

POLICIES AND PROCEDURESPOL-LD-3
Page 1 of 2**LAND DEVELOPMENT****SUBJECT: ADMINISTRATIVE CITATION PROGRAM****PURPOSE:**

The purpose of this policy is to establish procedures for issuing administrative warnings and citations for County Code violations pursuant to the authority and procedures set forth in Sections 18.101 et seq. of the San Diego County Code of Regulatory Ordinances.

BACKGROUND:

In July 2000, the Board of Supervisors (Board) directed County Counsel to work with the District Attorney, Chief Administrative Officer, County Treasurer and the Director of Planning and Land Use to return with an ordinance that would strengthen the County's ability to enforce neighborhood code compliance.

In October 2000, the Board approved the Administrative Citation Ordinance (Ord. No. 9263, effective 11-23-00; subsequently amended by Ord. No. 9889, effective 10-26-07), which established an alternative enforcement tool allowing County Code violations to be processed administratively, providing a quick and efficient code enforcement process, and avoiding the necessity of criminal prosecution. The ordinance provides an effective tool for dealing with transitory code violations, along with escalating fines for noncompliance. The purpose of this remedy is to induce compliance by applying a monetary penalty for noncompliance. It is not a cost recovery mechanism, but may be used in addition to cost recovery tools.

POLICY:

Administrative citations are an alternative to issuing criminal infractions for County code violations. Staff shall review County Code violations and determine whether to initiate enforcement through the administrative process using administrative citations or proceed with alternative enforcement actions. In most cases involving land uses, minor watercourse, stormwater, solid waste or grading violations the administrative citation process should be most effective. However, if the administrative citation process fails to gain compliance with the County Code, staff may pursue other enforcement actions such as stop work orders, civil penalties, abatement, civil enforcement, State enforcement

(where applicable) and/or criminal prosecution. Staff shall consult with County Counsel on alternative enforcement actions

SCOPE:

This policy applies to all Public Works employees involved in the enforcement of the following County Ordinances:

- County Code of Regulatory Ordinances
- Grading Ordinance
- Subdivision Ordinance
- Zoning Ordinance
- Management of Solid Waste
- Watershed Protection Ordinance

A Procedures Manual for Department of Public Works Administrative Citations has been prepared to establish steps to follow to implement the administrative citation program. The procedures manual specifically addresses to whom a citation can be issued, contents of citations, service of citations, right of appeal, appeal procedures, hearing procedures, hearing officer authority, and investigator/supervisor responsibilities. Staff shall follow the procedures set forth in the most current version of the Procedures Manual for Administrative Citation.

ATTACHMENT:

- Administrative Citations Procedures

REFERENCES:

Ordinance 9263 establishing Chapter 1, Division 8 of Title 1 of County Code.

Ordinance 9889 amending Chapter 1, Division 8 of Title 1 of County Code.

APPROVED BY:  Digitally signed by Jeff Moneda
Date: 2020.10.28 08:08:04
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JEFF C. MONEDA, DIRECTOR

EFFECTIVE DATE: September 5, 2001
REVISION DATE: August 3, 2020
SUNSET DATE: August 3, 2027



County of San Diego

DEPARTMENT OF PUBLIC WORKS

5510 OVERLAND AVE STE. 410, SAN DIEGO, CALIFORNIA 92123

**PROCEDURES MANUAL
FOR
DEPARTMENT OF PUBLIC WORKS
ADMINISTRATIVE CITATIONS
(June 2020)**

**PROCEDURES MANUAL
FOR
DEPARTMENT OF PUBLIC WORKS
ADMINISTRATIVE CITATIONS**

I. GENERAL PURPOSE

In October 2000, the Board of Supervisors approved Administrative Citation Ordinance (Ord. No. 9263, effective 11-23-00; subsequently amended by Ord. No. 9889, effective 10-26-07), an alternative enforcement tool allowing County code violations to be processed in a civil manner, providing a quick and efficient code enforcement process and avoiding the necessity of criminal prosecution. The ordinance provides an effective tool for dealing with transitory code violations, with escalating fines for noncompliance.

II. AUTHORITY

Chapter 1, Division 8 of Title 1 of the County Code of Regulatory Ordinances (Sections 18.101 et seq.)("Code"), enacted by the County Board of Supervisors through Ordinance 9263 (subsequently amended by Ord. No. 9889, effective 10-26-07), establishes general provisions and regulations providing for an administrative citation process to adjudicate discrete violations of County codes.

III. TO WHOM A CITATION CAN BE ISSUED

Whenever an enforcement officer (as defined in SEC 18.102) charged with enforcement of any provision of the Code determines a violation exists, the enforcement officer shall have the authority to issue an administrative citation to any person responsible for the violation.

In general, the responsible person will be one or more of the following and any or all of these persons or entities may be cited:

- A. The person who caused the violation
- B. The owner of the property upon which the violation exists
- C. The owner of the business in violation
- D. The property manager of the property upon which the violation exists
- E. The tenant or person in possession of the property in violation

IV. ISSUANCE/IMPLEMENTATION

Section 18.101 et seq. of the Code describes the requirements for issuance of an administrative citation. Additional guidance for the issuance of an administrative citation is included below:

- A. Administrative citation warning ("Warning")

1. A Warning **must** be served as a prerequisite to the issuance of a first administrative citation. DPW's administrative citation Warning template fulfills this requirement (18.103). Any Warning issued for the same or similar violations in the past year to the same party is considered fulfillment of this requirement.
2. The Warning shall include the following
 - a. The date of the violation;
 - b. The address or a definite description of the location where the violation occurred;
 - c. The code or ordinance section violated and a description of the violation;
 - d. A description of how the violation can be corrected;
 - e. A time and date by which the violation shall be corrected;
 - i. The enforcement officer shall provide for a reasonable period of time to correct the violation after considering the circumstances of the case, except that at least 24 hours shall be allowed from the time and date of the warning for the violation to be corrected.
 - f. The name of the citing enforcement officer.
3. The Warning shall be served in the following manner
 - a. Personal Service. The enforcement officer, or an authorized designee, may obtain the signature of the person responsible for the violation on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
 - b. By mail as provided in San Diego County Code section 11.112.
 - c. Posting. If service cannot be completed as specified in sections 18.105 (a) or (b) above, or as an additional method of notice at the discretion of the County, the administrative citation may be posted in a conspicuous place on or near the property on which the violation is located. Failure of a posted notice to remain in place after posting shall in no way affect the validity of the citation and subsequent proceedings.
4. Due to the sensitivities associated with land development projects, warnings will be accompanied by notification (email or phone call) to the appropriate Land Use and Environment Group (LUEG) and Board staff officers. This notification will include a succinct summary of the issue(s) and efforts already taken (in advance of warning) to achieve compliance. This notification is not required at the warning stage for other types of infractions.
5. A second Warning may be issued on the same violation if substantial compliance has been achieved within the time allotted in the initial Warning.

6. There is no appeal process for an administrative citation warning

B. Administrative Citation (“Citation”)

1. A Citation may not be issued until the compliance date on the Warning has passed. At least 24 hours shall be allowed from the time and date of the Warning for the violation to be corrected. The enforcement officer may re-inspect the site and may issue additional Citations until compliance is achieved.
2. More than one party can be held responsible for a violation, but separate Citations must be issued.
3. In the case of more than one minor violation on a property, all violations may be included on the same Citation or separate Citations may be issued for each violation.
4. Each Citation shall contain the following information (18.104):
 - a. The date of the violation;
 - b. The address or a definite description of the location where the violation occurred;
 - c. The code or ordinance section violated and a description of the violation;
 - d. A description of how the violation can be corrected;
 - e. 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;
 - f. An order prohibiting the continuation or repeated occurrence of the violation described in the administrative citation;
 - g. A description of the administrative citation review process, including the time within which the administrative citation may be contested by submitting a request for hearing form; and
 - h. The name and signature of the citing enforcement officer.
5. The amount of the fine for the violation;
 - a. \$100 for the first citation;
 - b. \$200 for the second citation;
 - c. \$500 for the third citation; and
 - d. \$1,000 for the fourth or subsequent citation issued for a repeat violation of the same ordinance provision by the same person within one year from the date of an administrative citation.
 - e. The fine amounts shall be cumulative where multiple citations are issued, however, the maximum amount of accumulated fines, excluding any late payment charges or other costs, shall not exceed \$10,000 per parcel or structure for any related series of violations.
6. The Citation shall be served in the following manner

- a. **Personal Service.** The enforcement officer, or an authorized designee, may obtain the signature of the person responsible for the violation on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.
 - b. **By mail** as provided in San Diego County Code section 11.112.
 - c. **Posting.** If service cannot be completed as specified in sections 18.105 (a) or (b) above, or as an additional method of notice at the discretion of the County, the administrative citation may be posted in a conspicuous place on or near the property on which the violation is located. Failure of a posted notice to remain in place after posting shall in no way affect the validity of the citation and subsequent proceedings.
- 7. When issuing citations, accompanying notification (via email or phone call) will be made to the appropriate Land Use and Environment Group (LUEG) and Board staff officers. This notification will include a succinct summary of the issue(s) and efforts already taken (in advance of citation) to achieve compliance.
 - 8. In cases where multiple citations were issued for the same violation, subsequent citations may be addressed at one hearing, if possible and agreed upon by all parties. However, if a citation is NOT appealed within its 14-day appeal period, it cannot be included in an appeal hearing for a subsequent violation.
 - 9. Once issued, field personnel cannot retract or dismiss an administrative citation without DPW Manager approval.

V. REQUEST FOR APPEAL

Section 18.108 provides information on the request for hearing process, and 18.111 outlines the appeal hearing procedures. Appeal rights are also explained on the reverse side of the Citation form.

- A. Any person receiving an Administrative citation may appeal it within 14 business days from the date the citation was issued. The appeal must be:
 - 1. In writing on the Request for Appeal Hearing form and
 - 2. Received by the 14th business day from issuance, and
 - 3. Include a payment of all penalties or notice that a request for a hardship waiver was filed.
 - a. Any advance payment should include any outstanding fines not paid on other citations for the same violation regardless of whether the appeal date or the 30-day payment period has passed.

B. Upon receipt of a request for appeal:

1. The enforcement officer forwards the request and file to the Supervisor.
2. During the 14-day appeal period, additional administrative citations may be issued for the same violation. However, once an appeal has been filed, additional citations should not be issued on the appealed violation without authorization from the DPW Manager. The DPW Manager shall review such cases to determine if conditions warrant continued issuance of additional administrative citations or if other enforcement actions, i.e. Notice of Stop Work, etc. are appropriate.
3. The Supervisor will review the appeal request and case file with the enforcement officer to determine if there is any basis for dismissal of the citation prior to an appeal hearing. The Supervisor will then consult with the DPW Manager who shall either:
 - a. Approve the dismissal of any citation, notify the appellant and direct the DPW Land Development Fiscal Unit to refund the fines to the appellant, or
 - b. Direct staff to schedule a hearing

VI. APPEAL HEARING

- A. For guidance on continuances, pre-hearing preparation, and appeal hearing procedures refer to Appendix A. Appeal Hearing Guidance Manual.

VII. POST HEARING FOLLOW UP

- A. The enforcement officer will receive the Hearing Officer's decision and forward it to the Supervisor.
- B. Send a copy to
- a. DPW Manager
 - i. The DPW Manager shall review any case overturned by the Hearing Officer to assess if these procedures should be modified and/or if additional staff training is required
 - b. Appellant, and
 - c. DPW Land Development Fiscal Unit for appropriate billing/collection actions.