

TO: JAMES L. APP, CITY MANAGER
FROM: DENNIS CASSIDY, CHIEF OF POLICE
SUBJECT: CODE ENFORCEMENT- ADMINISTRATIVE CITATION PROGRAM
DATE: June 5, 2007

Needs: To re-consider an Administrative Citation program as an alternate method of handling violations of the Paso Robles Municipal Code (PRMC.)

Facts:

1. The City Council held the first reading of the Administrative Citation Program on May 15, 2007.
2. As the Administrative Citation program would reduce costs required for pursuing enforcement actions, additional language has been added to the Ordinance to allow that the fine may be waived if evidence is presented to an enforcement officer that the violation has been corrected within fifteen (15) days of the date of the citation.

Policy

Reference: Paso Robles Municipal Code Title 1 General Provisions Chapters 1.02 and 1.06

Fiscal

Impact: Savings of legal fees during the year and new fine revenue

Options:

- a. Re-introduce for first reading Ordinance No. XXX N.S. amending Chapter 1.02 of the El Paso de Robles Municipal Code relating to an Administrative Citation Program, and set June 5, 2007 as the date for adoption of said Ordinance; and;
- b. Amend, modify, or reject the foregoing option.

ORDINANCE NO. ____
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES AMENDING CHAPTER
1.02 OF THE EL PASO DE ROBLES MUNICIPAL CODE RELATING TO AN
ADMINISTRATIVE CITATION PROGRAM

WHEREAS, under the authority provided by Government Code Sections 36901 and 53069.4, the City Council desires to adopt an alternative enforcement tool to allow Municipal Code violations to be processed in a civil manner through the issuance of an administrative citation; and

WHEREAS, under the authority of Government Code Sections 38771 et seq. and Civil Code Sections 3479 and 3480, the City Council desires to prohibit the occurrence of public nuisances throughout the City and to provide a procedure whereby the City's Enforcement Officers shall declare public nuisances and provide for their abatement.

Now, THEREFORE, the City of El Paso de Robles does hereby ordain as follows:

Section 1. Section 1.02.010 of the Paso Robles Municipal Code is hereby amended to read as follows:

Sections:

1.02.010 – Violations, Penalties and Enforcement

1.02.010 Violations, Penalties and Enforcement

The City Council of the City of El Paso de Robles intends to secure compliance with the provisions of this Code. To the extent that such compliance may be achieved by less drastic methods of enforcement, the following alternate, separate and distinct methods may be utilized. Each method set forth herein is intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violations exist constitutes a separate offense. Notwithstanding any other provision of this Code, each violation of the provisions of this Code may be enforced alternatively as follows:

A. Infraction. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code may be prosecuted for any infraction. Written citations for infractions may be issued by police officers or non-safety employees designated by Paso Robles Municipal Code Chapter 1.06. Each and every infraction violation under the provisions of this Code shall be punishable by:

1. A fine not exceeding one hundred dollars (\$100) for a first violation.
2. A fine not exceeding two hundred dollars (\$200) for a second violation of the same ordinance within one (1) year.
3. A fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one (1) year.

B. Misdemeanor. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code may be prosecuted for a misdemeanor. Written citations for misdemeanors may be issued by police officers or by trained non-safety employees designated by Paso Robles Municipal Code Chapter 1.06 and meeting the requirements of the pertinent California Penal Code sections. Each and every misdemeanor violation is punishable by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment.

C. Civil Action. The City Attorney, by and at the request of the City Council, may institute an action in any court of competent jurisdiction to restrain, enjoin, or abate the condition(s) found to be in violation of the provisions of this Code, as provided by law.

D. Administrative Citation. Upon a finding by the city official vested with the authority to enforce the various provisions of this Code that a violation exists, he or she may issue an Administrative Citation under the provisions of Chapter 1.03.

Section 2. Chapter 1.03 of the Paso Robles Municipal Code is hereby added to Title 1 to read as follows:

Sections:

1.03.005	Legislative Findings and Statement of Purposes
1.03.010	Administrative Citations
1.03.020	Administrative Fines
1.03.030	Payment of Fines
1.03.040	Hearing Request
1.03.050	Administrative Citation Hearing
1.03.060	Hearing Officer Decision
1.03.070	Late Payment Charges
1.03.080	Recovery of Administrative Citation Fines and Costs
1.03.090	Notices
1.03.100	Judicial Review

1.03.005 Legislative Findings and Statement of Purposes

A. The City Council hereby finds that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable State Codes. The City Council further finds that an appropriate method of enforcement for minor violations is an Administrative Citation Program as authorized by Government Code Section 53069.4.

1.03.010 Administrative Citations

A. Whenever an enforcement officer charged with the enforcement of this code determines that a violation of any provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation. The administrative citation shall state that the fine may be waived if evidence is presented, within fifteen (15) days of the date of the citation, to an enforcement officer that the violation has been corrected.

- B. "Enforcement officer" shall mean any officer or employee with the authority to enforce the City of El Paso De Robles Municipal Code as identified in Chapter 1.06.
- C. Each administrative citation shall contain the following information:
 - (1) The date of violation;
 - (2) The address or a definite description of the location where the violation occurred;
 - (3) The provision(s) violated and a description of the violation;
 - (4) The amount of the fine for the violation;
 - (5) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
 - (6) An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
 - (7) A description of the administrative citation review process, including the time within which the administrative citation may be contested and the procedure for requesting a hearing; and
 - (8) The name and signature of the enforcement officer.

1.03.020 Administrative Fines

- A. The amounts of the fines for violations imposed pursuant to this chapter shall be set forth in the schedule of fines established by resolution of the City Council, or where no fine is specified therein by:
 - (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
 - (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same ordinance or permit within one year from the date of the first violation;
 - (3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance or permit within one (1) year from the date of the first violation.
- B. The schedule of fines shall specify any increased fines for repeat violations of the same or similar provision by the same person within thirty-six (36) months from the date of an administrative citation.
- C. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date.

1.03.030 Payment of Fines

- A. The fine shall be paid directly to the city within thirty (30) days from the date of the administrative citation.
- B. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.

1.03.040 Hearing Request

- A. Any recipient of an administrative citation may contest that there was a violation or that he or she is the responsible party by filing with the Police Department in writing a request for a hearing within fifteen (15) calendar days from the date of the administrative citation.
- B. The person requesting the hearing shall be notified in writing of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing.
- C. If the enforcement officer submits a written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall be served by certified mail, return receipt requested on the person requesting the hearing no less than three calendar days prior to the date of the hearing.

1.03.050 Administrative Citation Hearing

- A. An administrative citation hearing shall be held by the hearing officer in the manner and form set forth in this section.
- B. The City of El Paso de Robles City Manager shall designate the hearing officer for the Administrative Citation hearing. The hearing officer shall not be a City of El Paso de Robles employee. The employment, performance evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of Administrative Citation fines upheld by the hearing officer.
- C. No hearing to contest an Administrative Citation before a hearing officer shall be held unless and until a request for hearing form has been completed and submitted and, the fine has been deposited in advance.
- D. The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of the Municipal Code on the date(s) specified in the Administrative Citation.
- E. The person contesting the Administrative Citation shall be given the opportunity to testify and present witnesses and evidence concerning the Administrative Citation.
- F. The failure of any recipient of an Administrative Citation to appear at the Administrative Citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

- G. The Administrative Citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- H. At least three days prior to the hearing, the recipient of an Administrative Citation shall be provided with copies of the citations, reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.
- I. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the Administrative Citation prior to issuing a written decision.

1.03.060 Hearing Officer Decision

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the Administrative Citation and shall state in the decision the reasons for that decision. The decision of the hearing officer shall be final.
- B. If the hearing officer determines that the Administrative Citation should be upheld, the hearing officer shall determine the amount of the fine to be imposed, and shall specify a date by which the fine is to be paid to the city.
- C. The recipient of the Administrative Citation shall be served a copy of the hearing officer's written decision by certified mail, return receipt requested.

1.03.070 Late Payment Charges

Any person who fails to pay to the City any fine imposed pursuant to the provisions of this chapter on or before the date the fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines.

1.03.080 Recovery of Administrative Citation Fines and Costs

The City may collect any past-due Administrative Citation fine or late payment charge by use of any and all available legal means. The City may also recover its collections costs according to proof.

1.03.090 Notices

- A. The Administrative Citation and all notices required to be given by this chapter shall be served on the responsible party in substantially the same manner as set forth in this chapter.
- B. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

1.03.100 Judicial Review

Any person aggrieved by an administrative decision of the hearing officer regarding the disposition of an Administrative Citation may obtain review by filing a petition for review with the municipal court in accordance with the timelines and provisions set forth in Government Code Section 53069.4.

Section 3. Section 1.06.010 of the Paso Robles Municipal Code is hereby amended to read as follows:

Sections:

1.06.010 Designated City Employees

The following designated public officers and employees all have the power to issue citations or arrest persons for violations of the provisions of this Code as specified in this section:

- A. Any full-time or part-time city employee designated by the Chief of Police.

Section 4. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance and adopted Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 6. Inconsistency. To the extent that the terms or provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof, such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

Section 7. Effective Date. This Ordinance shall go into effect and be in full force and effect as 12:01 on the 31st day after its passage.

INTRODUCED at a regular meeting of the City Council held on _____, 2007,

And PASSED AND ADOPTED by the City Council of the City of El Paso de Robles on _____, 2007, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Deborah D. Robinson, Deputy City Clerk