of the Code (with all requisite approvals, permits, licenses, and/or inspections) after having received a Compliance Order or a citation.
- (d) Fine payment does not extinguish the duty to correct the violation nor does fine payment bar further enforcement action by the city.
- (e) Abatement of the violation does not excuse the obligation of the responsible person to pay an administrative fine, late charge, interest, or related fine.
- (f) If the violation is not abated, additional, subsequent administrative citations may be issued for the same violation. Fines will accrue until the violation is properly abated to the satisfaction of the city. The amount of the fine for failure to correct the violation will increase at the rate established by City Council resolution.
- (g) A responsible person who fails to pay any fine or other charge owed to the city under this chapter is liable in an 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 incurred by the city. Such collection costs are in addition to any fines and late charges accrued.

1508. - Request for administrative appeal hearing.

- (a) Any responsible person to whom an administrative citation is issued may appeal the citation no later than twenty (20) days from the date of service of the administrative citation by:
 - 1. Completing a request for an appeal hearing form and returning it to the city. The request for appeal hearing form must set forth fully the grounds upon which the appeal is based and include:
 - i. The administrative citation number.
 - ii. The name, address, telephone number and email address, of each person contesting the administrative citation.
 - iii. A statement of the reason(s) why the administrative citation is being contested.
 - iv. The date and signature of the responsible person(s).
 - 2. The appeal must include either a deposit in the amount of the administrative fine with the city or a notice that a request for an advance deposit hardship waiver has been filed pursuant to section 1509.

- (b) A request for appeal hearing form may be obtained from the department specified on the administrative citation. The person requesting the appeal hearing shall be notified by certified mail, return receipt, of the time and place of the appeal hearing at least ten (10) days before the date of the hearing. Any documentation, other than the administrative citation, which the Enforcement Official has submitted or will submit to the Hearing Officer shall be served on the person requesting the appeal hearing by certified mail, return receipt, at least five (5) days before the date of the hearing.
- (c) No filing fee shall be charged for the filing of a request for an appeal hearing and fines that are deposited with the city shall not accrue interest.
- (d) Fines deposited shall be returned to the person tendering the fines in the event a citation is overturned.
- (e) Failure to deposit the fine(s) within the required period, or the tender of a nonnegotiable check in the required period shall render a request for an administrative hearing incomplete and untimely, in which case the responsible person shall have waived the right to a hearing and the citation shall be deemed final.
- (f) The administrative citation shall be final unless appealed in accordance with this chapter.

1509. - Advance hardship waiver deposit.

Any responsible person who requests a hearing to contest an administrative citation and who is financially unable to deposit the administrative fine as required in section 1508 may file a request for an advance deposit hardship waiver subject to following:

- (a) The request shall be filed with the department of finance on an advance deposit hardship waiver application form, available from the department, no later than twenty (20) days after service of the administrative citation.
- (b) To be considered for a Hardship Waiver, the application form must be complete, signed, and must be accompanied by documents that enable the city to reasonably determine the responsible person's present inability to deposit the fine. Documents suitable for consideration, may include, without limitation, accurate, complete and legible copies of state and federal income tax returns and all schedules for the preceding tax year; financial statements, loan applications, bank account records, income and expense records for twelve months preceding submittal of the waiver form, as well as other documentation demonstrating the responsible person's financial hardship. The city may, at a time chosen in its sole discretion and after a citation is final or confirmed, destroy or discard the documents submitted by a responsible person for a Hardship Waiver without prior notice to the responsible person.
- (c) Failure to submit a completed, signed Hardship Waiver form, along with records that support a claim of financial hardship, shall render the request for hearing incomplete and untimely. In that event, the responsible person shall have waived the right to a hearing and the citation shall be deemed final.
- (d) The director of finance may issue an advance deposit hardship waiver only if the person requesting the waiver submits to the director a sworn affidavit, together with any supporting documents, demonstrating to the satisfaction of the director the

person's financial inability to deposit with the city the full amount of the fine in advance of the hearing.

- (e) The director of finance shall issue a written decision specifying the reasons for issuing or not issuing the waiver. The decision shall be served upon the person requesting the waiver by certified mail return receipt. This decision is final and non-appealable.
- (f) If the director of finance determines that the waiver is warranted, the city shall schedule a hearing pursuant to 1510.
- (g) If the director of finance determines that the waiver is not warranted, the person shall remit the full amount of the fine to the city within ten (10) days of receipt of the director's written decision. In the event the City Clerk does not receive the full amount of the fine in the required period: a) the request for a hearing is rendered incomplete and untimely, b) the responsible person shall have waived the right to a hearing and the citation shall be deemed final, and c) a late charge shall be imposed upon the administrative fine.
- (h) A timely request for a hearing shall not excuse a responsible person from the duty to immediately abate a violation of the Code, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a violation of the Code.

1510. - Time for administrative hearing.

Only after a request for hearing form is filed, and the responsible person requesting the hearing has either deposited the administrative fine in full or obtained an advance deposit hardship waiver, shall the city set the date and time for the administrative hearing. The hearing shall be set for a date not less than fifteen (15) days nor more than sixty (60) days after the request for hearing form is filed, and the administrative fine is deposited with the city or an advance deposit hardship waiver is issued. The city shall send notice of the date, time and place of the hearing to the person requesting the hearing by certified mail return receipt at least ten (10) days before the date of the hearing. The failure of the responsible person to receive a properly addressed notice shall not invalidate the citation or any hearing or city action or proceeding conducted pursuant to this chapter.

1511. - Request for continuance of hearing.

- (a) The responsible person may request one continuance of the hearing. The request must be made in writing to the City Clerk and must be received at least five (5) days prior to the scheduled date and time of the initial appeal hearing.
- (b) In no event may the hearing begin later than ninety (90) days after the request for hearing form is filed, and the administrative fine is deposited with the city or an advance deposit hardship waiver is issued.

1512. - Appointment of administrative hearing officer.

- (a) The director of the department through which the administrative citation was issued, or designee, shall select a Hearing Officer. The Hearing Officer may be, without limitation, a member of the staff of the department through which the administrative

citation was issued. In no event, however, shall the Enforcement Official who issued the administrative citation be the Hearing Officer.

- (b) The City Manager, or a duly authorized designee, is authorized to develop and implement policies and procedures relating to the qualifications, appointment and compensation of Hearing Officials and all other matters relating to conducting administrative citation appeals hearings as provided in the Code.

1513. - Procedures at administrative hearing.

- (a) A requested appeal shall be heard before a Hearing Officer within thirty (30) days of the city's receipt of the appeal, unless both the city and recipient requesting the hearing ("Appellant") agree to a later date.
- (b) The Hearing Officer shall conduct the hearing in an informal manner and the formal rules of evidence and discovery shall not apply. The Hearing Officer shall consider only evidence relevant to whether a violation of the Code occurred and whether the Appellant caused or maintained the violation of the Code on the date(s) specified. The Hearing Officer does not have the authority to issue a subpoena. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses.
- (c) Neither the Enforcement Officer nor any other city staff shall be required to attend the hearing. The administrative citation and any additional report submitted by the city shall constitute prima facie evidence of the respective facts contained in those documents. If the Appellant presents evidence to the contrary, the burden of proof shall shift to the city.
- (d) A preponderance of the evidence shall be the standard of proof used by the Hearing Officer in deciding the issues at an administrative citation appeals hearing.
- (e) The Hearing Officer may grant a continuance of the hearing for good cause or request additional information from an Enforcement Official or Appellant prior to issuing a written decision. Failure to appear by the Appellant constitutes a forfeiture of the right to contest the fine, as well as a failure to exhaust administrative remedies.
- (f) The City Manager retains the discretion to dismiss any violation of the Code at any time during the hearing process, and refund the administrative citation and any related costs and penalties.

1514. - Failure to attend administrative hearing.

- (a) If the responsible person fails to appear at the hearing, the responsible person shall be deemed to have waived the right to a hearing, the adjudication of the issues related to the hearing, and shall be deemed to have failed to have exhausted their administrative remedies provided that notice of the hearing has been properly served as required by this chapter.
- (b) Notwithstanding this waiver and the time limits set forth in section 1510, if service of the administrative citation is made by posting the citation on real property within the city in which the responsible person has a legal interest, and the responsible person provides verifiable and substantial evidence that removal of the administrative citation from the property by a third party caused the responsible person's failure to attend the

scheduled hearing, the responsible person shall be entitled to an administrative hearing.

1515. - Decision of administrative hearing officer.

- (a) Within ten (10) days following the administrative citation appeals hearing, the Hearing Officer shall issue a written decision to uphold or cancel the administrative citation and shall explain the reason for that decision based on all the testimony and evidence submitted at the hearing. The written decision shall also include information on the right of the Appellant to judicial review.
- (b) The Appellant shall be served with a copy of the Hearing Officer's written decision, which shall be served in the same manner as set forth in section 1513.
- (c) If the Hearing Officer determines that the administrative citation should be upheld, the fine associated with the administrative citation shall be retained by the city. If the citation is upheld and the appellant did not deposit the fine at the time the appellant requested an administrative appeal hearing, the Hearing Officer shall also order the payment of the fine (and other applicable charges, fees and costs) as set by council resolution within twenty (20) calendar days of the decision.
- (d) If the Hearing Officer determines the administrative citation should be canceled, then the city shall promptly refund the amount of the deposited fine, together with any late fees paid for the period of time the fine was held by the city.
- (e) The Hearing Officer shall assess against the Appellant administrative costs incurred in connection with any violation found to exist, or for any violation which was not timely corrected. The administrative costs include any and all costs incurred by the city in connection with prosecuting the violation, including, but not limited to, investigation costs, staffing costs for preparing and conducting the administrative hearing, costs for all inspections necessary to enforce compliance, and attorney's fees incurred therewith. The decision shall specify the date by which the costs must be paid to the city.
- (f) The Hearing Officer's written decision is final, and shall notify the responsible person of his or her right to appeal as provided in section 1516.

1516. - Appeal of decision of administrative hearing office.

- (a) Decisions of the hearing officer are, in accordance with Government Code section 53069.4(b), appealable to the superior court within twenty (20) days after the date of their service. Each decision shall contain a statement advising the appellant(s) of this appeal right and the procedures and court filing fee for its exercise. An appellant shall serve a copy of the court filed notice of appeal on the City Clerk by personal service or first class mail within five (5) calendar days of filing the original thereof.
- (b) If a Hearing Officer's decision is not appealed in a timely manner, the decision shall be deemed confirmed.
- (c) The superior court is the sole reviewing authority and an appeal from a Hearing Officer's decision is not appealable to the City Council. If a responsible person prevails on appeal, the city shall reimburse his/her/its filing fee, as well as the fine deposit in accordance with the court judgment. Those monies shall be mailed to the responsible

person within forty-five (45) calendar days of the city's receipt of a notice of judgment or ruling from the superior court clerk.

1517. - Collection of fines and costs; lien procedure.

- (a) If the responsible person fails to satisfy in full the assessed fines and costs by the time specified in the Hearing Officer's decision or the administrative citation, and no timely appeal of the Hearing Officer's decision has been filed with the Los Angeles Superior Court, the city may recover the outstanding fines and costs by imposing a lien against the real property on which the violation occurred.
- (b) Prior to the recording of the lien with the Los Angeles County Recorder's Office, the City Council shall conduct a hearing to hear any protest or objection to the lien. The city shall serve notice of the hearing upon the owner of record of the real property, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice of hearing shall include the time, date, and place of the hearing, and shall be served upon the owner of record by regular mail in accordance with section 1508 at least ten (10) days before the date of the hearing.
- (c) If the City Council determines that the lien should be imposed, the responsible person will have forty-five (45) days to satisfy the assessed fines and costs in full. If after that time the assessed fines and costs are not paid in full, an Enforcement Official shall then prepare and file with the City Clerk a report stating the amount due and owing.
- (d) After the report is filed with the City Clerk, the city may cause the lien to be recorded with the County Recorder. Once recorded, the lien shall have the force and effect and priority of a judgment lien governed by the provisions of Section 697.340 of the Code of Civil Procedure, or its successor.
- (e) The remedies set forth in this section are not exclusive and may be used in addition to those set forth elsewhere in the Code or by law. The city may collect any past due fines and costs by use of any available legal means.

Section 4. CEQA. Pursuant to the California Environmental Quality Act ("CEQA"), City staff determined that the adoption of the proposed Ordinance is exempt from environmental review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Additionally, CEQA Guideline Section 15321 categorically exempts "Enforcement actions by regulatory agencies" from the requirement for the preparation of environmental documents.

Section 5. Severability Clause. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsections, subdivision, paragraph, sentence, clause, phrase hereof, irrespective of the

fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

Section 7. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. The City Clerk shall submit a copy of this Ordinance to the California Department of Housing and Community Development within 60 days after its adoption.

PASSED, APPROVED, AND ADOPTED this ___ day of _____, 2021, by the following vote to wit

AYES: (
NOES: (
ABSENT: (
ABSTAIN: (
)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk

APPROVED AS TO FORM:

Candice K. Lee, City Attorney

Exhibit B

Jurisdictional Penalty Matrix

Jurisdiction	1st Offense	2nd Offense	3rd Offense
Calabases	100	200	500
Thousand Oaks	100	200	500
Camarillo	100	200	500
Malibu	100	200	500
Beverly Hills	100	200	500

Exhibit C

*Resolution No. 21-1984
(Administrative Citation Fines and Penalties)*

RESOLUTION NO. 21-1984

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, ESTABLISHING ADMINISTRATIVE CITATION FINES AND PENALTIES PURSUANT TO ORDINANCE NO. 21-457 REGARDING ADMINISTRATIVE CITATION REGULATIONS

WHEREAS, on August 11, 2021, the City of Agoura Hills (“City”) introduced an ordinance adding a new Chapter 5 to Article I of the Agoura Hills Municipal Code regarding administrative citation regulations consistent with State law (“Administrative Citation Ordinance”); and

WHEREAS, the enforcement of the Agoura Hills Municipal Code and adopted ordinances throughout the City is an important public service to protect public health, safety, and welfare. The establishment of a comprehensive and effective code enforcement program that is able to utilize both administrative and judicial remedies against violations of the Agoura Hills Municipal Code is best equipped to protect public health, safety, and welfare; and

WHEREAS, Government Code section 53069.4 authorizes local jurisdictions to make a violation of any local ordinance subject to an administrative fine or penalty. The City Council intends to establish an administrative citation program that: (1) imposes a non-judicial administrative fine for offenses of the Agoura Hills Municipal Code and other state laws as authorized, (2) encourages prompt abatement or correction of prohibited conditions, uses or activities in the city and, (3) creates deterrence against future violations; and

WHEREAS, the Administrative Citation Ordinance is consistent with the objectives of Article I (General Provisions) of the Agoura Hills Municipal Code and with the City General Plan Goal LU-7 of Livable and Quality Neighborhoods, which calls for the city to provide neighborhoods that contain a mix of uses and services that support the needs of their residents, and Policy LU-7.12, which encourages the development of nuisance abatement programs to ensure that Agoura Hills’ neighborhoods remain attractive, safe, and free of public nuisances; and

WHEREAS, the establishment of administrative citation fines and penalties will allow City enforcement officials to enforce the Administrative Citation Ordinance effectively and in a timely manner to rectify violations of the Agoura Hills Municipal Code and State law.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Agoura Hills as follows:

SECTION 1. The City of Agoura Hills hereby establishes administrative citation fines and penalties based on the following penalty scale in accordance with Government Code Section 36900 and the Agoura Hills Municipal Code:

- A. The fines for violations for which administrative citations are issued pursuant to Chapter 5 of Article I of the Agoura Hills Municipal Code which are infractions shall be:
 - 1. A fine not exceeding one hundred dollars (\$100) for the first violation.
 - 2. A fine not exceeding two hundred dollars (\$200) for a second violation of the same provision within one year of the first violation.
 - 3. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same provision within one year of the first violation.

- B. The fines for violations of local building and safety codes determined to be an infraction are subject to the following fines:
 - 1. A fine not exceeding one hundred and thirty dollars (\$130) for the first violation.
 - 2. A fine not exceeding seven hundred dollars (\$700) for a second violation of the same provision within one year of the first violation.
 - 3. A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same provision within one year of the first violation.

- C. A fine not exceeding two-thousand five hundred (\$2,500) for each additional violation of the same violation within two years of the first violation if the property is commercial property that has an existing building at the time of the violation and the owner failed to remove visible refuse or prohibit unauthorized use of the property. Where the violation would otherwise be a misdemeanor, the administrative fine or penalty shall not exceed the maximum fine set forth in Agoura Hills Municipal Code Section 1200(a), as currently in force or subsequently amended. As of the date of the effective date of Ordinance No. 21-457, the maximum fine set forth in Agoura Hills Municipal Code Section 1200(a) is a fine not to exceed \$1,000.

- D. In the event a person fails to pay an administrative citation fine within the time required by Chapter 5 of Article I of the Agoura Hills Municipal Code, there is imposed an initial charge of twenty-five dollars (\$25.00) for administrative costs and then a late payment charge of one percent (1%) per month for each month the fine is overdue.

SECTION 2. The City Council hereby authorizes the City Manager, and staff designated by the City Manager, to administer administrative citation fines and penalties to any person violating any section of the Agoura Hills Municipal Code as provided in the Administrative Citation Ordinance (Chapter 5 of Article I of the Agoura Hills Municipal Code). Issuance of an administrative citation shall not be deemed a waiver of any other remedies authorized by law.

SECTION 3. This Resolution shall not become operative until the effective date of Ordinance No. 21-457, "An Ordinance of the City of Agoura Hills, California, Amending Article I (General Provisions) of the Agoura Hills Municipal Code to Add a New Chapter 5 Regarding Administrative Citation Regulations Consistent with State Law and Making a Determination of Exemption under the California Environmental Quality Act."

PASSED, APPROVED, AND ADOPTED, this 11th day of August, 2021, by the following vote to wit:

AYES: (
NOES: (
ABSENT: (
ABSTAIN: (
)

Denis Weber, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC, City Clerk