

May 14, 2007

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

**Regular Meeting of
May 22, 2007**

SUBJECT: TEXT AMENDMENT TO MUNICIPAL CODE TITLE 1 RELATING TO
ADMINISTRATIVE CITATIONS FOR CODE VIOLATIONS

Recommendation:

Approve the ordinance amending Title 1 of the Municipal Code and other sections in order to provide for the issuance of administrative citations.

Background:

The attached text amendment has been prepared in response to the need to provide administrative enforcement procedures for violations of the Municipal Code which are deemed to be "infractions", i.e. violations which are less serious than misdemeanors. Such violations typically include Building Code, zoning, business license, animal nuisance and other violations which do not constitute immediate threats to public health or safety. The draft amendment is the result of a collaborative effort between Planning and Code Enforcement staff and the City Attorney.

Analysis:

State Law Authorizing Administrative Penalties:

Applicable sections of the state Government Code authorizing administrative penalties for infractions are attached (36900 and 53069.4). Section 36900 provides for classifying violations as infractions and sets the maximum penalties. These same maximum penalties are provided in the attached draft ordinance:

"36900. (a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a city ordinance may be prosecuted by city authorities in the name of the people of the State of California, or redressed by civil action.

"(b) Every violation determined to be an infraction is 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 year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year."

Key Changes:

The following is a description of the ordinance's key changes to the existing Municipal Code:

1. A new Chapter 1.04 entitled "Violations and Penalties" has been created defining violations of the Code as either misdemeanors or infractions and specifying the penalties for each. At present, violations of the Municipal Code are generally classified as misdemeanors. However, the Code does list some violations as "infractions", without

providing specific enforcement procedures. These include violations of business license, animal nuisance and some zoning code provisions. The new code amendment adds to these Health, Building, and Plumbing and related Code violations that do not pose an immediate threat to health or safety. An example of such an infraction violation might include the failure to install grease traps in restaurants per City regulations.

2. The amendment also provides enforcement procedures for infractions via the use of "administrative citations". New Chapter 1.10 has been created, entitled "Administrative Citations". This chapter provides that: "Provisions of this Code, the violation of which are deemed to be infractions, may be enforced through the use of administrative citations and penalties as provided for in this chapter."
3. The new Chapter 1.10 provides for administrative citation procedures, the imposition of fines for infractions, the contents of the citation, method of service, methods of resolving the citation, appeals, and hearing procedures. If the City exhausts the enforcement process without obtaining a correction of the problem, it would still have the right to pursue the violation as a criminal misdemeanor or to file a civil court action. Appeal and hearing procedures are discussed in more detail later in this report.
4. The existing penalties for infractions are retained:
 - 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 provision of the Code within one year;
 - 3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision of the Code within one year.
5. Provision has also been made for reclassifying misdemeanors as infractions when appropriate:

"A violation of any provision of this code section which is a misdemeanor may be charged as an infraction when:

 - 1) The prosecutor files a complaint charging the offense as an infraction, unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor; or
 - 2) The court, with the consent of the defendant, determines that the offense is an infraction. In that event, the case shall proceed as if the defendant had been arraigned on an infraction complaint.
6. Other changes to Title 1 include:
 - 1) General provisions from old Chapter 1.04 have been integrated into Chapter 1.01, now entitled "Code Adoption and General Provisions". These include such 'housekeeping' items as the Short Title of the Municipal Code, Severability provisions and Definitions and Rules of Construction. The purpose of these changes is to remove redundancies and put code adoption and housekeeping items in one

place. For the same reason, the existing sections in Chapter 1.01 relating to penalties, misdemeanors, infractions, and enforcement have been moved to new chapter 1.04.

- 2) The existing penalties for misdemeanors are retained: "Any person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment."
- 3) Chapter 1.08 has been renamed from "Citation Procedure" to "General Citations" in order to distinguish these existing general citations, which are imposed in order to ensure a promise to appear in court, from the new administrative citations (in new Chapter 1.10) which provide for City staff enforcement and the imposition of fines for infractions.

Citation and Hearing Procedures:

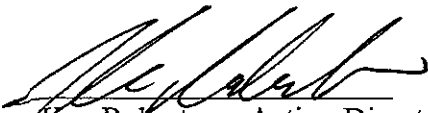
A summary of citation and hearing procedure in the ordinance is provided below. Note that appeals are referred directly to a hearing officer appointed by the City Manager, not to the City Council. If an appellant is not satisfied with the hearing officer's decision, he or she may contest the decision in Superior Court.

1. *Service of Citation:* The enforcement officer attempts to locate and personally serve the responsible person and obtain their signature on the administrative citation. If the enforcement officer is unable to locate the responsible person, the citation may be mailed by certified mail. If the above two methods are unsuccessful, a copy of the citation may be posted on any real property within the city in which the city has knowledge that the responsible party has a legal interest. Finally, if none of the above methods are successful, the citation may be published in a newspaper likely to give actual notice to the party subject to the citation. The publication shall be once a week for four successive weeks in a newspaper published at least once a week.
2. *Satisfaction of Citation:* Upon receipt of a citation, the responsible person is required to do one of the following:
 - 1) *Pay the fine.* Pay the fine to the city within 30 days from the date of the citation. All fines assessed shall be payable to the Hermosa Beach Finance Department. Payment of a fine shall not excuse or discharge a failure to correct continuing violations nor shall it bar further enforcement action by the city;
 - 2) *Remedy the Violation.* If the violation is of a nature that it can be remedied and is deemed by the enforcement officer to not create an immediate danger to health and safety and was corrected within the time given, no fine shall be imposed; or
 - 3) *File an appeal.* Appeals shall be filed in accordance with the time limits and other provisions of Section 1.10.080.
3. *Appeal of Citation:* Any person receiving an administrative citation may contest the citation by requesting an administrative hearing within 30 days of service of the citation.
4. *Appeal Hearing Procedure:*

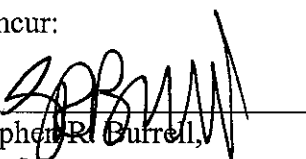
- 1) The City Manager will designate the hearing officer for an administrative citation hearing.
 - 2) A hearing before the hearing officer will be set for a date that is not less than 15 and not more than 60 days from the date that the "request for hearing" is filed.
 - 3) The hearing officer will only consider evidence that is relevant to whether the violation occurred and whether the responsible person has caused or maintained the violation on the date(s) specified in the citation.
 - 4) Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party will have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The city bears the burden of proof at an administrative hearing to establish a violation of the code.
5. *Hearing Officer's Decision:* At the conclusion of the hearing or within 15 days thereafter, the administrative hearing officer shall render a decision per the alternatives specified in the ordinance, ranging from sustaining the citation to making a finding that no violation occurred.
6. *Right to Judicial Review:* Within 20 days after service of the decision of the hearing officer upon the responsible person, he or she may seek review of the decision by filing a notice of appeal with the Superior Court.
7. *Failure to Comply:* In the absence of a timely appeal to the Superior Court or if the City prevails in court, failure to comply with an order to abate a continuing violation by the date specified in the order is a misdemeanor offense. Filing a misdemeanor action does not preclude the City from pursuing any other remedies to gain compliance provided in the Municipal Code or under state law.

Conclusions:

The ordinance amendment will provide for a more efficient and streamlined enforcement procedure for most violations of the Municipal Code than is available under the present misdemeanor provisions. It has proven effective in a number of other cities, such as West Hollywood, Santa Ana and others.


Ken Robertson, Acting Director
Community Development

Concur:


Stephen R. Durrell,
City Manager

CALIFORNIA GOVERNMENT CODE SECTIONS PROVIDING FOR ADMINISTRATIVE PENALTIES

36900. (a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a city ordinance may be prosecuted by city authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is 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 year; (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance within one year.

53069.4. (a) (1) The legislative body of a local agency, as the term "local agency" is defined in Section 54951, may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties. Where the violation would otherwise be an infraction, the administrative fine or penalty shall not exceed the maximum fine or penalty amounts for infractions set forth in subdivision (b) of Section 25132 and subdivision (b) of Section 36900.

(2) The administrative procedures set forth by ordinance adopted by the local agency pursuant to paragraph (1) shall provide for a reasonable period of time, as specified in the ordinance, for a person responsible for a continuing violation to correct or otherwise remedy the violation prior to the imposition of administrative fines or penalties, when the violation pertains to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety.

(b) (1) Notwithstanding the provisions of Section 1094.5 or 1094.6 of the Code of Civil Procedure, within 20 days after service of the final administrative order or decision of the local agency is made pursuant to an ordinance enacted in accordance with this section regarding the imposition, enforcement or collection of the administrative fines or penalties, a person contesting that final administrative order or decision may seek review by filing an appeal to be heard by the superior court, where the same shall be heard de novo, except that the contents of the local agency's file in the case shall be received in evidence. A proceeding under this subdivision is a limited civil case. A copy of the document or instrument of the local agency providing notice of the violation and imposition of the administrative fine or penalty shall be admitted into evidence as prima facie evidence of the facts stated therein. A copy of the notice of appeal shall be served in person or by first-class mail upon the local agency by the contestant.

(2) The fee for filing the notice of appeal shall be twenty-five dollars (\$25). The court shall request that the local agency's file on the case be forwarded to the court, to be received within 15 days of the request. The court shall retain the twenty-five dollar (\$25) fee regardless of the outcome of the appeal. If the court finds in favor of the contestant, the amount of the fee shall be reimbursed to the contestant by the local agency. Any deposit of the fine or penalty shall be refunded by the local agency in accordance with the judgment of the court.

(3) The conduct of the appeal under this section is a subordinate judicial duty that may be performed by traffic trial commissioners and other subordinate judicial officials at the direction of the presiding judge of the court.

(c) If no notice of appeal of the local agency's final administrative order or decision is filed within the period set forth in this section, the order or decision shall be deemed confirmed.

(d) If the fine or penalty has not been deposited and the decision of the court is against the contestant, the local agency may proceed to collect the penalty pursuant to the procedures set forth in its ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HERMOSA BEACH AMENDING THE
GENERAL AND ENFORCEMENT PROVISIONS OF THE MUNICIPAL CODE

The City Council of the City of Hermosa Beach does ordain as follows:

Section 1. Title 1 of the Hermosa Beach Municipal Code is amended in its entirety to read as follows:

Title 1

General Provisions

Chapters:

- 1.01 CODE ADOPTION AND GENERAL PROVISIONS**
- 1.04 VIOLATIONS AND PENALTIES**
- 1.08 GENERAL CITATIONS**
- 1.10 ADMINISTRATIVE CITATIONS**

Chapter 1.01

CODE ADOPTION AND GENERAL PROVISIONS

1.01. 010 Adoption of the Hermosa Beach Municipal Code.

That certain document entitled "Code of the City of Hermosa Beach, California", (hereinafter the "Code" or "Municipal Code"), a copy of has been filed and is on file in the office of the City Clerk for public inspection, together with the secondary Codes therein adopted by reference, is hereby adopted by this reference as the comprehensive ordinance Code for the City of Hermosa Beach pursuant to the provisions of Article 2 of Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code of the State of California, and each and all of the provisions, terms, and penalties of said Code on file in the office of the City Clerk are hereby referred to, adopted, incorporated herein and made a part of this ordinance as if fully set forth herein.

1.01. 020 Short title.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Hermosa Beach Municipal Code", the "HBMC", or the "Municipal Code", and may be so cited.

1.01. 030 Provisions considered as continuations of existing ordinances.

The provisions appearing in this code, so far as they are the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments.

1.01. 040 **Repeal of certain ordinances and certain ordinances to remain in effect.**

All ordinances of the City in force upon the effective date of the Code are hereby repealed except as follows:

- A. Ordinances codified by the Code; and
- B. Uncodified ordinances comprising or amending the Zoning Map of the City of Hermosa Beach, which are listed in the Uncodified Ordinance List on file in the Office of the City Clerk; and
- C. Uncodified ordinances relating to matters of a special or temporary nature, which ordinances are listed in the Uncodified Ordinance List on file in the Office of the City Clerk; and
- D. Any uncodified ordinance promising or guaranteeing the payment of money or authorizing the issue of bonds, or any evidence of the City's Indebtedness, or any contract or obligation assumed by the City; and
- E. Any ordinance granting any franchise, license or other right conferred by the City on any person or corporation, which franchise, license or other right is in effect as of September 10, 1996; and
- F. Any uncodified administrative ordinance of the City Council not in conflict with the provisions of the Code; and
- G. Any uncodified ordinance relating to the salaries, benefits, and working conditions of City officers and employees; and
- H. Any uncodified ordinance relating to the levy of any tax in effect as of September 10, 1996.

1.01. 050 **Effect of repeal of ordinances.**

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect. Also, the repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

1.01. 060 **Superseded ordinances.**

All ordinances codified by the Code are superseded to the extent they conflict with the Code.

1.01. 070 **Savings provisions.**

The repeal herein of any ordinance of the City of Hermosa Beach shall not affect or impair any act done, or right vested or approved, or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit, or prosecution had or commenced shall remain in full force and effect for all intents and purposes as if the applicable provisions of the ordinance, or part thereof, so repealed had remained in force and effect. No offense committed and no liability, penalty, or forfeiture, whether civilly or criminally incurred prior to the time when any such ordinance, or part thereof, shall be repealed or altered by said Code, shall be discharged or affected by such repeal or

alteration. Prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance, or part thereof, had not been repealed or altered.

1.01. 080 Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the 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 adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

1.01. 090 Definitions and rules of construction.

In the construction of this code and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

City. The words "the city" or "this city" shall be construed as if followed by the words "of Hermosa Beach."

Code. The words "the code" or "this code" shall mean the code of the city of Hermosa Beach, California.

Computation of Time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a holiday and then it is also excluded.

Council. Whenever the word "council" is used in this code, it shall be construed to mean the city council of the city of Hermosa Beach.

County. The words "the county" or "this county" shall mean the county of Los Angeles.

Day. A "day" is the period of time between any midnight and the midnight following.

Daytime, Nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. The masculine gender includes the feminine and neuter.

In the City. The words "in the city" shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes an affirmation.

Officers, Departments, etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city of Hermosa Beach, unless the context clearly indicates otherwise.

Official Time. Whenever certain hours are named in this code, they shall mean Pacific Standard Time or Daylight Saving Time, as may be in current use in the city.

Or, And. "Or" may be read "and", and "and" may be read "or" if the sense requires it.

Owner. The word "owner", applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. "Person" includes any person, firm, association, organization, partnership, business trust, corporation or company.

"Personal property" includes every species of property, except real property, as defined in this section.

Preceding, Following. The words "preceding" and "following" mean next before and next after, respectively.

"Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. The word "property" shall include real and personal property.

"Real property" shall include lands, tenements and hereditaments.

Shall, May. "Shall" is mandatory and "may" is permissive.

Signature or Subscription by Mark. "Signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but, a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

State. The words "the state" or "this state" shall be construed to mean the state of California.

Tenant or Occupant. The words "tenant" or "occupant", applied to a building or land, shall include any person holding a written or an oral lease of, or who occupies the whole or a part of such building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

Week. A "week" consists of seven consecutive days.

Writing. "Writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language, unless it is expressly provided otherwise.

Year. The word "year" shall mean a calendar year, except where otherwise provided.

Chapter 1.04

VIOLATIONS AND PENALTIES

1.04. 010 **Violations of Code.**

No person shall violate any provisions or fail to comply with any of the requirements of this code. Violations of this code are punishable as set forth in this chapter.

1.04. 020 **Misdemeanors.**

Any person violating any of the provisions or failing to comply with any of the requirements of this code shall be guilty of a misdemeanor unless such violation or failure to comply is expressly stated by this code to be an infraction or is subject to a civil administrative penalty pursuant to section 1.04.030. Any person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.

1.04. 030 **Infractions.**

A. **Penalties.** Any person violating any provision or failing to comply with any mandatory requirement of this code expressly stated by this code to be an infraction shall be guilty of an infraction. Except as otherwise provided in this code, any person convicted of an infraction shall be punishable 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 provision of the Code within one year;
3. A fine not exceeding five hundred dollars (\$500.00) for each additional violation of the same provision of the Code within one year.

B. **Infractions subject to administrative procedures.** Violations of this code that are expressly stated to be infractions are, in addition to other applicable remedies, subject to the administrative citation and penalty provisions of chapter 1.10. Any person who is adjudicated to have violated or failed to comply with the same provision of any of the sections of this code subject to administrative citation procedures more than three times within a 12-month period shall be guilty of a misdemeanor for each violation of the same provision committed thereafter within that same 12-month period. Any person who violates or fails to comply with any of the sections of this code subject to administrative citation procedures and who possesses no photo identification or refuses to identify himself/herself to an enforcement officer, making it impossible to issue an administrative citation, shall be guilty of a misdemeanor.

C. **No counsel at public expense.** An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to have the public defender or

other counsel appointed at public expense to represent him or her unless he or she is arrested and not released on his or her written promise to appear, on his or her own recognizance, or a deposit of bail.

1.04. 040 Reclassification of misdemeanors as infractions.

A violation of any provision of this code section which is classified as a misdemeanor may be charged as an infraction when:

1. The prosecutor files a complaint charging the offense as an infraction, unless the defendant, at the time he or she is arraigned, after being informed of his or her rights, elects to have the case proceed as a misdemeanor; or
2. The court, with the consent of the defendant, determines that the offense is an infraction. In that event, the case shall proceed as if the defendant had been arraigned on an infraction complaint.

1.04. 050 Additional Provisions.

- A. **Each day a separate offense.** Unless otherwise specified, each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.
- B. **Included offenses.** Whenever in the Code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact or such act of omission.
- C. **Violations deemed to be a public nuisance.** In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of the 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 a new and separate offense.

1.04. 060 Violations of Building and other Codes.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of the Uniform Building code, the National Electrical Code, the Uniform Plumbing Code, the Uniform Mechanical Code or the Uniform Housing Code, as amended and in effect on September 10, 1996, and adopted by reference herein. Any such person, firm or corporation shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as provided in this chapter unless the violation is deemed to be an infraction accordance with the provisions of Section 1.04.040.

1.04. 070 Violations of Fire Code.

- A. Every person violating any provision of the Uniform Fire Code as amended and in effect on September 10, 1996, and adopted by reference herein, or of any permit or license granted under that Code, or any rule, regulation or policy promulgated

pursuant to that Code, is guilty of a misdemeanor and shall be punishable as provided in this chapter unless the violation is deemed to be an infraction in accordance with the provisions of Section 1.04.040. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

- B. The application of the preceding penalty shall not be held to prevent the enforced removal of prohibited conditions.

Chapter 1.08

GENERAL CITATIONS

1.08. 010 **General Citation.**

If any person is arrested for the violation of any provision of this code and such person is not taken immediately before a magistrate, the arresting officer shall prepare in duplicate a written notice to appear in court. Such notice may be referred to as a "general citation," and shall contain the name and address of such person, the offense charged, and the time when and place where such person shall appear in court.

1.08. 020 **Notices to appear--Time.**

The time specified in the notice to appear shall be at least ten days after such arrest.

1.08. 030 **Notices to appear--Place.**

The place specified in the general citation shall be:

1. The court of the magistrate before whom the person would be taken if the requirement of arresting and taking the person before a magistrate were complied with; or
2. Before an officer authorized by such court to receive deposit or bail.

1.08. 040 **Notices to appear--Promise and release.**

The arresting officer shall deliver one copy of the general citation to the arrested person. The arrested person, in order to secure release, shall give his written promise to appear in court by signing a duplicate notice which shall be retained by the officer. Thereupon, the arresting officer shall forthwith release from custody the person arrested.

1.08. 050 **Warrants for arrest.**

When a person signs a written promise to appear at the time and place specified in the written promise to appear and does not appear or has not posted bail as provided in Section 853.6 of the Penal Code of the State of California, the magistrate shall issue and have delivered for execution a warrant for such person's arrest within twenty (20) days after his failure to appear as promised, or if such person promises to appear before an officer authorized to accept bail, other than a magistrate, and fails to do so on or before the date which such person promised to appear, within twenty (20) days after the delivery of such written promise to appear by the officer to a magistrate having jurisdiction over the offense.

1.08. 060 **Violations of promises to appear.**

Any person willfully violating his written promise to appear in court shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested.

1.08. 070 **Arresting officer defined.**

For the purpose of this chapter, the term "arresting officer" means any police officer of the city and any other employee of the city whose duty it is to enforce the provisions of this code who is authorized by the city manager to use the general citation procedure established by said sections in the performance of his enforcement duties.

Chapter 1.10

ADMINISTRATIVE CITATIONS

1.10.010 Administrative citations for infractions.

Provisions of this Code the violation of which are deemed to be infractions may be enforced through the use of administrative citations and penalties, as provided for in this chapter. Use of the provisions of this chapter shall not prevent the use of other methods of enforcement or abatement as provided by this Code, including but not limited to criminal and civil actions. Administrative citations for violations of any provision of the building, plumbing or electrical codes classified as infractions shall not be issued until after the responsible person has been provided notice and a reasonable opportunity to correct the violation, and has failed to do so.

1.10.020 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. *Responsible person*: A responsible person is any of the following:

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 its 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.
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.

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

B. *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.

C. *Enforcement officer*: Any police officer or city employee or agent of the city designated by the director of any city department who has the authority and responsibility to enforce the provisions of this Code as provided for herein.

1.10.030 Use of the administrative citation.

The procedures established in this chapter may be in addition to any criminal, civil or other legal remedy established by law which may be pursued to address violations of the Municipal Code. The use of the administrative citation in place of other remedies shall be at the discretion of the City Manager, any Department Director, and any city employee qualified to issue said citations. Issuance of an administrative citation shall not be deemed a waiver of any other enforcement remedies found within this Code.

1.10. 040 **Fines.**

- A. Any responsible person who receives an Administrative Citation shall be subject to the payment of fines as set out in Chapter 1.04 for an infraction.
- B. Failure of any person to pay the civil fines assessed by an administrative citation may result in the matter being referred for collection which includes but is not limited to the filing of a small claims court action.

1.10. 050 **Contents of citation.**

Each administrative citation shall contain the following information:

- 1. Date, approximate time, and address or definite description of the location where the violation(s) was observed;
- 2. The Code sections or conditions violated and a description of the violation(s);
- 3. The amount of the fine for the violation(s);
- 4. An explanation of how the fine shall be paid and the time period by which it shall be paid;
- 5. 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;
- 6. The name and signature of the enforcement officer issuing the citation;
- 7. 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
- 8. The name and address of the responsible person, and a signature line so that the responsible person may acknowledge receipt of the citation.

1.10. 060 **Service of Citation.**

The following procedures shall be used in serving administrative citations:

- 1. *Personal service.* 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. If the responsible person served refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or of subsequent proceedings.
- 2. *Service of citation by mail.* If the enforcement officer is unable to locate the responsible person, the administrative citation shall be mailed to the responsible person by certified mail, postage prepaid with a requested return receipt. Simultaneously, the citation may be sent by first class mail. If the citation is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the citation sent by first class mail is not returned.
- 3. *By Posting on Property.* If the enforcement officer is unable to serve the citation under subsections 1 or 2 preceding, a copy of the citation may be posted on any real property within the city in which the city has knowledge that the responsible party has a legal interest. Service under this subsection shall be deemed effective on the date when the notice is posted; or

4. *By Publication.* If the enforcement officer cannot post the citation by any of the preceding methods, the citation may be published in a newspaper likely to give actual notice to the party subject to the citation. The publication shall be once a week for four successive weeks in a newspaper published at least once a week

1.10.070 Satisfaction of administrative citation.

Upon receipt of a citation, the responsible person must do one of the following:

- 1) *Pay the fine.* Pay the fine to the city within 30 days from the date of the citation. All fines assessed shall be payable to the Hermosa Beach Finance Department. Payment of a fine shall not excuse or discharge a failure to correct continuing violations nor shall it bar further enforcement action by the city. Payment of the fine, in the absence of a timely request for a hearing pursuant to Section 1.10.080, waives the responsible party's right to the administrative hearing and appeal process;
- 2) *Remedy the Violation.* If the violation is of a nature that it can be remedied and is deemed by the enforcement officer to not create an immediate danger to health and safety and was corrected within the time given, no fine shall be imposed; or
- 3) *File an appeal.* Appeals shall be filed in accordance with the time limits and other provisions of Section 1.10.080.

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.

1.10.080 Appeal of administrative citation.

- A. *Time to file an appeal.* Any responsible person to whom an administrative citation is issued may choose to contest the citation by requesting an administrative hearing within thirty (30) days of service of the citation. In order to request a hearing, the responsible person shall submit in the manner directed on the citation a fully completed request for administrative hearing form along with either a deposit of the full amount of the administrative fine (in cash or by way of a negotiable check) or a notice that an advance deposit hardship waiver request has been filed pursuant to paragraph B of this Section 1.04.080. The request for hearing shall be incomplete if it does not include the deposit in the full amount of the fine or the request for a hardship waiver. The deposit will be retained in a non-interest bearing account until the matter is resolved. If a timely and complete request for hearing is not submitted, the citation shall be deemed final, and the fine 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 fine shall not preclude issuance of additional citations to the responsible party should the violation persist.
- B. *Hardship Waiver.* Any responsible person who requests a hearing to contest an administrative citation and who is financially unable to deposit the administrative fine as required in paragraph A of this Section may file a request for an advance deposit hardship waiver. The request shall be filed with the planning department on an advance deposit hardship waiver application form, available from the department, no later than ten days after service of the administrative citation. The city manager or his/her designee may issue an advance deposit hardship waiver only if the

person requesting the waiver submits to the city manager or his/her designee a sworn affidavit, together with any supporting documents, demonstrating to the satisfaction of the city manager or his/her designee the person's financial inability to deposit with the city the full amount of the fine in advance of the hearing. Written proof of financial hardship, at a minimum must include tax returns, financial statements, bank account records, salary records or similar documentation demonstrating that the responsible person is unable to deposit the penalty. The city manager or his/her designee shall issue a written decision specifying the reasons for issuing or not issuing the waiver. The decision shall be final, and shall be served upon the person requesting the waiver by certified mail postage pre-paid return receipt requested and first class mail. If the city manager or his/her designee determines that the waiver is not warranted, the person shall remit the full amount of the fine as a deposit within ten days of mailing of the decision. If the full amount of the fine is not deposited within the ten-day period, the request for hearing shall be deemed incomplete and waived, and the citation shall be deemed final. The fine shall be immediately due and owing to the city and may be collected in any manner allowed by law for collection of a debt.

C. *Dismissal of citation.* The City Manager may dismiss an administrative citation at any time if it is determined to have been issued in error, in which event any deposit made shall be refunded.

D. *Hearing procedure.*

1. The Hermosa Beach City Manager shall designate the hearing officer for the administrative citation hearing.
2. After receipt of the "request for hearing" and fine deposit (or, if applicable, approval of a hardship waiver) a hearing before the hearing officer shall be set for a date that is not less than 15 and not more than 60 days from the date that the "request for hearing" is filed in accordance with the provisions of this section. The person requesting the hearing shall be notified of the time and place set for the hearing by first class mail at least ten days prior to the date of the hearing. The responsible person may request one continuance of the hearing, but in no event may the hearing begin later than 90 days after receipt of the request for hearing from the responsible person. The responsible person may attend the hearing in person or in lieu of attending may submit written argument and documentation under penalty of perjury prior to the time scheduled for the hearing.
3. Any documentation, other than the administrative citation, which the enforcement official has submitted or will submit to the hearing officer shall be sent to the person requesting the hearing by regular first class mail at least five days before the date on which the hearing is scheduled. The documentation shall also be made available upon request at the time of the hearing
4. If the responsible person fails to attend the hearing or fails to submit arguments in writing, the administrative hearing officer will render a decision based on the documents that have been received and the responsible person will be deemed to have waived his/her right to an administrative hearing. Under those circumstances, the administrative hearing officer may request additional information from either the responsible person or the enforcement official as may be necessary to render a decision. If service of the administrative hearing is made by posting the citation on real property within the city in which the responsible person has a legal interest, and the responsible person provides verifiable and substantial evidence that removal of the administrative citation from the property by a third party caused the responsible person's failure to attend the scheduled hearing, the responsible person shall be entitled to an administrative hearing.

5. The hearing officer shall only consider evidence that is relevant to whether the violation occurred and whether the responsible person has caused or maintained the violation of the Municipal Code on the date(s) specified in the administrative citation.
6. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The city bears the burden of proof at an administrative hearing to establish a violation of the code. The administrative citation and any additional reports submitted by the enforcement official shall constitute prima facie evidence of the facts contained in those documents. The administrative hearing officer must use a preponderance of evidence as the standard of evidence in deciding the issues.
7. The hearing officer may continue the hearing and request additional information from the issuing officer/employee or the recipient of the administrative citation prior to issuing a written decision.

E. *Hearing officer's decision.* At the conclusion of the hearing or within fifteen (15) days thereafter, the administrative hearing officer shall render a decision as follows:

1. Determine that the violation for which the citation was issued occurred, and impose a fine in the amount set forth in the fine and penalty schedule, and if the violation has not been corrected as of the date of the hearing, order correction or abatement of the violation. In this event, the City shall retain the fine deposited by the responsible person.
2. Determine that the violation for which the citation was issued occurred, but that the responsible party has introduced credible evidence of mitigating circumstances warranting imposition of a lesser fine than that prescribed in the fine and penalty schedule, or no fine at all, and impose such lesser fine, if any; and if the violation has not been corrected as of the date of the hearing, order correction or abatement of the violation. In this event, the City shall retain all or a portion of the fine deposited by the responsible person as applicable.
3. Determine that the violation for which the citation was issued did not occur or that the condition did not constitute a violation of the Municipal Code, or that the person cited was not the responsible party. In this event, the City shall refund the deposit, if any, within fifteen (15) days of the decision.

The administrative hearing officer's decision shall be in writing, shall explain the basis for the decision, and shall be served upon the responsible party by first class mail, to the address stated on the request for hearing form. If applicable, the order shall set forth the date by which compliance shall be achieved and the imposed fine paid to the City. The order shall be final on the date of mailing, which shall be deemed the "date of service," and shall notify the responsible person of the right to appeal to the Superior Court, as further described in Section 1.04.090.

F. *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 1.10.090, 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.

1.10.090 Right to judicial review.

Within 20 days after service of the decision of the administrative hearing officer upon the responsible person, he/she may seek review of the decision by filing a notice of appeal with the Superior Court. The responsible person shall serve upon the city clerk either in person or by first class mail a copy of the notice of appeal. If the responsible person fails to timely file a notice of appeal, the administrative hearing officer's decision shall be deemed final.

1.10.100 Failure to comply with administrative order.

In the absence of a timely appeal to the Superior Court, failure to comply with a final administrative order directing the abatement of a continuing violation by the date specified in the order is a misdemeanor offense for each day thereafter, or any portion thereof, that the violation is maintained or permitted. In the event of a timely appeal to the Superior Court pursuant to Section 1.10.090, and provided the City prevails thereon, the responsible person shall be guilty of a misdemeanor offense for each day, or any portion thereof, that a continuing violation is maintained or permitted after a court ordered abatement date. Filing a misdemeanor action does not preclude the City from pursuing any other remedies to gain compliance provided in this code or under state law. For purposes of this chapter, a "continuing violation" shall mean a single, ongoing condition or activity in violation of the Municipal Code.

Section 2. The following Sections of the Hermosa Beach Municipal Code are amended in their entirety to read as follows:

5.04.340 Violations of business license regulations.

All violations of provisions of this title, requiring business licenses and permits, shall be infractions, punishable as provided in Chapter 1.04.

6.04.110 Violations of animal regulations.

A violation of the provisions of this chapter is a misdemeanor unless the violation is classified as an infraction in accordance with the provisions of chapter 1.04.

8.04.060 Violations of health and safety regulations.

It shall be unlawful for any person, firm, partnership or corporation to violate any provision or to fail to comply with any of the requirements of the Chapter, Codes, or Regulations hereby adopted. Any person, firm, partnership or corporation violating any provision of the Chapter, Codes or Regulations hereby adopted, or failing to comply with any of their requirements shall be deemed guilty of a misdemeanor unless the violation is classified as an infraction in accordance with the provisions of chapter 1.04. Violations shall be punishable as provided in chapter 1.04. Each and every person, firm, partnership, or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of any of the provisions of the Chapter, Codes or Regulations hereby adopted is committed, continued or permitted by such person, firm, partnership or corporation, and shall be deemed punishable therefore as provided herein.

A. Any person, firm, corporation or association violating any of the provisions of Los Angeles County Code, Title 11, Health and Safety, Division 1, Health Code, and Division 2, General Hazards, as amended and in effect on September 10, 1996, adopted by reference herein or violating any provision of any permit, license or exception granted thereunder or failing to comply with any of the requirements thereof shall be shall be punishable as a misdemeanor or infraction as provided in chapter 1.04. Each violation is a separate offense for each and every day during any portion of which such violation is committed, continued, or permitted by such person.

17.74. 010 Violations of zoning regulations.

Any person, firm or corporation violating any of the provisions of this title shall be deemed guilty of a misdemeanor unless the violation is classified as an infraction in accordance with the provisions of chapter 1.04. Violations shall be punishable as provided in chapter 1.04..

17.74. 020 Each day a separate offense.

Each person, firm or corporation found guilty of a violation shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this title is committed, continued or permitted by such person, firm or corporation, and shall be punishable therefor as provided for in chapter 1.04, and any use, occupation or building or structure maintained contrary to the provisions hereof shall constitute a public nuisance.

17.74. 030 Violation of conditions of conditional use permits and precise development plans.

No person shall violate any conditions of a conditional use permit or precise development plan. Any person violating any of the said conditions shall be guilty of an infraction. Enforcement and penalties for such infractions shall be as set out in chapter 1.04.

PASSED, APPROVED AND ADOPTED this ___ day of April, 2007.

MAYOR

Attest:

City Clerk

JURISDICTIONS THAT USE ADMINISTRATIVE CITATIONS

1. West Hollywood
2. Anaheim
3. Temple City
4. Del Monte
5. Palmdale
6. Livermore
7. Moreno Valley
8. Santa Ana
9. Long Beach
10. Carson

ADMINISTRATIVE CITATION PROGRAM

Citable Offenses: Community Development Department.

1. Illegal signs and banners, HBMC 17.50.
2. Noise ordinance violations, HBMC 8.24 – loading and unloading, leaf blowers, outdoor speakers, construction before 8 am, weekends, holidays, etc.
3. CUP violations, HBMC 17.56 – various violations including; improper parking for auto repair businesses, re-arraigning floor plans without prior permission, open beyond approved hours, live entertainment without a CUP, doors and windows open during live entertainment, miscellaneous violations (the guys at the Pedones Pizza were selling roses out of a van in front of the restaurant on Valentines day a couple years ago).
4. Messy yards, HBMC 8.28 – junk, debris, weeds, abandoned vehicles, etc.
5. Boats, cars, RV's improperly parked in driveway or front yard, HBMC 17.44, or improperly stored on commercial property. Also pertinent to Section 17.16.010 Permitted Uses, and Section 17.44.050 Unlawful to reduce available parking.
6. Grease Trap enforcement per HBMC 15.16.
7. Other Building/Plumbing/Electrical/Mechanical violations where the offense is deemed to be not life or safety threatening. Suggestions - Violations of Stop Work Orders.

Citable Offenses: Public Works Department

1. Encroachment violations as determined by the Director of Public Works per HBMC Chapter 12. This could be violation of encroachment permits or encroaching onto the public right of way with chairs and tables, merchandise displays, etc.
2. Citations for loading and unloading or staging equipment on the public right of way without permits.

Citable Offenses: Business Licensing Department

1. Failure to obtain/pay for required business licenses.
2. Failure to submit required sub contractor lists.

Citable Offenses: Fire and Police Departments:

1. Noise and other night/weekend violations at nightspots.
2. Overcrowding.

PROCESS FOR THE ISSUANCE OF ADMINISTRATIVE CITATIONS

The following provides process for implementing the Administrative Citation Program.

I. General Procedure

- a. Photos are taken of the offense and logged for possible citation.
- b. Code Officer prepares a warning letter to owner quoting applicable codes and penalties. Officer brings letter and photo(s) to the property along with a signature sheet. Whoever receives the letter signs signature sheet to verify delivery. Letter gives three days (72 hours) for correction.
- c. If not resolved after 72 hours, first citation is issued, along with a letter of explanation and signature sheet as per above. The business has 30 days to correct the condition between issuance and hearing.
- d. Hearing – If problem has not been resolved one week prior to the hearing, letters, photos, signature sheet (and any other evidence) are given to the Hearing Officer along with the appropriate copy of the citation.
- e. Resolution – if corrections are completed, case is dropped prior to hearing.
- f. A copy of the citation and at least one warning letter will be filed in the building master file for future reference and CUP reviews.

II. Failure to Comply

- a. After every hearing session, Hearing Officer provides Code Officer with case disposition log. If corrections have not been made or fine has not been paid, Code Officer continues with enforcement.
- b. Continued Offense - if violation persists after the hearing date, Code officer issues second ticket with explanation/warning letter which explains that the offense will be prosecuted as a misdemeanor if a third ticket is issued, and a two week deadline prior to issuance of the third ticket.
- c. Package to City Prosecutor – If any violator receives three or more tickets in a 12 month period (fines for three tickets = \$800) the package is sent to the prosecutor to take to Superior court and obtain a ruling that the fines must be paid.

III. Specific Procedures

- a. Illegal Signs/Banners HBMC 17.50 – Follow above procedures, issue cite after warning documentation.
- b. Noise Violations HBMC 8.24 – On first complaint, issue warning letter and obtain identification – drivers license, delivery truck plate number/company name. Take photos as needed. Issue citation at second violation by same individual with same company.
- c. CUP Violations HBMC 17.56 Follow above procedures, issue cite after warning documentation. In some cases i.e. a one day event such as a Halloween Party at a restaurant/bar, Code Officer to consult with Department Director to determine proper time frame between warning and citation issuance.
- d. Repeat pattern of violations (3 per calendar year) will be referred to the Planning Commission for CUP revocation/modification hearing.

City of Hermosa Beach: ADMINISTRATIVE CITATION

AC a

ISSUING DEPARTMENT: _____

Address: 1315 Valley Drive, Hermosa Beach, CA 90245

Violation Location: _____ Hermosa Beach, CA

Business/Tenant Name: _____

Responsible Person: _____ CDL/ID#: _____

RP address (if different from above): _____

NOTICE OF VIOLATION and WARNING

As of _____ at _____ am/pm, you are in violation of Hermosa Beach Municipal Code Sections:

CORRECTIONS REQUIRED: Refer to attached for continuation _____

If the correction of the violation(s) is not completed within _____ hours/days, you will be liable for an administrative citation / civil fine in the amount of \$100 (1st CITATION), \$200 (2nd CITATION), \$500 (3rd and subsequent CITATIONS). YOU MUST NOTIFY THE ISSUING DEPARTMENT WHEN CORRECTIONS ARE COMPLETED In addition to the fine, you may be cited each day that the violation exists beyond the correction date. Other enforcement action and penalties may also result if compliance is not achieved within the allotted time frame.

Date Corrected: _____ Enforcement Officer: _____ ID#: _____

NOTICE OF ADMINISTRATIVE CITATION / CIVIL FINE

As of _____ at _____ am / pm you are in violation of Hermosa Beach Municipal Code Section(s):

Code Section Description of Violation

Refer to attached for continuation

- 1ST CITATION \$ _____ IS NOW DUE AND PAYABLE
- 2ND CITATION \$ _____ IS NOW DUE AND PAYABLE
- 3RD CITATION \$ _____ IS NOW DUE AND PAYABLE

Pursuant to Hermosa Beach Municipal Code Section 1.04.030, payment must be made within 15 days. Pursuant to section 1.08.020, you have 15 days from the date of service to file a notice of appeal with the issuing department.

Received by: _____, Date/Time: _____

Refused to sign, served via personal service. Served via certified and first class mail on: _____ by: _____
 Posted at: _____ Hermosa Beach, CA. By: _____ Date Posted: _____

Signature of Enforcement Officer. _____ Print Name of Enforcement Officer. _____ ID# _____
Phone #: (310) _____

IMPORTANT! Read the back of this Notice for Appeal and Payment Information.

IMPORTANT INFORMATION

ORDER: You are ordered to cease the commission of the violation(s) listed on the front of this Notice of Violation and Warning

ADMINISTRATIVE CITATION: Pursuant to Chapter 1.10 of the Hermosa Beach Municipal Code, an Administrative Citation may be issued for violations of the Municipal Code. The Fines are set forth in California Government Code Section 36900b. **FINES ARE CUMULATIVE AND CITATIONS MAY BE ISSUED EACH DAY THE VIOLATION EXISTS. IN ADDITION, THE COUNTY MAY ISSUE A CRIMINAL CITATION AND/OR ANY OTHER LEGAL REMEDY IN ORDER TO BRING ABOUT COMPLIANCE.**

REQUEST FOR ADMINISTRATIVE HEARING AND APPEAL: You have the right to appeal the Notice of Administrative Citation / Civil Fine within thirty (30) days from the date you are served. (You may contest that there was a violation of the Hermosa Beach Municipal Code, or that you were the responsible person.) To appeal, complete the information below and return a copy of this citation along with an advanced deposit of the full amount of the fine (in the form of money order or check payable to "The City of Hermosa Beach"). The funds will be returned to you if your appeal is granted.

MAIL OR DELIVER THIS NOTICE OF APPEAL AND PAYMENT TO THE ISSUING DEPARTMENT AT THE ADDRESS LISTED ON THE FRONT OF THIS FORM

You will be notified of the date and time set for your hearing. Your failure to appear at the hearing will result in a forfeiture of your deposit as payment of the Administrative Citation.

Your Name: _____
Mailing Address: _____
Date: _____ Phone #: _____
Reason for Appeal: _____

PAYMENT OF ADMINISTRATIVE CITATION/CIVIL FINE: The amount of the fine imposed on you is indicated on the front of this form. The Administrative Citation Fine must be paid to the City within fifteen (15) days from the date you were served. Payment may be made by mail or in person at the issuing department as indicated on the front of this form.

Please write the citation number on the on the check or money order, and make payable to: "The City of Hermosa Beach". **PAYMENT OF THE FINE SHALL NOT EXCUSE THE FAILURE TO CORRECT THE VIOLATION(S), NOR SHALL IT BAR FURTHER ENFORCEMENT ACTION BY THE CITY OF HERMOSA BEACH.**

FAILURE TO PAY FINE: Failure to pay the fine within the time specified on the citation may result in the filing of a claim with the small claims court. Alternatively, the city may also pursue any other remedy authorized by law to collect the civil fines. The county may also recover its collection costs according to proof.

A full description of the City's administrative citation hearing process for municipal code violations and your rights in that process are found in the City of Hermosa Beach Municipal Code Chapters 1.04, and 1.10.

For Office Use – Date stamp when received

INFRASTRUCTURE REQUIREMENTS FOR PROCESSING ADMINISTRATIVE CITATIONS

A brief summary of infrastructure requirements for the Administrative Citation Program.

- I. Hearing Officer – The City needs to enter a contract with a qualified hearing officer to receive the evidence and citations and hear the case.
- II. Interaction between Code Enforcement (and others who may use the process, i.e. Fire, Public Works, etc.) and the Hearing Officer needs to be set up.
- III. Involvement of City Attorney's Office – Section 1.04.030 B says that anyone who receives 3 citations for the same offense in a 12 month period is guilty of a misdemeanor. Section 1.08.050 and .060 address warrants for arrest and violations of promises to appear. Cites issued for CUP violations need to be included on planning worksheet for city attorney referral and CUP revocation/modification hearing if applicable. A system/policy needs to be set up to send these cases to the City Attorney for further action.