



**Honorable Mayor and Members of the Hermosa Beach City Council**

**REPORT ON THE CITY'S ENFORCEMENT OPTIONS OF ADMINISTRATIVE CITATIONS AND OVERALL DISCUSSION ON ADMINISTRATIVE CITATIONS**

(City Attorney Patrick Donegan)

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**Recommended Action:**

Staff recommends City Council receive a report on the enforcement options for administrative citations and provide direction, if any, to staff on different or additional options related to administrative citations.

**Executive Summary:**

At the July 23, 2024 City Council meeting, under tentative future agenda items, Councilmember Jackson requested, and Councilmember Massey supported directing staff to return with an informational item regarding the City's options for enforcing administrative fines. Staff presents this report outlining the current enforcement options for unpaid administrative citations. A general description of the administrative citation process and additional enforcement options are also discussed.

**Background:**

At its July 23, 2024 meeting, Councilmember Jackson requested, and Councilmember Massey supported, a future agenda item regarding the current regulatory framework pertaining to enforcement and collection of unpaid administrative citations as well as possible changes to the City's administrative citation program.

The City's administrative citation regulations are codified in Chapter 1.10 of the Hermosa Beach Municipal Code ("HBMC"). This chapter, in addition to other enforcement remedies, allows the City to issue an administrative citation for certain violations of the HBMC. (HBMC § 1.10.040.) Not every violation of the HBMC is subject to an administrative citation—these code sections are subject to the other possible enforcement option such as an infraction or misdemeanor charge.

The City issued 1,184 administrative citations since January 30, 2019. A total of 687 citations were paid directly to the City. An additional 435 citations were sent to collections with 68 of those paid through collections. The current practice is to send two reminder notices so invoices do not go to collections until 90 days. In the future, the City will send one reminder and the citation will go then go collections at 60 days to see if the collection rate can be improved beyond 64 percent.

Section 1.10.060 lists the required contents of an administrative citation:

- A. Date, approximate time, and address or definite description of the location where the violation(s) was observed;
- B. The Code sections or conditions violated and a description of the violation(s);
- C. The amount of the fine for the violation(s);
- D. An explanation of how the fine shall be paid and the time period by which it shall be paid;
- E. Identification of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for hearing form to contest the administrative citation;
- F. The name and signature of the enforcement officer issuing the citation;
- G. If the violation is one which is continuing, an order to correct the violation, the actions needed to correct the violation, and an explanation of the consequences for failing to correct the violation; and
- H. The name and address of the responsible person, and a signature line so that the responsible person may acknowledge receipt of the citation.

The fine amount of the administrative citation is set via resolution by the City Council and depends on what HBMC section is the subject of the administrative citation.

Section 1.10.070 provides the various methods that the City can use to serve the administrative citation: (i) personal service; (ii) service of the citation by mail; (iii) posting on the property where the City has knowledge that the responsible party has a legal interest; or (iv) by publication. Section 1.10.080 provides options for the responsible person to satisfy the administrative citation which include appealing the administrative citation (see HBMC § 1.10.090) or paying the fine. In pertinent, subsection (C) of section 1.10.080 states:

“In the event the responsible party fails or refuses to select and satisfy any of the alternatives set forth above, then the penalty shall be immediately due and owing to the City and may be collected in any manner allowed by law for collection of a debt. Commencement of an action to collect the delinquent penalty shall not preclude issuance of additional citations to the responsible party should the violations persist.”

Section 1.10.090 posits the process for appealing an administrative citation and subsection (F) discusses unpaid fine amounts and states:

“Collection of unpaid fines. Failure to pay the assessed administrative fine within 15 days or such other time limit set forth in the administrative citation, and/or if the decision of the hearing officer has not been successfully challenged by a timely

appeal as provided in section 1.10.100, this obligation shall constitute a special assessment and/or lien against the real property on which the violation occurred. The special assessment and/or lien shall be imposed pursuant to the procedure set forth in Section 8.28.080 of this Code. Alternatively, the matter may be referred for collection, which includes but is not limited to the filing of a small claims court action.”

Section 8.28.080 of the HBMC explains the process to recover nuisance abatement costs and includes the drafting and filing of a report on the matter, service on the property owner, a hearing before the City Council on the matter and then a decision of the City Council on the report, subject to any revision, correction or modification. However, this practice was called into question by the federal case of *Mechammil v. City of San Jacinto*, 653 Fed. Appx. 562, 565 (9th Cir. 2016) (unpublished) which held that cities cannot attach liens or impose special assessments to collect outstanding nuisance fines or penalties. As such, the City has not availed itself to this practice.

**Past Council Actions**

Meeting Date	Description
<a href="#">July 23, 2024</a> (minutes)	Councilmember Jackson requested, and Councilmember Massey supported, a future agenda item regarding the current regulatory framework pertaining to enforcement and collection of unpaid administrative citations as well as possible changes to the City’s administrative citation program.

**Discussion:**

As mentioned in subsection (C) of HBMC § 1.10.080, failure to pay an administrative citation can be collected in any manner allowed by law. Thus, the City can file a civil action to obtain a judgment on the administrative citation amount and then use applicable legal remedies to try and collect on this judgment. However, this route is often not practical due to the time and cost of a formal legal action and the amount of the administrative citation.

Alternatively, pursuant to subsection (F) of HBMC § 1.10.090, the City also avails itself to collections agencies to try and satisfy unpaid administrative citations. This approach allows the City to avoid the time and expense of filing its own legal action; however, this does come at a cost as the collections agency takes 23 percent of funds recovered; 30 percent if the collection goes through a legal process. While this HBMC section also allows the collection of unpaid administrative citations via special assessment/property lien, this approach is not typically used in the City. However, with an increase in the number of property related administrative citations, as well as dollar amounts that may justify the time and expense, City staff is looking into the viability of this approach for certain unpaid administrative citations.

Review of other jurisdictions indicates that independent legal actions to collect on unpaid administrative citations is not a standard practice. While staff is not 100 percent certain of the exact arrangement other cities may have with their collections vendor, the idea of a collections vendor simply taking a percentage of what they collect is most common to ensure both parties are incentivized to collect the maximum amount.

There are other enforcement options the City does not currently implement or have at its disposal. First, some jurisdictions implement late fees or interest on the administrative citation fine amounts that remain unpaid past the deadline. Manhattan Beach Municipal Code § 1.06.040 provides for a late payment charge that is also set forth in the schedule of fines. Other jurisdictions such as Signal Hill and Lake Forest have explicit municipal code language where a citation amount is doubled or an additional 10 percent penalty is assessed, as well as the charging of interest for unpaid balances after the original due date of the citation (See Lake Forest Municipal Code § 1.16.080 & Signal Hill Municipal Code § 8.13.040). If an option like this were to be implemented in Hermosa Beach, care must be given to ensure that for some of the higher fine amounts in the City, constitutional concerns are taken into consideration and that the fine amount is not deemed excessive.

Another possible option is to limit the issuance of other permits to a property where an unpaid administrative citation amount exists. Imposing a requirement like this would necessitate a HBMC change and this approach is not foolproof as often individuals are issued administrative citations unrelated to property-related offenses. Properties can also be legally owned by separate legal entities such that an administrative citation might be issued to an individual on the property, but not necessarily to the legal entity that owns the property and who would formally be the applicant for any future permit. Unpaid administrative citations for property related offenses such as zoning code violations could provide the basis for the City's refusal to issue other City permits with the caveat that permits related to safety or other exigent circumstances would not be held up due to the unpaid administrative citation fine amount.

Ultimately, the City's goal for enforcement action is compliance and correction of the violation that resulted in the administrative citation. Any options proposed by the City should incentivize compliance rather than creating other processes that detract from corrective action leading to compliance.

**General Plan Consistency:**

This report and associated recommendation have been evaluated for their consistency with the City's General Plan. Relevant Policies are listed below:

*Governance Element*

**Goal 1. A high degree of transparency and integrity in the decision-making process.**

Policy:

- **1.4 Consensus oriented.** Strive to utilize a consensus-oriented decision-making process.

**Goal 2 The community is active and engaged in decision-making processes.**

Policy:

- **2.6 Responsive to community needs.** Continue to be responsive to community inquiries, providing public information and recording feedback from community interactions.

*Land Use Element*

**Goal 2 Neighborhoods provide for diverse needs of residents of all ages and abilities, and are organized to support healthy and active lifestyles.**

Policy:

- **2.6 Neighborhood preservation.** Preserve and enhance the quality of residential neighborhoods by avoiding or abating the intrusion of disruptive, nonconforming buildings and uses

**Fiscal Impact:**

There is no fiscal impact associated with the recommended action.

**Attachment:**

None.

**Respectfully Submitted by:** Patrick Donegan, City Attorney

**Concur:** Myra Maravilla, City Clerk

**Noted for Fiscal Schedule:** Brandon Walker, Administrative Services Director

**Legal Review:** Patrick Donegan, City Attorney

**Reviewed by:** Angela Crespi, Deputy City Manager

**Approved:** Suja Lowenthal, City Manager