

TITLE 1  
GENERAL PROVISIONS

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# TITLE 1

## GENERAL PROVISIONS

### Chapter 1.04

#### CODE ADOPTION

##### Sections:

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##### **1.04.010 Adoption.**

Pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government Code, there is adopted the Claremont Municipal Code as published by Book Publishing Company, Seattle, Washington, together with those secondary codes as are deleted or modified by the provisions of the Claremont Municipal Code. (78-36)

##### **1.04.020 Title--Citation--Reference.**

This code shall be known as the Claremont Municipal Code and it shall be sufficient to refer to said code as the Claremont Municipal Code in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the Claremont Municipal Code. Further reference may be had to the titles, chapters, sections and subsections of the Claremont Municipal Code and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code. (78-36)

##### **1.04.030 Codification authority.**

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the city of Claremont, California, codified pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the Government Code. (78-36)

##### **1.04.040 Ordinances passed prior to adoption of the code.**

The last ordinance included in this code was Ordinance 77-35, passed October 25, 1977. The following ordinances, passed subsequent to Ordinance 77-35, but prior to the adoption of this code are hereby adopted and made a part of this code: Ordinances 78-11 (building code), 78-12 (electrical code), 78-13 (mechanical code), 78-14 (plumbing code), 78-17 (PERS city and board of administration agreement), 78-20 (street sweeping fees), 78-21 (transient occupancy tax), 78-22 (schedule of fees), 78-25 (Uniform Fire Code), 78-26 (fire zones), 78-28 (purchasing), and 78-35 (alcohol). (78-36)

**1.04.050 Reference applies to all amendments.**

Wherever a reference is made to this code as the Claremont Municipal Code or to any portion thereof, or to any ordinance of the City of Claremont, California, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (78-36)

**1.04.060 Title, chapter and section headings.**

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (78-36)

**1.04.070 Reference to specific ordinances.**

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (78-36)

**1.04.080 Effect of code on past actions and obligations.**

Neither the adoption of this code nor the repeal or amendment hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (78-36)

**1.04.090 Effective date.**

This code shall become effective on the date the ordinance codified in this chapter, adopting this code as the Claremont Municipal Code, shall become effective. (78-36)

**1.04.100 Constitutionality.**

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council hereby declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (78-36)

## Chapter 1.08

### GENERAL PROVISIONS

#### Sections:

- 1.08.010** Code title for citation.
- 1.08.020** Definitions and rules of construction.
- 1.08.030** Provisions considered continuations of existing ordinances.
- 1.08.040** Effect of repeal of ordinances.
- 1.08.050** Severability of parts of code.
- 1.08.060** Intent of section catchlines.

#### **1.08.010 Code title for citation.**

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Municipal Code of the City of Claremont, California," and may be so cited. (Prior code § 1.1)

#### **1.08.020 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:

1. "The city" or "this city" shall be construed as if followed by the words "of Claremont."
2. "The Code" or "this Code" means "The Municipal Code of the City of Claremont, California."
3. 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.
4. "Council" means the city council of the city of Claremont, California.
5. "The county" or "this county" means the county of Los Angeles.
6. "Day" means the period of time between any midnight and the midnight following.
7. "Daytime" means the period of time between sunrise and sunset. "Nighttime" means the period of time between sunset and sunrise.
8. Department, Board, Commission, Office, Officer or Employee. Whenever any department, board, commission, office, officer or employee is referred to, it means a department, board, commission, office, officer or employee of the city, unless the context clearly indicates otherwise.
9. Gender. The masculine gender includes the feminine and neuter.
10. "In the city" or "within the city" means and includes all territory over which the city now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.
11. 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.
12. "Month" means a calendar month.
13. Number. The singular number includes the plural, and the plural the singular.
14. "Oath" includes affirmation.
15. Official Time. Whenever certain hours are named herein, they shall mean Pacific Standard Time or Daylight Saving Time, whichever may be in current use in the city.
16. "Or" may be read "and," and "and" may be read "or," if the sense requires it.
17. "Person" includes any person, firm, association, organization, partnership, business trust, corporation or company.
18. "Personal property" includes every species of property, except real property as herein defined.
19. "Preceding" and "following" mean next before and next after, respectively.

20. "Process" includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.
21. "Property" includes real and personal property.
22. "Real property" includes lands, tenements and here-ditaments.
23. "Roadway" is that portion of a highway improved, designed or ordinarily used for vehicular travel.
24. "Shall" is mandatory and "may" is permissive.
25. "Sidewalk" means that portion of a highway, other than the roadway, set apart for pedestrian travel.
26. "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.
27. "The state" or "this state" shall be construed to mean the state of California.
28. "Street" or "highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.
29. "Tenant" or "occupant," applied to a building or land, includes any person holding a written or oral lease of, or who occupies, the whole or a part of such building or land, either alone or with others.
30. Tenses. The present tense includes the past and future tenses, and the future includes the present.
31. Week. A week consists of seven consecutive days.
32. "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.
33. "Year" means a calendar year, except where otherwise provided.
34. "Park" or "parking" means the standing of a vehicle, where occupied or not, otherwise than temporarily for the purpose of, and while engaged in loading and unloading merchandise or passengers.
35. "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, street, alley or road excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.
36. "Code enforcement official" means a city employee who has been designated by the city manager and trained to enforce designated portions of this code and to issue citations for violations of designated portions of this code.
37. "Parking enforcement official" means a city employee designated by the city manager to issue parking citations for violations of the state parking laws and the municipal parking laws. (89-16; prior code § 1.2)

#### **1.08.030 Provisions considered 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. (Prior code § 1.3)

#### **1.08.040 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.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, not any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed. (Prior code § 1.4)

**1.08.050 Severability of parts of code.**

It is declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code. (Prior code § 1.5)

**1.08.060 Intent of section catchlines.**

The catchlines of the several sections of this code are intended as mere catchwords to indicate the contents of the section, and shall not be deemed or taken to be titles of such section, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, is amended or reenacted. (Prior code § 1.6)

## Chapter 1.12

### GENERAL PENALTY

#### Sections:

- 1.12.010**    **Violations of the Municipal Code.**
- 1.12.020**    **Penalties for violations of the Municipal Code.**
- 1.12.030**    **Continuing violations.**
- 1.12.040**    **Code enforcement and citation authority.**
- 1.12.050**    **Manner of enforcement.**

#### **1.12.010 Violations of the Municipal Code.**

No person, whether as principal, agent, employee or otherwise, shall violate, cause the violation of, or otherwise fail to comply with any of the requirements of this code. Unless a different penalty is prescribed for violation a specific provision of this code, every act prohibited or declared unlawful, and every failure to perform an act made mandatory, shall be a misdemeanor or an infraction, at the discretion of the city attorney or the district attorney.

In addition to the penalties provided in this chapter, any condition caused or permitted to exist in violation of any of the provisions to exist in violation of any of the provisions of this code is declared a public nuisance, and may be abated by civil proceedings such as restraining orders, civil injunctions, abatement proceedings or the like. The expense of such abatement proceedings may, by resolution of the city council, be declared to be a lien against the property on which such nuisance is maintained, and such lien shall be made the personal obligation of the property owner. (89-16)

#### **1.12.020 Penalties for violations of the Municipal Code.**

A. Misdemeanor – Penalty. Every violation of this code which is prosecuted as a misdemeanor shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

B. Infraction – Penalty. Every violation of this code which is prosecuted as an infraction shall be punishable by a fine not exceeding one hundred dollars for the first offense, a fine not exceeding two hundred dollars for the second offense of the same provision within one year, and a fine not exceeding five hundred dollars for each additional offense of the same provision within one year.

C. Parking – Penalty. Every violation of this code which involves the parking, standing or stopping of a vehicle shall be punishable by a civil penalty as established by the City through resolution. All penalties, with the exception of the overnight parking penalty in Section 10.32.210, shall increase at a progressive rate. The second offense, within one year, shall equal two times the amount of the penalty, as set by resolution, and all subsequent offenses, within one year, shall equal three times the amount of the penalty, as set by resolution.

As used in this section, the term “year” means any consecutive twelve-month period.

As used in this section, the term “offense” includes any violation of the code which is cited or charged and which does not result in:

1. An acquittal;
2. A finding of “not guilty;”
3. A dismissal of charges by the city or the court.. (09-15)

#### **1.12.030 Continuing violations.**

Each person shall be deemed guilty of a separate crime 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, firm or corporation and shall be punishable accordingly. (89-16)

#### **1.12.040 Code enforcement and citation authority.**

A. The city manager and the city police department shall have the duty and authority to enforce the provisions of this code.

B. The city manager may designate in writing specific additional city employees as code enforcement officials. When these code enforcement officials are designated, the designation shall specify which chapters or sections the official is authorized to enforce. These designated code enforcement officials are authorized by the city council, pursuant to Section 832, 836.5 and 19(d) of the California Penal Code, and subject to the training provisions of subsection B(2) below, to arrest a person without warrant whenever the code enforcement official has reasonable cause to believe that the person to be arrested has violated a provision of this code, that the official has been designated to enforce, in the code enforcement official's presence.

1. In any case in which a person is arrested by a code enforcement official, the official shall issue a "Notice to Appear" and shall release such person on his or her written promise to appear in court, pursuant to Section 836.5, 853.5 and 853.6 of the California Penal Code. Under no circumstances may code enforcement officials take persons to be arrested into custody. In the event that the person to be arrested demands to be taken before a magistrate or refuses to provide his or her written promise to appear in court, code enforcement officials shall either (a) summon a police officer and request that the police officer arrest the person and take that person into custody, or (b) promptly refer the matter to the city attorney or the prosecuting attorney and request that a complaint be prepared and filed against the person.

2. Each code enforcement official designated to enforce this code shall complete a course of training to be coordinated by the chief of police which shall include, at a minimum, training in (a) the evidentiary prerequisites to criminal prosecution, and (b) procedures for prudently exercising the code enforcement official's arrest and citation authority.

C. The city manager may also designate in writing specific city employees as parking enforcement officials. The city council, pursuant to Vehicle Code Sections 40202 and 41102, authorizes these designated parking enforcement officials to issue parking citations to enforce state laws and municipal laws that pertain to the parking or standing of vehicles. If the vehicle is unattended during the time of the violation, the parking enforcement official shall securely attach to the vehicle a notice of parking violation setting forth the following:

1. A reference to the section of the state or municipal law violated;
2. The approximate time of the violation;
3. The location where the violation occurred;
4. The vehicle license number;
5. The registration expiration date;
6. The color of the vehicle; and
7. The make of the vehicle, if possible.

The notice of parking violation shall be attached to the vehicle either under the windshield wiper or in another conspicuous place upon the vehicle so as to be easily observed by the person in charge of the vehicle upon return of that person. Once the notice of parking violation has been attached to the vehicle as provided above, the notice of parking violation shall be filed with the city's processing agency. Thenceforth, these citations shall be dealt with in the same manner as are the parking citations issued by the police department of the city. (89-16)

#### **1.12.050 Manner of enforcement.**

Persons who violate this code may be cited by the city police officers, the city code enforcement officials, and/or city parking enforcement officials in accordance with the authority granted in this code. In addition, persons who violate this code may be charged by the city attorney or the district attorney. Also, any violation of this code may be dealt with by civil action such as restraining orders, injunctions, abatement proceedings, and the like.

No person shall interfere with, oppose or resist an authorized person charged with the enforcement of this code while such person is engaged in the performance of his or her duty.  
(89-16)

## Chapter 1.14

### PROCEDURES FOR ENFORCING AND IMPOSING ADMINISTRATIVE FINES AND PENALTIES

#### Sections:

- 1.14.010 Administrative Fines and Penalties for Violations of City Ordinances and Codes**
- 1.14.020 Definitions**
- 1.14.030 Administrative Citations and Notices of violations**
- 1.14.035 Recording Notices of violation**
- 1.14.040 Amount of fines and Penalties**
- 1.14.050 Payment of fines.**
- 1.14.060 Request for hearing.**
- 1.14.070 Deposit Hardship Waivers**
- 1.14.080 Hearing Officer**
- 1.14.090 Hearing Procedure**
- 1.14.100 Recovery of Abatement Costs**
- 1.14.110 Right to Judicial Review**
- 1.14.120 Notices**

#### **1.14.010 Administrative Fines and Penalties for Violations of City Ordinances and Codes.**

Every violation of a provision of this code, the penalty for which is defined as an “infraction” or “misdemeanor,” shall be subject to an administrative fine and/or penalty. The provisions of this chapter relating to administrative fines and penalties are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of codes, ordinances, mandates, regulations, resolutions, rules or other laws adopted by the City, or other applicable state codes. Use of this chapter shall be at the sole discretion of the City and nothing in this chapter shall prevent the City from initiating a civil, criminal or other legal or equitable proceedings as an alternative to the proceedings set forth in the administrative fine and/or penalty provisions of this chapter. (98-13)

#### **1.14.020 Definitions.**

The following definitions shall apply for purposes of this chapter:

- A. “Administrative Citation” shall mean the ticket issued to a Responsible Person who has violated a provision of the City Codes.
- B. “City” shall mean the City of Claremont.
- C. “City Codes” shall mean any codified or non-codified ordinance or law adopted by the City.
- D. “Enforcement Officer” shall mean any individual employed or otherwise charged by the City to enforce codes, ordinances, mandates, regulations, resolutions, rules or other laws adopted by the City.
- E. “Hearing Officer” shall mean the person designated by the City Manager or his or her designee to determine the validity of an Administrative Citation after the person to whom the citation was issued requests a hearing.
- F. “Person” shall mean any individual or corporation, partnership, association or other group or combination of individuals acting as an entity that has an ownership or leasehold interest in real property, or has a contractual obligation to lease or maintain real property, where a City Code violation has occurred or continues to occur. (98-13)

**1.14.030 Administrative Citations and Notices of Violations.**

A. It shall be unlawful for any person to violate any provision of the City Codes. Whenever an Enforcement Officer finds that a provision of the City codes has been violated, the Enforcement Officer shall issue an Administrative Citation to the person responsible for the violation. The Administrative Citation shall state the fine and/or penalty owed to the City as a result of the violation. The Administrative Citation, shall be in writing and may provide, at the Enforcement Officer's discretion, a reasonable period of time of no more than thirty (30) calendar days, to correct or otherwise remedy the violation prior to the effective date of an administrative fine and/or penalty. If the citation contains a discretionary period of time in which to remedy the violation, and if the person cited provides proof to the City Manager or his or her designee, that the violation has been corrected or otherwise remedied within the period of time allotted for correction, then no fines or penalties shall be assessed and the Administrative Citation shall be deemed null and void.

B. Each Administrative Citation issued to a person shall contain, in a form determined by the City, the following:

1. The date of the violation.
2. The address or a legal description of the location where the violation occurred.
3. The section of the City Code violated and a description of the violation.
4. A description of the action required to correct the violation, if applicable.
5. The number of days provided to correct or otherwise remedy the violation prior to the imposition of fines and/or penalties, if applicable.
6. The amount of the fine and type of penalty assessed for the violation.
7. A description of the fine/penalty payment process, including a description of the time within which and the place to which the fine and/or penalty shall be paid.
8. An order prohibiting the continuation or repeated occurrence of the violation described in the Administrative Citation.
9. A description of the Administrative Citation review process, including the time within which the Administrative Citation may be contested and the place from which a request for hearing may be obtained.
10. The name and signature of the citing Enforcement Officer.

C. Service of the Administrative Citation shall be made by: (1) personal service on the person in any of the various ways that a person may be served with a summons in a civil action pursuant to California Code of Civil Procedure Section 415.10, as such may be amended from time to time; or (2) certified mail, return receipt requested. When certified mail is used, service shall be complete at the time the citation is deposited into the United States mail; or (3) in instances when personal service or certified mail is not possible, then service shall be provided by publishing a notice in a newspaper of general circulation and posting an 8-1/2" x 11" enlargement of the Administrative Citation in a conspicuous location on or in front of the property.

D. The City Manager shall have the authority to retract any Administrative Citation that he or she determines was erroneously issued. A log of all Administrative Citations that are retracted shall be maintained by the City. (98-13)

**1.14.035 Recording Notices of Violation.**

A. Whenever the enforcement officer determines that a violation of City codes or applicable State codes exists, the enforcement official may issue a notice of violation to a responsible person which may include the property owner and/or a financial institution with an interest in the land. The notice of violation shall include the following information:

1. The street address of the property;
2. The name of the property's owner of record;
3. The code sections in violation;
4. A description of the property's condition which violates the applicable codes;
5. A list of necessary corrections to bring the property into compliance;

6. A deadline or specific date to correct the violations listed in the notice of violation;
  7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to administrative abatement, civil penalties, revocation of permits, recordation of the notice of violation, the withholding of future municipal permits, criminal prosecution and civil injunction.
- B. Once the enforcement officer has issued a notice of violation to any person and the property remains in violation after the deadline established in the notice of violation, the enforcement officer may record a notice of violation with the recorder's office of Los Angeles County.
1. Before recordation, the enforcement officer shall provide to the responsible person a letter stating that a notice of violation will be recorded, unless a written request to appeal pursuant to the procedures outlined in Subsection D below is filed. The letter shall be served pursuant to any of the methods of service set forth in Subsection C below. The enforcement officer may also send a courtesy copy of the letter to any applicable financial institution.
  2. If the enforcement officer does not receive the written request to appeal pursuant to the procedures set forth below, the enforcement officer may record the notice of violation if the violations remain.
  3. The recorded notice of violation shall include the name of the property owner, the property's assessor's parcel number, the parcel's legal description, and a copy of the latest notice of violation.
- C. A copy of the recorded notice of violation shall be served on the responsible person and property owner pursuant to any of the methods of service set forth as follows:
1. Posting a notice in a conspicuous place on or in front of the property in question and by either one of the following methods:
  2. By personal service on the owner(s); or,
  3. By registered or certified mail addressed to the owner(s) of the property at their last-known address. If there is no known address for the owner, lessee, occupant and other person having charge or control of the property, the notice shall be sent to the property address. Service shall be completed at the time of deposit into the United States mail.
- D. Appeal Procedures are as follows:
1. An appeal of the enforcement officer's letter to record the notice of violation shall follow the procedures set forth in Section 8.16.050 and 8.16.060 of this code.
  2. The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded notice of violation.
- E. Appeal hearing shall be as follows:
1. Upon receiving a written appeal, the enforcement officer shall request the city manager appoint a hearing officer and schedule a hearing pursuant to Section 8.16.080 of this title. The purpose of the hearing is for the responsible person or property owner to state any reasons why a notice of violation should not be recorded.
  2. At the appeal hearing, the hearing officer shall only consider evidence that is consistent with the city manager's rules and procedures for administrative enforcement hearings and that is relevant to the following issues:
    - a. Whether the conditions listed in the notice of violation violate city codes or applicable state codes; and
    - b. Whether the enforcement officer afforded the responsible person with due process by adhering to the notification procedures specified in Section 8.16.080 of this code.
    - c. If the enforcement hearing officer affirms the enforcement official's decision, the enforcement officer may proceed to record the notice of violation.
    - d. If the hearing officer determines that the recordation is improper, the hearing officer shall invalidate the enforcement officer's decision to record the notice of violation.
- F. Notice of compliance procedures shall be as follows:

1. When the violations listed on the notice of violation have been corrected, the responsible person or property owner may file with the enforcement officer a written request for a notice of compliance.
2. Once the enforcement officer receives this request, the enforcement official shall reinspect the property within thirty calendar days to determine whether the violations listed in the notice of violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.
3. The enforcement officer shall serve a notice of compliance to the responsible person or property owner in the manner provide in Subsection C above of this chapter if the enforcement officer determines that:
  - a. All violations listed in the recorded notice of violation have been corrected; and
  - b. All necessary permits have been issued and finalized; and
  - c. All civil penalties assessed against the property have been paid; and
  - d. The party requesting the notice of compliance has paid an administrative fee to reimburse the city for all administrative costs.
4. Administrative costs may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing and any other processing costs associated with the violations specified on the notice of violation.
- G. If the enforcement officer denies a request to issue a notice of compliance, the enforcement officer shall serve the responsible person or property owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service set forth in Subsection C above of this chapter. The enforcement officer's decision denying a request to issue a notice of compliance constitutes the final decision in the matter and is not appealable.
- H. The City of Claremont may withhold permits for any alteration, repair or construction pertaining to any existing or new structures or signs on the property identified in the notice of violation, or any permits pertaining to the use and development of the real property or the structure: If a request to appeal has not been timely filed; or after an enforcement hearing officer affirms the enforcement officer's decision to record a notice of violation. The City of Claremont may withhold permits until a notice of compliance has been issued by the enforcement officer. The City of Claremont may not withhold permits which are necessary to obtain a notice of compliance or which are necessary to correct serious health and safety violations.
- I. The director shall issue a signed notice of compliance stating that it cancels the notice of violation once all violations have been corrected and all fines, penalties, and costs have been paid. The notice of compliance shall be recorded by the City, or by the property owner by the request of the property owner. The recordation of the notice of compliance shall have the effect of canceling the recorded notice of violation. (09-14)

**1.14.040 Amount of Fines and Penalties.**

- A. The amount of fines for violations of City Codes imposed pursuant to this Chapter shall be established by resolution of the City Council. (98-13)

**1.14.050 Payment of Fines.**

- A. All fines and penalties shall be paid to the City within thirty (30) calendar days from the effective date of the Administrative Citation. The effective date of an Administrative Citation shall be the date the citation is issued, unless the Enforcement Officer granted an opportunity for the person cited to correct the violation. Where a correction period has been granted, the effective date of the Administrative Citation shall be on the final date of the correction period, if the person has not corrected the violation.
- B. Any Administrative Citation fine or penalty paid pursuant to subsection A of this section shall be refunded if it is determined, after hearing, that the person charged was not the person responsible for the violation or there was no violation as charged in the Administrative Citation.

C. Payment of a fine or penalty under this chapter shall not excuse or discharge any continuation or repeated occurrence of a violation of a City Code that is the subject of an Administrative Citation.

D. The City may use all available legal means to collect any past due fines, penalties and other costs related to issuing the Administrative Citations and collecting the fines and penalties, including, but not limited to, contracting with collection agencies, filing liens and seeking judgments in court. (98-13)

#### **1.14.060 Request for Hearing.**

A. Any person issued an Administrative Citation by an Enforcement Officer may contest that a violation of the City Code has not occurred or that he or she is not responsible for the violation. A person cited may request an administrative hearing by filing a written request for hearing no later than fifteen (15) calendar days from the effective date of the Administrative Citation. The written request shall include a detailed written explanation as to why the Administrative Citation is being contested.

B. The person to whom an Administrative Citation is issued shall deposit the amount of the fine and/or penalty specified on the Administrative Citation with the City Clerk at the time he/she returns the request for hearing form, or he/she shall request an advance deposit hardship waiver pursuant to Section 1.14.070 of this chapter.

C. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing. The hearing shall be set for a date that is not less than fifteen (15) calendar days from the date that a completed request for administrative hearing is filed in accordance with the above provisions.

D. No hearing shall be held unless and until the fine or penalty has been deposited with the City Clerk or an advance deposit hardship waiver has been issued. If the person contesting an Administrative Citation prevails in a challenge to the citation, the City shall within thirty (30) calendar days refund the full amount of the fine or penalty deposited. (98-13)

#### **1.14.070 Deposit Hardship Waivers.**

A. Any person who intends to request an administrative hearing and is financially unable to make the advance deposit of the fine or penalty as required herein, may file a request for an advance deposit hardship waiver.

B. A person may request an advance hardship waiver by completing an advance deposit hardship waiver form and returning the form to the City Clerk.

C. The City Manager may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the applicant submits the required advance deposit hardship waiver form and includes a sworn affidavit and any supporting documents or materials demonstrating to the satisfaction of the City Manager that it would be a significant financial detriment on the recipient of the Administrative Citation to deposit the full amount of the fine or penalty in advance of the hearing. The requirement for depositing the full amount of the fine or penalty shall be sustained unless or until the City Manager makes this determination. In making this determination, the City Manager shall use the same criteria used by the courts to determine whether to waive filing fees. The City Clerk shall serve written notice of the City Manager's determination on the recipient of the Administrative Citation by certified mail, return receipt requested. Service shall be deemed complete at the time the notice is deposited into the mail and addressed to the person at the address indicated on the administrative hearing request form. The notice shall include a brief description of the reasons for the City Manager's determination to issue or not issue the advance deposit hardship waiver. The written determination of the City Manager shall be final.

D. If the City Manager determines not to issue an advance deposit hardship waiver, the recipient of the Administrative Citation shall remit the deposit amount to the City Clerk within ten (10) days of service of that decision, or thirty (30) calendar days from the date of the Administrative Decision, whichever is sooner. (98-13)

**1.14.080 Hearing Officer.**

The City Manager shall designate the Hearing Officer for the Administrative Citation hearings. (98-13)

**1.14.090 Hearing Procedure.**

- A. All hearings shall be held before the Hearing Officer.
- B. At the hearing, all persons contesting the validity of an Administrative Citation shall be given the opportunity to testify and present evidence concerning the Administrative Citation.
- C. If the Enforcement Officer submits an additional written report concerning the Administrative Citation to the Hearing Officer, then a copy of this report shall be served on the person requesting the hearing by certified mail, return receipt requested at least five (5) calendar days prior to the date of the hearing. Service shall be deemed complete at the time the report is deposited into the mail and addressed to the person at the address indicated on the administrative hearing request form.
- D. Failure of the party contesting the Administrative Citation to appear at the hearing shall constitute forfeiture of the fine and a failure to exhaust his/ her administrative remedies.
- E. The Administrative Citation and any additional report submitted by the Enforcement Officer shall constitute prima facie evidence of the respective facts contained in those documents.
- F. The Hearing Officer may continue the hearing from time to time and provide the person with additional time in which to remedy the violation. In addition, the Hearing Officer may request additional information or evidence from the Enforcement Officer or the recipient of the Administrative Citation prior to issuing a written decision.
- G. All hearings shall be recorded by a video or audio device, unless the City decides to utilize a court reporter. If a court reporter is not utilized, the City is not required to provide transcriptions of any hearings, but is required to make the video or audio tape(s) available to the person cited within thirty (30) days after the hearing. The City may charge a reasonable fee for reproducing the tapes. If a court reporter is utilized, the recipient of the Administrative Citation may obtain a copy of the transcript upon payment of any applicable reasonable fees or costs. The City may destroy such tapes or transcripts following the time during which any and all appeals of the Administrative Citation shall have been made.
- H. The hearings need not be conducted in accordance with technical rules of evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action in a California court of competent jurisdiction. Any relevant evidence shall be admitted if it is the type on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might consider such admission improper in a civil action. Oral evidence shall be taken only on oath or affirmation. Irrelevant or unduly repetitious evidence shall be excluded.
- I. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision to affirm or cancel the Administrative Citation. The written decision shall include the Hearing Officer's findings for that decision, as well as information regarding the recipient's appeal rights to the courts. The recipient of the Administrative Citation shall be served with a copy of the Hearing Officer's written decision by certified mail, return receipt requested. The decision of the Hearing Officer shall be the City's final administrative decision.
- J. If the Hearing Officer determines that the Administrative Citation should be affirmed, the fine and/or penalty amount on deposit with the City shall be retained by the City. In addition, the Hearing Officer shall assess the hearing costs associated with holding the hearing.
- K. If the Hearing Officer determines that the Administrative Citation should be upheld, but the fine and/or penalty has not been deposited pursuant to an advance deposit hardship waiver, the Hearing Officer shall set forth in the decision a payment schedule for the fine and/or penalty as well as the hearing costs associated with holding the hearing.

L. If the Hearing Officer determines that the Administrative Citation was erroneously issued, the fine or penalty shall be deemed null and void and the City shall, within thirty (30) calendar days, refund the amount of the deposited fine or penalty. In addition, no hearing costs shall be assessed by the City. (98-13)

**1.14.100 Recovery of Abatement Costs.**

The administrative citation process described in this Chapter does not preclude the City from recovering any code violation abatement costs incurred by the City in performing its code enforcement efforts pursuant to this code. (98-13)

**1.14.110 Right to Judicial Review.**

Any person aggrieved by the administrative decision of a Hearing Officer may obtain review of the administrative decision by filing a petition for review with the municipal court in Los Angeles County in accordance with the provisions set forth in California Government Code Section 53069.4. (98-13)

**1.14.120 Notices.**

Any and all notices or decisions required to be given by the administrative provisions of this chapter shall be served on the person cited by certified mail, return receipt requested. The notices or decisions shall be addressed to the recipient at the last known address for that person, including the address provided on forms required by the administrative provisions of this chapter. Personal service may be substituted for mailed notice any time. Actual notice shall be deemed adequate notice regardless of the method of service. Failure to receive any notice shall not affect the validity of any proceedings conducted hereunder. (98-13)

## Chapter 1.15

### PROCEDURES FOR IMPOSING A LIEN ON REAL PROPERTY TO COLLECT ADMINISTRATIVE COSTS RELATED TO HOUSING, BUILDING, AND ZONING VIOLATIONS

#### Sections:

- 1.15.010 Imposition of Lien on Real Property to Collect Administrative Costs.**
- 1.15.020 Definitions.**
- 1.15.030 Assessment and Collection of Administrative Costs.**
- 1.15.040 Exemptions.**
- 1.15.050 Notice of Proposed Lien.**
- 1.15.060 Amount of Administrative Costs.**
- 1.15.070 Time for Payment of Administrative Costs.**
- 1.15.080 Imposition of Lien.**
- 1.15.090 Request for Hearing.**
- 1.15.100 Hearing Procedure.**
- 1.15.110 Action by City Council.**
- 1.15.120 Judicial Review.**

#### **1.15.010 Imposition of Lien on Real Property to Collect Administrative Costs.**

The City, in addition to any other legally available remedy, may collect any fee, cost, or charge incurred in the abatement of public nuisances and in the enforcement of state and local housing, building, and zoning laws, codes, and regulations with respect to construction or land use activities, by making the amount of any unpaid fee, cost or charge a lien against the property that is the subject of the enforcement activity. (03-07)

#### **1.15.020 Definitions.**

The following definitions shall apply for purposes of this chapter:

- A. "Administrative Costs" shall mean the actual cost incurred by the City in performing the inspections, enforcement, and/or abatement activity related to the actions listed in Section 1.15.030 of this code, including the City's incidental and direct administrative expenses and any permit fees, late charges, interest, fines and penalties authorized under this code.
- B. "Enforcement Officer" shall mean any individual employed or otherwise charged by the City to enforce codes, ordinances, resolutions, mandates, laws, regulations, or rules within the City.
- C. "Hearing Officer" shall mean the hearing officer designated by the City Council to make a recommendation to the City Council regarding a Notice of Proposed Lien.
- D. "Notice of Proposed Lien" shall mean the notice provided to a Responsible Party for the Administrative Costs associated with the violation of any ordinance, law, or regulation set forth under Section 1.15.030 of this code.
- E. "Responsible Person" shall mean any individual or corporation, partnership, association, or other group or combination of individuals acting as an entity, that has an ownership or leasehold interest in the Subject Property, or has a contractual obligation to lease or maintain the Subject Property.
- F. "Subject Property" shall mean the property that is the subject of the enforcement activity where one or more violations of any ordinance, law or regulation set forth under Section 1.15.030 of this code has occurred or continues to occur. (03-07)

#### **1.15.030 Assessment and Collection of Administrative Costs.**

Pursuant to Section 54988 of the Government Code and in accordance with the procedures set forth in this chapter, the City may assess and collect all Administrative Costs resulting from the following:

- A. Abatement of a public nuisance;
- B. Correction of any violation of any law or regulation that would also be a violation of Section 1941.1 of the Civil Code;
- C. Enforcement of zoning ordinances adopted pursuant to Chapter 4 of Division 1 of Title 7 of the Government Code;
- D. Inspection and abatement of violations of the State Housing Law, as set forth in Part 1.5 of Division 13 of the Health and Safety Code and any regulations adopted pursuant thereto;
- E. Inspection and abatement of violations of the California Building Standards Code, as set forth in Title 24 of the California Code of Regulations; or
- F. Inspection and abatement of violations of any section of this code that implements or is authorized pursuant to the foregoing provisions of state law. (03-07)

#### **1.15.040 Exemptions.**

This chapter shall not apply to owner-occupied residential dwelling units or any enforcement, abatement, or correction that is evident in any final building plans filed with the City for which a building permit was issued. (03-07)

#### **1.15.050 Notice of Proposed Lien.**

- A. Prior to placing a lien on the Subject Property for the recovery of Administrative Costs, as authorized by Section 1.15.030 of this code, the Enforcement Officer shall issue a Notice of Proposed Lien to the Responsible Party.
- B. The Notice of Proposed Lien shall contain, in a form determined by the City, the following:
  - 1. The date(s) of violation(s).
  - 2. The address, or if no address is available, a description of the location where the violation(s) occurred.
  - 3. A description of the applicable violation(s) of the ordinances, laws, or regulations set forth in Section 1.15.030 of this code.
  - 4. The description and amount of all Administrative Costs related to the violation(s).
  - 5. A description of the process for paying the Administrative Costs, including the time within which and the place to which the Administrative Costs shall be paid.
  - 6. A description of the process for requesting a hearing on the Notice of Proposed Lien, including the time within which such request must be filed and the place from which a request may be obtained.
  - 7. The name and signature of the citing Enforcement Officer.
- C. Service of the Notice of Proposed Lien shall be made by:
  - 1. Personal service on the Responsible Person in any of the various ways that a person may be served with a summons in a civil action pursuant to Section 415.10 of the Civil Code;
  - 2. Certified mail, return receipt requested; or
  - 3. In instances when personal service or certified mail is not possible, then service shall be provided by publishing a notice in a newspaper of general circulation and posting an 8-1/2" x 11" enlargement of the Notice of Costs in a conspicuous location on or in front of the Subject Property.

Unless a different date of effectiveness is provided in the Notice of Proposed Lien, the effective date shall be as follows: (a) if personal service is made, notice shall be effective upon actual service, (b) if certified mail is used, notice shall be effective at the time of deposit in the United States mail, or (c) if publishing and posting is used, notice shall be effective at the time both the publication and posting are complete. (03-07)

**1.15.060 Amount of Administrative Costs.**

The Enforcement Officer shall calculate the amount of the Administrative Costs imposed pursuant to this Chapter by totaling all costs and expenses described in Section 1.15.020(A). The Enforcement Officer shall keep an account of the Administrative Costs and shall prepare a written, itemized report showing the Administrative Costs and shall maintain such report in the City's file for the Subject Property. (03-07)

**1.15.070 Time for Payment of Administrative Costs.**

A. All Administrative Costs listed in a Notice of Proposed Lien shall be paid to the City within forty-five (45) calendar days after the effective date of the Notice of Proposed Lien.

B. Any payment of Administrative Costs paid pursuant to this section shall be refunded if its determined, after a hearing conducted pursuant to Section 1.15.090 of this code, that the person charged was not the Responsible Person or the violation that created the Administrative Costs specified in the Notice of Proposed Lien did not occur.

C. Payment of any Administrative Costs shall not excuse or discharge any continuation or repeated occurrence of a violation of the ordinances, laws, or regulations set forth in Section 1.15.030 of this code. (03-07)

**1.15.080 Imposition of Lien.**

A. If the Administrative Costs listed in a Notice of Proposed Lien are not paid within forty five (45) calendar days from the effective date of the Notice of Proposed Lien and the Responsible Person does not request a hearing pursuant to Section 1.15.090, the amount of all unpaid Administrative Costs may become a lien against the Subject Property described in the notice if the City Council takes action, as described in Section 1.15.110. If the time for payment of the Administrative Costs as set forth in Section 1.15.070 expires and the Responsible Person has not requested a hearing pursuant to Section 1.15.090 of this code, the Enforcement Officer shall make a written recommendation to the City Council for a proposed lien against the Subject Property.

B. The imposition of a lien under this chapter shall not prohibit the City from using any other available legal means to collect any past due Administrative Costs, including contracting with collection agencies and seeking judgment in court. (03-07)

**1.15.090 Request for Hearing.**

Any Responsible Person issued a Notice of Proposed Lien by an Enforcement Officer may request a hearing to contest the violation(s) of the ordinances, laws, or regulations set forth in Section 1.15.030 of this code, or contest that he or she is not responsible for the violation. The Responsible Person may request a hearing by following the procedures set forth in Sections 1.14.060 and 1.14.070 of this code, except that the term "Administrative Citation" used therein shall mean a "Notice of Proposed Lien," and the terms "fine" or "penalty" used therein shall mean "Administrative Costs." (03-07)

**1.15.100 Hearing Procedure.**

A. All hearings requested pursuant to Section 1.15.090 of this code shall be held before the Hearing Officer. The hearing shall be conducted pursuant to the procedures set forth in Section 1.14.090 of this code, except that the term "Administrative Citation" used therein shall mean a "Notice of Proposed Lien."

B. After considering all the testimony and evidence submitted at the hearing, the Hearing Officer shall make a written recommendation to the City Council, which shall include factual findings based on the testimony and evidence submitted at the hearing.

C. The recommendation of the Hearing Officer shall be delivered to the Responsible Person by certified mail, return receipt requested, at least ten (10) days before the City Council shall consider such recommendation. Such notice shall also include the date and time at which the City Council shall consider the Hearing Officer's recommendation. (03-07)

**1.15.110 Action by City Council.**

- A. Upon receipt of the written recommendation from the Hearing Officer or the Enforcement Officer, the City Council may adopt the recommendation or it may set the matter for a new hearing before the City Council.
- B. If the City Council sets the matter for a new hearing, written notice shall be provided to the Responsible Person by certified mail, return receipt requested, at least ten (10) calendar days in advance of the hearing. The hearing shall be conducted in accordance with the procedures set forth in Section 1.15.100 of this code.
- C. If, either upon recommendation by the Hearing Officer or Enforcement Officer or after conducting a new hearing, the City Council determines that the proposed lien shall become a lien against the Subject Property, the City Council may cause a notice of lien to be recorded. The notice shall include the following:
1. Identify the record owner or possessor of the Subject Property;
  2. Set forth the last known address of the record owner or possessor;
  3. Set forth the date upon which the lien was created against the Subject Property; and
  4. Include a description of the real property subject to the lien and the amount of the lien.
- D. The lien shall attach upon recordation in the office of the county recorder and shall have the same force, priority, and effect as a judgment lien, not a tax lien. (03-07)

**1.15.112 Judicial Review.**

Any person aggrieved by the decision of the City Council pursuant to this chapter may obtain review of the decision by filing a petition for review in a court of competent jurisdiction in County of Los Angeles, in accordance with applicable provisions of state law. (03-07)

## Chapter 1.16

### PROCEDURES FOR FILING CLAIMS AGAINST THE CITY

#### Sections:

- 1.16.010** Necessity of filing of claims prior to suit or refund.
- 1.16.020** Time of commencement of lawsuit.
- 1.16.030** Time of barred claim.
- 1.16.040** Effective date of chapter.
- 1.16.050** Interpretation of code.
- 1.16.060** Severability.

#### **1.16.010 Necessity of Filing of Claims Prior to Suit or Refund.**

A. Claims against the city or any of the city's elected officials, officers, employees or agents for money, damages or refunds of money erroneously or illegally collected or paid, which are exempted by California Government Code section 905 from Chapter 1 and Chapter 2 or Part 3 of Division 3.6 of Title 1 of the California Government Code and which are not governed by any other state statute or provision of this code expressly related thereto, shall be governed by this chapter.

B. A written claim, verified by the person who claims to be entitled to be paid money or damages or who has paid money sought to be refunded or by his or her guardian, conservator, executor or administrator, shall be presented within one year after the accrual of the cause of action underlying the claim or after the payment of the amount sought to be refunded. Such claims shall be presented and processed as provided by Chapters 1 and 2 of Part 3 of Division 3.6 of Title 1 of the California Government Code insofar as said provisions are not in conflict with this section.

C. No order of refund may be made until a written claim therefore has been presented to the city in accordance with this section 1.16.010. No suit for money, damages, or a refund may be brought against the city until a written claim therefor has been presented to the city council and has been rejected by the city council or its designee or has been deemed to be rejected. Only the person who filed the claim may bring such a suit and if another person should do so, judgment shall not be rendered for plaintiff. Notwithstanding any exceptions contained in Section 905 of the California Government Code, no action based on a claim or demand for money or damages may be brought against the city, unless a written claim is presented to, and acted upon, by the city council as provided herein. Pursuant to California Government Code section 935.4, the city council may authorize a city employee to perform the functions of the city council as provided in this section 1.16.010. (96-04)

#### **1.16.020 Time of Commencement of Lawsuit.**

Any lawsuit for money, damages, or a refund of money erroneously collected or paid, subject to this chapter, shall be commenced within six months from and after the date on which the city rejects the claim. No recovery shall be allowed in any such action upon any ground not specified in the claim. (96-04)

#### **1.16.030 Time of Barred Claim.**

Nothing in this chapter revives or reinstates any cause of action that, on the effective date of this chapter, is barred by failure to comply with any previously applicable statute, ordinance or regulation requiring the presentation of a claim prior to a suit subject to this chapter, or by failure to commence any action thereon within the period prescribed by an applicable statute of limitations. (96-04)

#### **1.16.040 Effective date of chapter.**

The provisions of this chapter shall apply retroactively to any causes of action occurring prior to the effective date of this chapter; provided, however, that a claimant who has a cause of action occurring more than ten months before the effective date of this chapter shall file a claim within sixty days after this chapter's effective date in accordance with its provisions or such claim shall be barred. (96-04)

**1.16.050 Interpretation of Code.**

The provisions of this chapter shall apply to and supersede all other claims or procedures for obtaining a refund from the city set forth in this code, unless such provisions make specific reference to this Title 1, Chapter 1.16. (96-04)

**1.16.060 Severability.**

The provisions of this chapter are severable and the invalidity of any section, paragraph, phrase, clause or part of this chapter shall not affect the validity or effectiveness of the remainder of this chapter." (96-04)