

ATTACHMENT 2

1.04.050 - Definitions.

A. Definitions. As used in this code:

"Administrative Board" means the Hesperia ~~Planning Commission~~~~City Council Advisory Committee~~, or other entity as designated by the City Council

"Committee" means the Hesperia City Council Advisory Committee as set forth in this code.

1.12.290 - Proceedings imposing fines only.

- A. Where the code violation or public nuisance is not of a continuing nature or does not lend itself to abatement by the city, then the city, in its discretion, may pursue the procedure provided in this section to impose, enforce and collect the fine and enforcement costs.
- B. The responsible person cited shall have thirty (30) days from the date of the administrative citation to pay the amount of the fine and enforcement costs to the city.
- C. The responsible person cited may contest issuance of the citation or issuance of a Notice of Public Nuisance by filing a notice of contest or appeal with the city clerk in accordance with the city's policy within fifteen (15) days from the date of the administrative citation or notice of public nuisance, together with the filing fee as adopted by resolution of the City Council. Contest hearings shall be conducted by the Administrative Board or hearing officer pursuant to section D below. The contest hearing shall be held not less than fifteen (15) days and not more than sixty (60) days from the date the notice of contest is filed, unless extended by agreement with the contesting party; provided, however, that no hearing to contest an administrative citation or notice of public nuisance shall be held unless the filing fee has been deposited in advance.
- D. Where the code violation or public nuisance is related to the application of building standards as set forth in California Building Code Section 1.8.8 as may be amended from time to time, the contest hearing shall be forwarded to the Administrative Board for consideration. A hearing officer shall hear all other contest hearings.
- E. The city shall provide the responsible person with written notice of the time and place of the contest hearing at least ten (10) days prior to the date of the hearing. If the enforcement officer submits an additional written report to the Administrative Board or hearing officer for consideration at the hearing, a copy of the report shall be served on the responsible person with the notice of hearing.
- F. The responsible person's failure to appear at the contest hearing shall constitute a forfeiture of any deposited amounts and be deemed a failure to exhaust the responsible person's administrative remedies. In such event, the full amount of the enforcement costs and fine shall be due immediately and the administrative citation shall be deemed a final administrative order for the purpose of California Government Code Section 53069.4. The final administrative order shall be served on the responsible person by mailing a copy of the order by certified mail postage prepaid to the responsible person at his last known address.
- G. The Administrative Board or hearing officer shall hear, receive and consider testimony and documentary evidence regarding the alleged code violation or public nuisance. The administrative citation or notice of public nuisance and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. The contesting responsible person shall be given the opportunity to testify at the hearing and to present documentary evidence concerning the administrative citation or notice of public nuisance, and to cross-examine the citing enforcement officer. The contesting responsible person may be subject to additional questioning by the Administrative Board or hearing officer, and any city legal representative. The hearing shall not be subject to the formal rules of evidence or discovery. The

Administrative Board or hearing officer may continue the hearing and request additional information from the enforcement officer or the responsible party prior to issuing a final administrative decision.

- H. After considering all of the testimony and evidence submitted at the contest hearing, the Administrative Board or hearing officer shall issue a written decision, based upon a preponderance of the evidence standard, whether to uphold, modify, or cancel the administrative citation or notice of public nuisance as provided in Subsection I. The amount of any fee and the amount of the enforcement costs and shall be listed in the decision along with the reason for the decision(s) made. The written decision shall be deemed a final administrative order for the purpose of California Government Code Section 53069.4. The final administrative order shall be served on the responsible person by mailing a copy of the order by certified mail, postage prepaid, to the responsible person at his last known address.
- I. If the Administrative Board or hearing officer determines after the hearing that there was no code violation or public nuisance in existence at the time the notice was issued, or that the interpretation of the applicable building standard has been determined incorrectly, as charged in the administrative citation or notice of public nuisance or that the amount of the fine or enforcement cost should be reduced, then the city shall amend the citation or notice to conform with the order to the Administrative Board or hearing officer decision.
- J. The city may collect any past due administrative citation fines, enforcement costs, and late payment charges by use of all available legal means, including the use of the lien procedures provided for under Article VIII of this chapter.

(Ord. 2001-6 Exh. A (part), 2001)

1.12.320 - Hesperia City Council Advisory Committee

A. The City Council Advisory Committee (hereinafter, "Committee") shall have no power or authority to bind or obligate the city or any officer or department thereof for any money, debt, undertaking or obligation of any kind in excess of the appropriations, which the city council may have made for the purpose of the committee in any fiscal year.

~~D. The committee is authorized to act as the local appeals board and housing appeals board under this chapter, and as required by California Building Code section 1.8.8, et seq., and to hold such hearings and to issue such orders as are appropriate under this chapter. All actions of the committee taken under this chapter shall be by the majority vote of a quorum of the committee members.~~

(Ord. 2001-6 Exh. A (part), 2001)