

MEETING DATE: 03/10/08

AGENDA ITEM: Adoption of an Ordinance Amending Chapter 1.01 of the Culver City Municipal Code Relating to General Penalty Provisions; Renumbering Chapter 1.02 to 1.03; and Adding a New Chapter 1.02 to the Culver City Municipal Code Relating to the Enforcement of the Municipal Code through an Administrative Citations Process.

ATTACHMENTS

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ATTACHMENT 1

ORDINANCE NO. 2008-_____

AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, AMENDING CHAPTER 1.01 OF THE CULVER CITY MUNICIPAL CODE RELATING TO GENERAL PENALTY PROVISIONS, RENUMBERING CHAPTER 1.02 TO 1.03, AND ADDING A NEW CHAPTER 1.02 TO THE CULVER CITY MUNICIPAL CODE RELATING TO THE ENFORCEMENT OF THE MUNICIPAL CODE THROUGH AN ADMINISTRATIVE CITATION PROCESS.

The City Council of the City of Culver City, California, **DOES HEREBY ORDAIN** as follows:

SECTION 1: Section 1.01.035.D of the Culver City Municipal Code is hereby amended to read as follows (strike-through indicates a deletion; underline indicates an addition):

D. ~~Each and every day a violation of this Code or any ordinance of the City continues shall constitute a separate offense. The person committing or permitting such offenses may be charged with a separate offense for each such violation and punished accordingly.~~
Whenever in this Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

SECTION 2: Section 1.01.035.E of the Culver City Municipal Code is hereby added to read as follows (strike-through indicates a deletion; underline indicates an addition):

E. In addition to the penalties provided for in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be summarily abated as such by the City, and every day such condition continues shall be regarded as constitute a new and separate offense.

1 **SECTION 3:** Section 1.01.035.F of the Culver City Municipal Code is
2 hereby added to read as follows (strike-through indicates a deletion; underline
3 indicates an addition):

4 ~~A person shall be guilty of a separate offense for e~~Each and every
5 day during any portion of which any violation of any provision of this Code
6 is committed, continued or permitted by such person , and shall be
7 punishable accordingly constitute a separate offense. A person may be
8 charged with a separate offense for each such violation and punished
9 accordingly.

10 **SECTION 4:** Section 1.01.045 of the Culver City Municipal Code is
11 hereby amended to read as follows (strike-through indicates a deletion; underline
12 indicates an addition):

13 ~~Unless otherwise specified by this Code, an infraction is punishable~~
14 ~~by a fine not exceeding two hundred fifty dollars (\$250.00), as provided by~~
15 ~~Cal. Penal Code §§ 19.8 and 17(d).~~

16 A. Except as otherwise provided in this Ceode, an infraction
17 shall be punishable by:

18 1. A fine not exceeding one hundred dollars (\$100.00)
19 for a first violation;

20 2. A fine not exceeding two hundred dollars (\$200.00)
21 for a second violation of the same provision of this Code
22 within one year;

23 3. A fine not exceeding five hundred dollars (\$500.00)
24 for each additional violation of the same provision of this
25 Code within one year.
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SECTION 5: Section 1.01.055 of the Culver City Municipal Code is hereby amended to read as follows (strike-through indicates a deletion; underline indicates an addition):

Unless otherwise expressly provided, the remedies and penalties provided by this Chapter are cumulative to each other and to the remedies and penalties available under any other provision of this Code and any other laws.

SECTION 6: Chapter 1.02 of the Culver City Municipal Code entitled "City Standards," including all Sections contained therein, is hereby renumbered as Chapter 1.03.

SECTION 7: A new Chapter 1.02 is hereby added to the Culver City Municipal Code as follows:

CHAPTER 1.02: ADMINISTRATIVE CITATIONS

- §1.02.005 Legislative Findings and Statement of Purpose
- §1.02.010 Administrative Citations for Violation of Code
- §1.02.015 Definitions
- §1.02.020 Use of the Administrative Citation
- §1.02.025 Administrative Fines
- §1.02.030 Contents of Citation
- §1.02.035 Service of Citation
- §1.02.040 Satisfaction of Administrative Citation
- §1.02.045 Hearing of Administrative Citation
- §1.02.050 Right to Judicial Review

1 **§1.02.005 LEGISLATIVE FINDINGS AND PURPOSE.**

2 A. The City Council hereby finds there is a need for an
3 alternative method of enforcement for violations of the Culver City
4 Municipal Code.

5 B. The City Council further finds that an appropriate method of
6 enforcement for such violations is through the imposition of an
7 administrative fine, as authorized by Government Code Section 53069.4.

8 C. The procedures established in this Chapter shall be in
9 addition to criminal, civil or any other legal remedies established by law,
10 which may be pursued to address violations of the Culver City Municipal
11 Code.

12 D. The City Council hereby finds and determines that
13 enforcement of the Culver City Municipal Code is a matter of local
14 concern and serves an important public purpose. Consistent with its
15 powers as a Charter City, the City adopts this Subchapter in order to
16 achieve the following goals:

17 1. To protect the public health safety and welfare of the
18 citizens of the City of Culver City;

19 2. To gain compliance with the Culver City Municipal
20 Code in a timely and efficient manner;

21 3. To provide for an administrative process to appeal the
22 imposition of an administrative fine;

23 4. To provide a method to hold parties responsible when
24 they fail or refuse to comply with the provisions of the Culver City
25 Municipal Code;

26 5. To minimize the expense and delay where the sole
27 remedy is to pursue responsible parties in the civil or criminal
28 justice system.

1 E. The imposition of an administrative fine shall be at the City's
2 sole discretion, and is one option the City has to address violations of the
3 Culver City Municipal Code.

4 F. By adopting this Subchapter, the City does not intend to limit
5 its discretion to utilize any other remedy, civil or criminal, for such
6 violations that the City may select in a particular case.

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8 **§1.02.010 ADMINISTRATIVE CITATIONS FOR VIOLATIONS OF CODE.**

9 A. This Chapter provides for an administrative remedy for any
10 violation of this Code, including continuing violations related to building,
11 plumbing, electrical or other similar structural or zoning issues, which
12 remedy may be exercised in place of, or in addition to, any other remedy
13 which is allowed by law, whether administrative, criminal, civil, or
14 equitable.

15 B. The City Manager is authorized to promulgate rules and
16 regulations governing the civil administrative citation and hearing process,
17 including the delegation of the City Manager's duties under this Chapter.

18 **§1.02. 015 DEFINITIONS.**

19 For the purposes of this Chapter, the following definitions shall
20 apply:

21 ***Administrative Citation or Citation:*** A written notice to a
22 Responsible Person₁ issued by an Enforcement Officer₁ that a violation of
23 this Code has occurred.

24 ***Community Development Director or Director:*** The Community
25 Development Director of the City of Culver City₁ or his or her designee.

26 ***Responsible Person:*** A Responsible Person includes, but is not
27 limited to the following:
28

1. A person who causes a Code violation to occur.
2. A person who maintains or allows a Code violation to continue, by his or her action or failure to act.
3. A person whose agent, employee, or independent contractor causes a Code violation by their action or failure to act.
4. A person who is the owner of, and/or a person who is a lessee or sub-lessee with the current right of possession of real property where a property-related Code violation occurs or exists.
5. A person who is the on-site manager of a business who normally works daily at the site when the business is open and is responsible for the activities on such premises.
6. Any person with actual or apparent authority, possession, or control of real or personal property; or any other person, who creates maintains, permits or allows a violation of this Code.

For the purposes of this definition, "person" includes a natural person or a legal entity and the owners, majority stockholders, corporate officers, trustees, and general partners of a legal entity.

Legal Interest: 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.

Enforcement Officer or Officer: Any police officer or City employee or agent of the City designated by the City Manager who has the authority and responsibility to enforce the provisions of this Code.

§1.02. 020 USE OF THE ADMINISTRATIVE CITATION.

Whenever an Enforcement Officer determines that a violation subject to this Chapter has occurred, the Officer may issue an

1 Administrative Citation imposing fines or penalties to the Responsible
2 Person(s) in accordance with the requirements of this Chapter. The
3 procedures established in this Chapter may be in addition to any criminal,
4 civil or other legal remedies established by law which may be pursued to
5 address violations of the Culver City Municipal Code. The use of the
6 Administrative Citation in place of or in addition to other remedies shall be
7 at the discretion of the City Manager, Community Development Director,
8 City Attorney, Enforcement Services Manager, or Enforcement Officer.
9 Issuance of an Administrative Citation shall not be deemed a waiver of
10 any other enforcement remedies found within this Code.

11
12 **§1.02. 025 ADMINISTRATIVE FINES.**

13 A. Any Responsible Person who receives an Administrative
14 Citation shall be subject to the payment of fines as set forth in this
15 Section.

16 B. Failure of any person to pay the administrative fines
17 assessed by an Administrative Citation may result in the matter being
18 referred for collection, which includes but is not limited to the filing of a
19 small claims court action.

20 C. Fines for Administrative Citations shall be as follows:

21 1. A fine not exceeding one hundred dollars (\$100.00)
22 for a first violation;

23 2. A fine not exceeding two hundred dollars (\$200.00)
24 for a second violation of the same provision of this Code within one
25 year;

1 3. A fine not exceeding five hundred dollars (\$500.00)
2 for each additional violation of the same provision of this Code
3 within one year.

4 **§1.02. 030 CONTENTS OF CITATION.**

5 Each Administrative Citation shall contain the following information:

6 1. Name of Responsible Person and known mailing
7 address;

8 2. Date, approximate time, and address or definite
9 description of the location where the violation(s) was observed;

10 3. The Code sections or conditions violated and a
11 description of the violation(s);

12 4. The amount of the fine for the violation(s);

13 5. An explanation of how the fine shall be paid and the
14 time period by within which it shall be paid;

15 6. Identification of rights of appeal, including the time
16 within which the Administrative Citation may be contested and the
17 place to obtain a "Request for Hearing" form to contest the
18 Administrative Citation;

19 7. The name and signature of the Enforcement Officer
20 issuing the Administrative Citation; and

21 8. ~~If the violation is one which is continuing and pertains~~
22 ~~to building, plumbing, electrical, or other similar structural or zoning~~
23 ~~issues that do not create an immediate danger to health or safety~~
24 an order to correct the violation, the actions needed to correct the
25 violation, the timeframe within which to correct the violation, and an
26 explanation of the consequences for failing to correct the violation.

1 **§1.02. 035 SERVICE OF CITATION.**

2 The following procedures may be used in serving Administrative
3 Citations:

4 1. **Personal Service.** The Enforcement Officer shall
5 attempt to locate and personally serve the Responsible Person and
6 obtain the signature of the Responsible Person on the
7 Administrative Citation. If the Responsible Person served refuses
8 or fails to sign the Administrative Citation, the failure or refusal to
9 sign shall not affect the validity of the Administrative Citation or
10 subsequent proceedings.

11 2. **Service of Citation by Mail.** If the Enforcement
12 Officer is unable to locate the Responsible Person, the
13 Administrative Citation shall be mailed to the Responsible Person
14 by certified mail, postage prepaid with a requested return receipt.
15 Simultaneously, the Administrative Citation may be sent by first
16 class mail. If the Administrative Citation is sent by certified mail
17 and returned unsigned, then service shall be deemed effective
18 upon deposit of the Administrative Citation in the U.S. mail.

19 3. **By Posting on Property.** If the Enforcement Officer
20 is unable to serve the Administrative Citation under either
21 subsection 1 or 2 preceding, a copy of the Administrative Citation
22 may be posted on any real property within the City in which the City
23 has knowledge that the responsible party has a legal interest.
24 Service under this subsection shall be deemed effective on the
25 date when the notice is posted.

26 4. **By Publication.** If the Enforcement Officer cannot
27 serve the Administrative Citation by any of the preceding methods,
28 the Administrative Citation may be published in a newspaper

1 reasonably likely to provide actual notice to the Responsible Party
2 subject to the citation. The publication shall be once a week for
3 four successive weeks in a newspaper published at least once a
4 week.

5 The Enforcement Officer must complete a declaration of
6 service. Failure of the Responsible Person to receive any notice
7 does not affect the validity of the proceedings conducted under this
8 Chapter.

9
10 **§1.02. 040 SATISFACTION OF ADMINISTRATIVE CITATION.**

11 Upon receipt of an Administrative Citation, the Responsible Person
12 must do one of the following:

13 1. ***Pay the Fine.*** Pay the fine to the City within fifteen
14 (15) days from the date of the Administrative Citation. All fines
15 assessed shall be payable to the City of Culver City and submitted
16 to the Culver City Finance Department. Payment of a fine shall not
17 excuse or discharge a failure to correct continuing violations nor
18 shall it bar further enforcement action by the City. Payment of the
19 fine waives the Responsible Party's right to the Administrative
20 Citation hearing and appeal process;

21 2. ***Remedy the Violation.*** If the violation is of a
22 continuing nature, pertains to building, plumbing, electrical or other
23 similar structural or zoning issues, is of a nature that it can be
24 remedied, is deemed by the Enforcement Officer ~~to not to~~ create
25 an immediate danger to health and safety, and is corrected within
26 the time given to remedy the violation, no fine shall be imposed; or
27
28

3. ***Request a Hearing.*** A request for a hearing must be filed in accordance with the time limits and other provisions of Section 1.02.045.

In the event the Responsible Party fails or refuses to select and satisfy any of the alternatives set forth in this Section, 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 Administrative Citations to the Responsible Party should the violations persist.

§1.02. 045 HEARING OF ADMINISTRATIVE CITATION.

A. **Time to Request a Hearing.** Any recipient of an Administrative Citation may contest that there was a violation or that he or she is the Responsible Person by completing a Request for Hearing form and returning it to the City within fifteen (15) days from the date the Administrative Citation is served or deemed to have been served, together with an advance deposit of the fine. Such Request for Hearing forms shall be made available at no charge by the City's Planning, Building and Enforcement Divisions. A failure to file a timely Request for Hearing shall be deemed a waiver of the right to appeal the citation and to seek judicial review.

B. **Dismissal of Citation.** The City Manager or City Attorney may dismiss an Administrative Citation at any time if it is determined to have been issued in error, or if such dismissal is determined to be in the furtherance of justice, as determined in the sole discretion of the City Manager or City Attorney, in which event any deposit made shall be refunded. Also, any Administrative Citation fine which has been deposited shall be refunded if it is determined, after a hearing, that the person

1 charged in the Administrative Citation was not responsible for the violation
2 or that there was no violation as charged in the Administrative Citation.

3 **C. Advance Deposit Hardship Waiver**

4 1. Any Responsible Person who requests a hearing to
5 contest an Administrative Citation and who is financially unable to
6 deposit the administrative fines required may file a request for an
7 Advance Deposit Hardship Waiver. The request shall be filed with
8 the Community Development Department on an Advance Deposit
9 Hardship Waiver application form, available from the Community
10 Development Department, at the time the Responsible Person
11 requests a hearing. ~~The Community Development Department's~~
12 The Responsible Person's failure to receive-submit a completed
13 form, with all supporting documents, within fifteen (15) days after
14 service of the Administrative Citation, shall constitute a waiver of
15 the right to receive a Hardship Waiver.

16 2. The Community Development Director may issue an
17 Advance Deposit Hardship Waiver only if the person requesting the
18 waiver submits a sworn affidavit, together with any supporting
19 documents, demonstrating to the satisfaction of the Director the
20 person's financial inability to deposit with the City the full amount of
21 the fine in advance of the hearing. The Director's decision whether
22 to issue a Hardship Waiver shall be final.

23 **D. Hearing Procedure.**

24 1. The City Manager shall establish procedures for the
25 selection of a hearing officer for the Administrative Citation hearing.
26 Administrative hearing officers shall be selected in a manner that
27 avoids the potential for pecuniary or other bias.
28

1 2. No hearing to contest an Administrative Citation
2 before a hearing officer shall be held unless and until a timely and
3 complete Request for Hearing form has been submitted, and the
4 fine has been deposited in advance or a Hardship Waiver has been
5 timely requested and approved.

6 3. After receipt of the Request for Hearing form, and fine
7 deposit or Hardship Waiver, a hearing before the hearing officer
8 shall be set for a date that is not less than fifteen (15) and not more
9 than sixty (60) days from the date that the Request for Hearing
10 form is filed in accordance with the provisions of this Section. The
11 person requesting the hearing shall be notified of the time and
12 place set for the hearing by first class mail at least ten (10) days
13 prior to the date of the hearing. The Responsible Person may
14 request one continuance of the hearing, but in no event may the
15 hearing commence later than ninety (90) days after receipt of the
16 Request for Hearing form from the Responsible Person. Further
17 continuances or any continuance that will extend the
18 commencement of the hearing beyond ninety (90) days after
19 receipt of the Request for Hearing shall be granted at the discretion
20 of the hearing officer and only for good cause.

21 4. The failure of any recipient of an Administrative
22 Citation to appear at the hearing shall constitute a forfeiture of the
23 fine and a bar to judicial review of the hearing officer decision
24 based upon a failure to exhaust administrative remedies.

25 5. Administrative hearings are informal, and formal rules
26 of evidence and discovery do not apply. The hearing officer shall
27 only consider evidence that is relevant to whether the violation
28 occurred and whether the Responsible Person has caused or

1 maintained a violation of the Culver City Municipal Code on the
2 date(s) specified in the Administrative Citation.

3 6. Each party shall have the opportunity to present
4 evidence in support of that party's case, and to cross-examine
5 witnesses. The City bears the burden of proof at an administrative
6 hearing to establish a violation of the Municipal Code and
7 responsibility therefor by a preponderance of the evidence.

8 7. The Administrative Citation and any additional
9 documents submitted by the issuing Enforcement Officer shall
10 constitute prima facie evidence of the respective facts contained in
11 those documents.

12 8. Upon request, the recipient of an Administrative
13 Citation shall be provided with copies of the citations, reports and
14 other documents submitted or relied upon by the issuing
15 Enforcement Officer when issuing the Administrative Citation. In
16 addition, if the issuing Enforcement Officer submits any additional
17 written reports concerning the Administrative Citation to the hearing
18 officer for consideration at the hearing, then a copy of said
19 documentation shall be served by mail on the recipient of the
20 Administrative Citation.

21 9. The hearing officer may continue the hearing and
22 request additional information from the issuing Enforcement Officer
23 or the recipient of the Administrative Citation prior to issuing a
24 written decision.

25 E. **Hearing Officer's Decision.** After considering all of the
26 testimony and evidence submitted at the hearing, the hearing officer may
27 immediately issue a verbal decision; and a written decision, including
28 notice of the right to an appeal, shall be issued within ten (10) days of the

1 hearing, and served via first class mail. The written decision shall be
2 deemed to be served on the date the decision is deposited with the United
3 States Postal Service. The written decision shall include the reasons for
4 the decision and such decision shall be final. If the hearing officer
5 determines the Administrative Citation should be upheld, then the fine
6 amount on deposit with the City shall be retained by the City. If the
7 hearing officer determines the Administrative Citation should be canceled
8 and the fine was deposited with the City, then the City shall promptly
9 refund the amount of the deposited fine.

10 F. **Collection of Unpaid Fines.** Failure to pay any unpaid
11 administrative fines within twenty (20) days of service of the hearing
12 officer's written decision, or such other time limit set forth in the decision,
13 unless the decision has been challenged by a timely appeal as provided in
14 section 1.02.050, this obligation shall constitute a special assessment
15 and/or lien against the real property on which the violation occurred. The
16 special assessment and/or lien shall be imposed pursuant to the
17 procedure set forth in Section 9.04.060 of this Code. Alternatively, the
18 matter may be referred for collection, which includes but is not limited to
19 the filing of a small claims court action.

20 **§1.02.050 RIGHT TO JUDICIAL REVIEW.**

21 Any person who is aggrieved by the decision of the hearing officer
22 may obtain judicial review of such decision by filing an appeal to be heard
23 in the Superior Court for the City's judicial district within twenty (20) days
24 of service of the hearing officer's written decision. Such appeal shall be
25 pursuant to the provisions of California Government Code Section
26 53069.4. The appeal filed with the court shall also contain a proof of
27 service showing a copy of the appeal was served upon the City of Culver
28

City to the attention of the City Clerk. If the court finds in favor of the appellant, the amount of the filing fee, not to exceed \$25.00, as well as any fine deposit, shall be paid to the appellant by the City of Culver City. No other fees or costs shall be paid unless ordered by the court. If the court finds in favor of the City, any unpaid administrative fines shall be paid to the City within twenty (20) days of the court's decision.

SECTION 8: Pursuant to Section 619 of the City Charter, this Ordinance shall take effect thirty (30) days after its adoption. Pursuant to Section 616 and 621 of the City Charter, prior to the expiration of fifteen (15) days after the adoption, the City Clerk shall cause this Ordinance, or a summary thereof, to be published in the Culver City News and shall post this Ordinance or a summary thereof in at least three (3) places within the City.

SECTION 9: City Council hereby declares that, if any provision, section, subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or declared invalid or unconstitutional by any final action in a court

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of competent jurisdiction or by reason or any preemptive legislation, then the City Council would have independently adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases, or words of this Ordinance, and as such they shall remain in full force and effect.

APPROVED and ADOPTED this _____ day of _____ 2008.

ALAN CORLIN, MAYOR
City of Culver City, California

ATTEST:

APPROVED AS TO FORM:

CHRISTOPHER ARMENTA,
City Clerk

CAROL A. SCHWAB,
City Attorney

AN ORDINANCE OF THE CITY OF CULVER CITY, STATE OF CALIFORNIA, AMENDING CHAPTER 1.01 OF THE CULVER CITY MUNICIPAL CODE RELATING TO GENERAL PENALTY PROVISIONS, RENUMBERING CHAPTER 1.02 TO 1.03, AND ADDING A NEW CHAPTER 1.02 TO THE CULVER CITY MUNICIPAL CODE RELATING TO THE ENFORCEMENT OF THE MUNICIPAL CODE THROUGH AN ADMINISTRATIVE CITATION PROCESS.

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18 Development Director of the City of Culver City, or his or her designee.

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20 limited to the following:

- 21 1. A person who causes a Code violation to occur.
22 2. A person who maintains or allows a Code violation to continue, by
23 his or her action or failure to act.
24 3. A person whose agent, employee, or independent contractor
25 causes a Code violation by their action or failure to act.
26 4. A person who is the owner of, and/or a person who is a lessee or
27 sub-lessee with the current right of possession of real property
28 where a property-related Code violation occurs or exists.

1 5. A person who is the on-site manager of a business who normally
2 works daily at the site when the business is open and is
3 responsible for the activities on such premises.

4 6. Any person with actual or apparent authority, possession, or control
5 of real or personal property; or any other person, who creates
6 maintains, permits or allows a violation of this Code.

7 For the purposes of this definition, "person" includes a natural
8 person or a legal entity and the owners, majority stockholders,
9 corporate officers, trustees, and general partners of a legal entity.

10 **Legal Interest:** Any interest that is represented by a deed of trust,
11 quitclaim deed, mortgage, judgment lien, tax or assessment lien,
12 mechanic's lien or other similar instrument, which is recorded with the
13 County Recorder.

14 **Enforcement Officer or Officer:** Any police officer or City
15 employee or agent of the City designated by the City Manager who has
16 the authority and responsibility to enforce the provisions of this Code.

17 **§1.02. 020 USE OF THE ADMINISTRATIVE CITATION.**

18 Whenever an Enforcement Officer determines that a violation
19 subject to this Chapter has occurred, the Officer may issue an
20 Administrative Citation imposing fines or penalties to Responsible
21 Person(s) in accordance with the requirements of this Chapter. The
22 procedures established in this Chapter may be in addition to any criminal,
23 civil or other legal remedies established by law which may be pursued to
24 address violations of the Culver City Municipal Code. The use of the
25 Administrative Citation in place of or in addition to other remedies shall be
26 at the discretion of the City Manager, Community Development Director,
27 City Attorney, Enforcement Services Manager, or Enforcement Officer.
28

1 Issuance of an Administrative Citation shall not be deemed a waiver of
2 any other enforcement remedies found within this Code.

3 **§1.02. 025 ADMINISTRATIVE FINES.**

4 A. Any Responsible Person who receives an Administrative
5 Citation shall be subject to the payment of fines as set forth in this
6 Section.

7 B. Failure of any person to pay the administrative fines
8 assessed by an Administrative Citation may result in the matter being
9 referred for collection, which includes but is not limited to the filing of a
10 small claims court action.

11 C. Fines for Administrative Citations shall be as follows:

12 1. A fine not exceeding one hundred dollars (\$100.00)
13 for a first violation;

14 2. A fine not exceeding two hundred dollars (\$200.00)
15 for a second violation of the same provision of this Code within one
16 year;

17 3. A fine not exceeding five hundred dollars (\$500.00)
18 for each additional violation of the same provision of this Code
19 within one year.
20

21 **§1.02. 030 CONTENTS OF CITATION.**

22 Each Administrative Citation shall contain the following information:

23 1. Name of Responsible Person and known mailing
24 address;

25 2. Date, approximate time, and address or definite
26 description of the location where the violation(s) was observed;

27 3. The Code sections or conditions violated and a
28 description of the violation(s);

1 4. The amount of the fine for the violation(s);

2 5. An explanation of how the fine shall be paid and the
3 time period within which it shall be paid;

4 6. Identification of rights of appeal, including the time
5 within which the Administrative Citation may be contested and the
6 place to obtain a "Request for Hearing" form to contest the
7 Administrative Citation;

8 7. The name and signature of the Enforcement Officer
9 issuing the Administrative Citation; and

10 8. An order to correct the violation, the actions needed
11 to correct the violation, the timeframe within which to correct the
12 violation, and an explanation of the consequences for failing to
13 correct the violation.

14 **§1.02. 035 SERVICE OF CITATION.**

15 The following procedures may be used in serving Administrative
16 Citations:

17 1. **Personal Service.** The Enforcement Officer shall
18 attempt to locate and personally serve the Responsible Person and
19 obtain the signature of the Responsible Person on the
20 Administrative Citation. If the Responsible Person served refuses
21 or fails to sign the Administrative Citation, the failure or refusal to
22 sign shall not affect the validity of the Administrative Citation or
23 subsequent proceedings.

24 2. **Service of Citation by Mail.** If the Enforcement
25 Officer is unable to locate the Responsible Person, the
26 Administrative Citation shall be mailed to the Responsible Person
27 by certified mail, postage prepaid with a requested return receipt.
28 Simultaneously, the Administrative Citation may be sent by first

1 class mail. If the Administrative Citation is sent by certified mail
2 and returned unsigned, then service shall be deemed effective
3 upon deposit of the Administrative Citation in the U.S. mail.

4 3. **By Posting on Property.** If the Enforcement Officer
5 is unable to serve the Administrative Citation under either
6 subsection 1 or 2 preceding, a copy of the Administrative Citation
7 may be posted on any real property within the City in which the City
8 has knowledge that the responsible party has a legal interest.
9 Service under this subsection shall be deemed effective on the
10 date when the notice is posted.

11 4. **By Publication.** If the Enforcement Officer cannot
12 serve the Administrative Citation by any of the preceding methods,
13 the Administrative Citation may be published in a newspaper
14 reasonably likely to provide actual notice to the Responsible Party
15 subject to the citation. The publication shall be once a week for
16 four successive weeks in a newspaper published at least once a
17 week.

18 The Enforcement Officer must complete a declaration of
19 service. Failure of the Responsible Person to receive any notice
20 does not affect the validity of the proceedings conducted under this
21 Chapter.

22 **§1.02. 040 SATISFACTION OF ADMINISTRATIVE CITATION.**

23 Upon receipt of an Administrative Citation, the Responsible Person
24 must do one of the following:

25 1. **Pay the Fine.** Pay the fine to the City within fifteen
26 (15) days from the date of the Administrative Citation. All fines
27 assessed shall be payable to the City of Culver City and submitted
28 to the Culver City Finance Department. Payment of a fine shall not

1 excuse or discharge a failure to correct continuing violations nor
2 shall it bar further enforcement action by the City. Payment of the
3 fine waives the Responsible Party's right to the Administrative
4 Citation hearing and appeal process;

5 2. **Remedy the Violation.** If the violation is of a
6 continuing nature, pertains to building, plumbing, electrical or other
7 similar structural or zoning issues, is deemed by the Enforcement
8 Officer not to create an immediate danger to health and safety, and
9 is corrected within the time given to remedy the violation, no fine
10 shall be imposed; or

11 3. **Request a Hearing.** A request for a hearing must be
12 filed in accordance with the time limits and other provisions of
13 Section 1.02.045.

14 In the event the Responsible Party fails or refuses to select
15 and satisfy any of the alternatives set forth in this Section, then the
16 penalty shall be immediately due and owing to the City and may be
17 collected in any manner allowed by law for collection of a debt.
18 Commencement of an action to collect the delinquent penalty shall
19 not preclude issuance of additional Administrative Citations to the
20 Responsible Party should the violations persist.

21 **§1.02. 045 HEARING OF ADMINISTRATIVE CITATION.**

22 A. **Time to Request a Hearing.** Any recipient of an
23 Administrative Citation may contest that there was a violation or that he or
24 she is the Responsible Person by completing a Request for Hearing form
25 and returning it to the City within fifteen (15) days from the date the
26 Administrative Citation is served or deemed to have been served, together
27 with an advance deposit of the fine. Such Request for Hearing forms shall
28 be made available at no charge by the City's Planning, Building and

1 Enforcement Divisions. A failure to file a timely Request for Hearing shall
2 be deemed a waiver of the right to appeal the citation and to seek judicial
3 review.

4 B. **Dismissal of Citation.** The City Manager or City Attorney
5 may dismiss an Administrative Citation at any time if it is determined to
6 have been issued in error, or if such dismissal is determined to be in the
7 furtherance of justice, as determined in the sole discretion of the City
8 Manager or City Attorney, in which event any deposit made shall be
9 refunded. Also, any Administrative Citation fine which has been deposited
10 shall be refunded if it is determined, after a hearing, that the person
11 charged in the Administrative Citation was not responsible for the violation
12 or that there was no violation as charged in the Administrative Citation.

13 C. **Advance Deposit Hardship Waiver**

14 1. Any Responsible Person who requests a hearing to
15 contest an Administrative Citation and who is financially unable to
16 deposit the administrative fines required may file a request for an
17 Advance Deposit Hardship Waiver. The request shall be filed with
18 the Community Development Department on an Advance Deposit
19 Hardship Waiver application form, available from the Community
20 Development Department, at the time the Responsible Person
21 requests a hearing. The Responsible Person's failure to submit a
22 completed form, with all supporting documents, within fifteen (15)
23 days after service of the Administrative Citation, shall constitute a
24 waiver of the right to receive a Hardship Waiver.

25 2. The Community Development Director may issue an
26 Advance Deposit Hardship Waiver only if the person requesting the
27 waiver submits a sworn affidavit, together with any supporting
28 documents, demonstrating to the satisfaction of the Director the

1 person's financial inability to deposit with the City the full amount of
2 the fine in advance of the hearing. The Director's decision whether
3 to issue a Hardship Waiver shall be final.

4 **D. Hearing Procedure.**

5 1. The City Manager shall establish procedures for the
6 selection of a hearing officer for the Administrative Citation hearing.
7 Administrative hearing officers shall be selected in a manner that
8 avoids the potential for pecuniary or other bias.

9 2. No hearing to contest an Administrative Citation
10 before a hearing officer shall be held unless and until a timely and
11 complete Request for Hearing form has been submitted, and the
12 fine has been deposited in advance or a Hardship Waiver has been
13 timely requested and approved.

14 3. After receipt of the Request for Hearing form, and fine
15 deposit or Hardship Waiver, a hearing before the hearing officer
16 shall be set for a date that is not less than fifteen (15) and not more
17 than sixty (60) days from the date that the Request for Hearing
18 form is filed in accordance with the provisions of this Section. The
19 person requesting the hearing shall be notified of the time and
20 place set for the hearing by first class mail at least ten (10) days
21 prior to the date of the hearing. The Responsible Person may
22 request one continuance of the hearing, but in no event may the
23 hearing commence later than ninety (90) days after receipt of the
24 Request for Hearing form from the Responsible Person. Further
25 continuances or any continuance that will extend the
26 commencement of the hearing beyond ninety (90) days after
27 receipt of the Request for Hearing shall be granted at the discretion
28 of the hearing officer and only for good cause.

1 4. The failure of any recipient of an Administrative
2 Citation to appear at the hearing shall constitute a forfeiture of the
3 fine and a bar to judicial review of the hearing officer decision
4 based upon a failure to exhaust administrative remedies.

5 5. Administrative hearings are informal, and formal rules
6 of evidence and discovery do not apply. The hearing officer shall
7 only consider evidence that is relevant to whether the violation
8 occurred and whether the Responsible Person has caused or
9 maintained a violation of the Culver City Municipal Code on the
10 date(s) specified in the Administrative Citation.

11 6. Each party shall have the opportunity to present
12 evidence in support of that party's case, and to cross-examine
13 witnesses. The City bears the burden of proof at an administrative
14 hearing to establish a violation of the Municipal Code and
15 responsibility therefor by a preponderance of the evidence.

16 7. The Administrative Citation and any additional
17 documents submitted by the issuing Enforcement Officer shall
18 constitute prima facie evidence of the respective facts contained in
19 those documents.

20 8. Upon request, the recipient of an Administrative
21 Citation shall be provided with copies of the citations, reports and
22 other documents submitted or relied upon by the issuing
23 Enforcement Officer when issuing the Administrative Citation. In
24 addition, if the issuing Enforcement Officer submits any additional
25 written reports concerning the Administrative Citation to the hearing
26 officer for consideration at the hearing, then a copy of said
27 documentation shall be served by mail on the recipient of the
28 Administrative Citation.

1 9. The hearing officer may continue the hearing and
2 request additional information from the issuing Enforcement Officer
3 or the recipient of the Administrative Citation prior to issuing a
4 written decision.

5 **E. Hearing Officer's Decision.** After considering all of the
6 testimony and evidence submitted at the hearing, the hearing officer may
7 immediately issue a verbal decision; and a written decision, including
8 notice of the right to an appeal, shall be issued within ten (10) days of the
9 hearing, and served via first class mail. The written decision shall be
10 deemed to be served on the date the decision is deposited with the United
11 States Postal Service. The written decision shall include the reasons for
12 the decision and such decision shall be final. If the hearing officer
13 determines the Administrative Citation should be upheld, then the fine
14 amount on deposit with the City shall be retained by the City. If the
15 hearing officer determines the Administrative Citation should be canceled
16 and the fine was deposited with the City, then the City shall promptly
17 refund the amount of the deposited fine.

18 **F. Collection of Unpaid Fines.** Failure to pay any unpaid
19 administrative fines within twenty (20) days of service of the hearing
20 officer's written decision, or such other time limit set forth in the decision,
21 unless the decision has been challenged by a timely appeal as provided in
22 section 1.02.050, this obligation shall constitute a special assessment
23 and/or lien against the real property on which the violation occurred. The
24 special assessment and/or lien shall be imposed pursuant to the
25 procedure set forth in Section 9.04.060 of this Code. Alternatively, the
26 matter may be referred for collection, which includes but is not limited to
27 the filing of a small claims court action.
28

1 **§1.02.050 RIGHT TO JUDICIAL REVIEW.**

2 Any person who is aggrieved by the decision of the hearing officer
3 may obtain judicial review of such decision by filing an appeal to be heard
4 in the Superior Court for the City's judicial district within twenty (20) days
5 of service of the hearing officer's written decision. Such appeal shall be
6 pursuant to the provisions of California Government Code Section
7 53069.4. The appeal filed with the court shall also contain a proof of
8 service showing a copy of the appeal was served upon the City of Culver
9 City to the attention of the City Clerk. If the court finds in favor of the
10 appellant, the amount of the filing fee, not to exceed \$25.00, as well as
11 any fine deposit, shall be paid to the appellant by the City of Culver City.
12 No other fees or costs shall be paid unless ordered by the court. If the
13 court finds in favor of the City, any unpaid administrative fines shall be
14 paid to the City within twenty (20) days of the court's decision.

15 **SECTION 8:** Pursuant to Section 619 of the City Charter, this
16 Ordinance shall take effect thirty (30) days after its adoption. Pursuant to
17 Section 616 and 621 of the City Charter, prior to the expiration of fifteen (15)
18 days after the adoption, the City Clerk shall cause this Ordinance, or a
19 summary thereof, to be published in the Culver City News and shall post this
20 Ordinance or a summary thereof in at least three (3) places within the City.

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1 **SECTION 9:** City Council hereby declares that, if any provision,
2 section, subsection, paragraph, sentence, phrase or word of this Ordinance is
3 rendered or declared invalid or unconstitutional by any final action in a court
4 of competent jurisdiction or by reason or any preemptive legislation, then the
5 City Council would have independently adopted the remaining provisions,
6 sections, subsections, paragraphs, sentences, phrases, or words of this
7 Ordinance, and as such they shall remain in full force and effect.

8 APPROVED and ADOPTED this _____ day of _____ 2008.

9
10
11 _____
12 ALAN CORLIN, MAYOR
13 City of Culver City, California

14 ATTEST:

15 APPROVED AS TO FORM.

16 _____
17 CHRISTOPHER ARMENTA,
18 City Clerk

19 _____
20 CAROL A. SCHWAB,
21 City Attorney

22
23
24
25
26
27
28
for