

**ORDINANCE NO. 05-05**

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF RIDGECREST  
AMENDING THE RIDGECREST MUNICIPAL CODE  
AS IT RELATES TO ADMINISTRATIVE CITATIONS**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST as follows:**

**1. Purpose**

This ordinance amends Chapter 1 of the Ridgecrest Municipal Code to designate provisions enforceable by administrative citations.

**2. Amendment**

Article 4 is hereby added to Chapter 1 of the Ridgecrest Municipal Code to read as follows:

**Article 4 Administrative Citations**

**Sec. 1-4.101. Purpose**

This Chapter sets forth the process to levy and collect administrative penalties. The procedures in this chapter are in addition to criminal, civil or other remedies established by law.

**Sec. 1-4.102. Definitions**

The following terms are defined for the purposes of this chapter:

- (a) "Administrative Citation" is a written notice of violation issued for a violation of this Code, any ordinance adopted by the City, or State code(s).
- (b) "Enforcement Officers" are the persons designated by the City Manager to issue Administrative Citations pursuant to this chapter. Enforcement Officers include, but are not limited to the following persons employed by the city:
  - (1) Peace Officers,
  - (2) Firefighters,
  - (3) Code Enforcement Officers,
  - (4) Animal Control Officers, and
  - (5) Building Inspectors.
- (c) "Responsible Person" means an individual who is the owner, occupant or authorized agent of the owner or occupant of real property, or business, or the parent or legal guardian of such person under the age of eighteen (18) years, who violates any provision of this code or aids, abets, coerces, compels, counsels, advises, employs, or encourages another person to violate the provisions of this Code.

**Sec. 1-4.103. General**

(a) The City may penalize a responsible person for violation of this Code, including Uniform Codes adopted by the council, State laws which may be enforced by the City

(b) Each and every day a violation exists may constitute a separate and distinct offense depending on the circumstances involved in the violation.

(c) The process for levying an administrative penalty shall be initiated by an administrative citation issued by the Enforcement Officer.

(d) The Finance Department shall collect administrative penalties. The City may contract with a private vendor, or with any other city or county processing agency for the processing of citations, notices of violations and notices of delinquent violations.

**Sec. 1-4.104. Administrative Fines: Amount**

(a) Penalties enforced by Administrative Citations shall be:

(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; and

(3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same ordinance or permit within one year from the date of the first violation.

(b) The City may charge a fee to recover the costs of handling an Administrative Citation in amount from time to time established by resolution.

(c) No fine shall be imposed if the violation(s) pertains to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety and the condition is corrected before the date provided on the citation, and no citation(s) have been issued in the preceding 12-months for the same offense.

(d) If the Responsible Person fails to correct the violation(s), subsequent administrative citations may be issued for the same violation(s). The amount of the penalty for failure to correct the violation shall increase at a rate specified herein.

**Sec. 1-4.105. Administrative Citations: Service**

(a) An Administrative Citation shall be issued to the Responsible Person in the one of the following manners:

(1) The Enforcement Officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the administrative citation. The failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.

(2) The Administrative Citation shall be mailed to the Responsible Person by certified mail, postage prepaid with a requested return receipt if the Enforcement Officer is unable to locate the Responsible Person, simultaneously, the citation may be sent by first class mail. Service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.

(3) An Enforcement Officer shall post the Administrative Citation on real property in which the City has knowledge the Responsible Person has a legal interest, and such posting shall be deemed effective service. Failure of a posted notice to remain in place after posting shall in not affect the validity of the notice.

(b) A person, other than the cited Responsible Person, who alters, mutilates, defaces, conceals, modifies, nullifies, destroys, removes, or otherwise interferes with the Enforcement Officers intent to provide service of notice of an Administrative Citation posted pursuant to this section is guilty of a misdemeanor.

**Sec. 1-4.106. Administrative Citation: Contents.**

- (a) The Administrative Citation shall contain at least the following information:
- (1) Date, approximate time, and address or definite description of the location where the violation(s) was observed;
  - (2) A brief reference to the provision which has been violated and a description of the violation(s);
  - (3) If the violation is correctable, an order to the responsible person to correct the violations within the time specified, and an explanation of the consequences of failure to correct the violation(s);
  - (4) The amount of the fine for the violation(s);
  - (5) An explanation of how the fine shall be paid and the time period by which it shall be paid;
  - (6) A description 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; and
  - (7) The name and signature of the Enforcement Officer and if possible the signature of the Responsible Person.

(b) The Administrative Citation or copy thereof, shall be kept in the ordinary course of business of the issuing Department and shall be *prima facie* evidence of the facts contained therein.

- (c) The notice shall be prepared in quadruplicate and distributed as follows:
- (1) The original shall be held by the issuing Department.
  - (2) The first copy shall be forwarded to the Finance Department for tracking and pursuit of collection of fines.
  - (3) The second copy may be retained by the issuing officer.
  - (4) The third copy shall be issued to the violator. The paper stock of the violator copy shall be of a weight appropriate for outdoor posting of the copy.

**Sec. 1-4.107. Satisfaction of Administrative Citation.**

- (a) Upon receipt of an Administrative Citation, the Responsible Person shall:
- (1) Pay the fine to the City within fifteen (15) days from the issue date of the Administrative Citation. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action.
  - (2) A person may request a waiver of deposit of fine due to financial hardship. The person requesting the waiver bears the burden of establishing lack of financial ability to make the deposit. The Finance Director shall decide whether to approve or deny the request.

(3) Remedy the violation(s), if the violation(s) is/are of such a nature that it/they can be remedied.

(b) When a Responsible Person is issued an Administrative Citation for violation which pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety, the violation shall be corrected within ten (10) days.

(c) Violations that create a danger to health and/or safety shall be corrected immediately.

(d) An issuing Department may grant an extension to complete required corrections if the Responsible Person has shown a good faith effort and progression in correcting the violation and no immediate danger to health or safety exists. The extension shall not extend beyond fifteen (15) days from the date of issuance of the citation.

**Sec. 1-4.108. Appeal.**

(a) Initial review:

(1) A person issued an Administrative Citation may request an initial review of the citation within seven (7) calendar days of receiving an Administrative Citation or within five (5) calendar days from the mailing of a notice of delinquent violation. A request for a review may be made in person, by telephone - no phone messages will be accepted, or in writing. There shall be no charge for the initial review.

(2) The head of the issuing Department shall designate an employee who is not connected with the case, to review the citation. The initial review must occur within five (5) days of the request. The issuing Department shall cancel the notice of violation or notice of delinquent violation if the reviewer determines the violation did not occur, or that the person cited was not responsible for the violation. The decision of the review shall be mailed to the cited person via first class mail. The City Manager shall designate an alternative employee to review the citation when a Department Head is the issuing Officer.

(b) Hearing:

(1) After the review described in 1-4.08(a), a person issued an Administrative Citation may request a hearing by completing a form and returning it to the City Clerk within fifteen (15) days from the issue date of the citation, with a deposit of the fine. The fine shall be refunded if it is determined the person charged in the Citation was not responsible for the violation(s), extenuating circumstances make dismissal of the citation appropriate in the interest of justice, or there was no violation(s).

(2) The City Manager has designated the Community Development Director as the hearing officer for the hearing. The City Manager may also maintain a list of qualified hearing officers. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of Administrative Citation penalty upheld by the hearing officer.

(3) A hearing shall be set for not less than fifteen (15) and not more than thirty (30) days from the date the request for hearing is filed. The person

requesting the hearing shall be notified of the time and place for the hearing at least ten (10) days prior to the date of the hearing.

(4) As nearly as practical, the hearing officer shall conduct the hearing consistent with the Administrative Procedures Act. The person contesting the citation may testify and present witnesses and evidence.

(5) The failure of any recipient of an Administrative Citation to appear at the hearing constitutes a forfeiture of the fine unless that person has requested a hearing by written declaration.

(6) The citation and documents submitted by the Enforcement Officer shall constitute *prima facie* evidence of the respective facts contained in those documents, however, the Officer who issued the citation is not required to attend or participate at the hearing.

(7) The hearing officer may continue the hearing and request additional information from the Enforcement Officer or the recipient of the citation prior to issuing a written decision.

(8) The hearing officer shall issue a written decision within ten (10) days of the hearing to uphold or deny the citation and shall explain the reasons for the decision. The decision of the hearing officer shall be final. If the hearing officer determines the citation should be upheld, the fine amount on deposit with the City shall be retained by the City. If the hearing officer determines the citation should not be upheld, the deposit shall be refunded.

**Sec. 1-4.109. Right of Judicial Review.**

A person aggrieved by the decision of a hearing officer may obtain review by filing a petition for writ of mandate under Code of Civil Procedure Section 1094.6 within the time stated in Government Code Section 53069.4(a)(1).

**Sec. 1-4.110. Failure to Pay Fines.**

(a) Unless contrary to any other provision of law, citations not under appeal, and delinquent over twenty (20) calendar days, shall be subject to an additional charge every calendar month. The amount is to be set forth by resolution of the City Council.

(b) The Finance Director shall establish procedures for the collection of delinquent administrative fines.”

**3. Other.**

Except as provided herein, the Ridgecrest Municipal Code is reaffirmed and readopted.

**4. Effective Date.**

This ordinance shall take effect thirty (30) days from the date of adoption.

**5. Certification.**

The City Clerk shall certify to the passage and adoption of this ordinance and shall cause this ordinance to be published in the manner required by law.

I, Rita Gable, City Clerk of the City of Ridgecrest, do hereby certify that the

**Ordinance No, 05-05**

**Page 6**

foregoing ordinance was regularly introduced and placed upon its first reading on August 17, 2005, and placed upon its second reading and adoption at a regular meeting of the City Council on September 7, 2005, by the following vote:

AYES: Mayor Holloway, Council Members Clark, Morgan, and Carter

NAYS: None

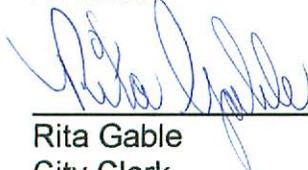
ABSENT: Council Member Martin

ABSTAIN: None



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Marshall "Chip" Holloway, Mayor

ATTEST:



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Rita Gable  
City Clerk