

Ordinance No. 10- 1075

**AN ORDINANCE ADDING CHAPTER 8, TITLE 1 OF THE PLUMAS COUNTY
CODE (Administrative Citations)**

The Board of Supervisors of the County of Plumas ORDAINS as follows:

SECTION 1. Title 1 of the Plumas County Code is hereby amended by adding Chapter 8 thereto to read as follows:

Chapter 8, Title 1. Administrative Citations

Sec. 1-8.01 Statement of purpose.

(1) The board of supervisors finds that there is a need for an alternative method of enforcement for various violations of the Plumas County Code. The board of supervisors also finds that an appropriate method for enforcement of various violations is an administrative citation program that will reduce the burden on the judicial system while providing due process for those cited.

(2) The procedures established in this chapter are in addition to criminal, civil or other legal remedies that may be available to the county to enforce violations of the Plumas County Code or applicable state codes.

(3) The board of supervisors finds and determines that enforcement of the provisions of the Plumas County Code and conditions on entitlements or permits are municipal affairs as well as matters of concern to the citizens of Plumas County.

(4) The board of supervisors finds that the adoption and implementation of the administrative citation program is within the power and authority of Plumas County and will achieve the following goals:

(i) To promote and protect the public health, safety and welfare of the citizens of Plumas County;

(ii) To help ensure compliance with Plumas County Code and the state codes, ordinances and regulations in a more timely and efficient manner;

(iii) To provide for an administrative process to appeal the imposition of administrative citations and fines that will fully comport with due process and provide those cited with the right to an appeal hearing;

(iv) To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the Plumas County Code, ordinances, agreements or terms and conditions on entitlements in the county of Plumas;

(v) To reduce the burden on the judicial system.

(5) Use of the chapter shall be at the sole discretion of the county.

Sec. 1-8.02 Definitions.

“Enforcement officer” refers to the Plumas County Code Enforcement Officer, the Director of Environmental Health, the Building Official, or specified designee charged with the enforcement of Title 6 (Sanitation and Health), Title 8 (Building Regulations), or Title 9 (Planning & Zoning) of the Plumas County Code.

“Responsible person” means any individual who is the owner of real property, owner or authorized agent of any business, company, or entity, or the parent or the legal guardian of any person under the age of eighteen years who violates or maintains a violation of the Plumas County Code.

Sec. 1-8.03 Authority and fines.

(a) Any person violating any provision of the Plumas County Code may be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to, all violations of the Plumas County Code, the Model Building Codes adopted by the State of California, the Health and Safety Code, the California Code of Regulations, and the failure to comply with any condition imposed by any entitlement, permit, agreement or environmental document issued or approved pursuant to this code.

(b) Each and every day a violation of the Plumas County Code exists constitutes a separate and distinct offense.

(c) A civil fine shall be assessed by means of an administrative citation issued by the enforcement officer and shall be payable directly to the Plumas County Treasurer/Tax Collector’s office.

(d) Fines shall be assessed in the following specified amounts:

(1) A fine not exceeding One Hundred and 00/100ths (\$100.00) Dollars for a first violation including ten percent administrative fee;

(2) A fine not exceeding Five Hundred and 00/100ths (\$500.00) Dollars for a second violation of the same ordinance or permit within one year from the date of the first violation, including ten percent administrative fee;

(3) A fine not exceeding One Thousand and 00/100ths (\$1,000.00) Dollars for each additional violation of the same ordinance or permit within one year from the date of the first violation, including ten percent administrative fee.

(e) The enforcement officer shall provide a copy of the citation to the Plumas County tax Treasurer/Tax Collector's office within twenty four hours of the citation being issued so that the office is aware of the citation when the citee appears to pay the fine.

(f) Any fine that is not paid within thirty days from the citation date of the administrative citation will be subject to interest at the legal rate of ten percent per annum on the principal amount.

(g) The fees that are collected shall be deposited into the county's abatement fund.

(h) To the extent permitted by Government Code Section 54988, fees, costs or charges that have not been paid within forty five days of notice thereof, the county may collect the fees, costs or charges by making the amount of the unpaid fees, costs or charges a proposed lien against the property that is the subject of the enforcement activity. In addition, the responsible party shall not be granted any additional permit, entitlement, agreement or other privilege until the administrative citation and appropriate fee have been resolved. This section shall not apply to owner-occupied residential dwelling units.

Sec. 1-8.04 Service procedures.

Prior to serving an administrative citation, the enforcement officer shall send a "Notice of Order to Correct Violation(s)" by certified return receipt mail. The notice shall contain an order to the responsible person to correct the violation(s) within the time specified, and an explanation of the consequences of failure to correct the violation(s).

An administrative citation on a form approved by the county administrative officer may be issued to the responsible person by an enforcement officer for violations of the Plumas County Code or applicable state code in the following manner:

(a) Personal Service. In any case where an administrative citation is issued:

(1) 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;

(2) 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.

(b) 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.

(c) Service of Citation by Posting. If the enforcement officer does not succeed in personally serving the responsible person, or by certified mail or regular mail, the enforcement officer shall post the administrative citation on the subject property and/or any real property within the county in which the county has reason to believe that the responsible person has a legal interest, and such posting shall be deemed effective service.

Sec. 1-8.05 Contents of citation.

Each administrative citation shall contain the following information:

- (a) Date, approximate time, and address or definitive description of the location where the violation(s) was observed;
- (b) The code sections or condition violated and a description of the violation(s);
- (c) The amount of the fine for the violation(s);
- (d) An explanation of how the fine shall be paid and the time period by which it shall be paid;
- (e) Identification of rights of appeal, including the time within which the citation may be contested and the place to obtain a request for a hearing form to contest the administrative citation; and
- (f) The name and signature of the enforcement officer;
- (g) The signature of the responsible person, when possible.

Sec. 1-8.06 Satisfaction of administrative citation.

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

- (a) Pay the fine to the county within thirty days from the citation date. All fines assessed shall be payable to the Plumas County Treasurer/Tax Collector. Payment of a fine shall not excuse or discharge the failure to correct the violation(s) nor shall it bar further enforcement action by the county.
- (b) If the responsible person fails to correct the violations(s), subsequent administrative citations may be issued for the same violation(s). The amount of the fine for failure to correct the violations(s) shall increase at a rate specified in this chapter.

Sec. 1-8.07**Appeal of administrative citation.**

Any recipient of an administrative citation may contest that there was a violation of the Plumas County Code or that he or she is the responsible person by completing a request for hearing form and returning it to the Plumas County Code Enforcement Department within fifteen days from the correction date of the administrative citation, together with an advanced deposit of the fine to the Plumas County Treasurer/Tax Collector. The advanced deposit of the fine shall be refunded, if after a hearing, it is determined that the person charged in the administrative citation was not responsible for the violation(s) or that there was no violation(s) as charged in the administrative citation.

Sec. 1-8.08**Hearing officer.**

The county building official shall designate the hearing officer for the administrative citation hearing. The hearing officer shall not be a Plumas County employee. The employment, performance evaluation, compensation and benefits of the hearing officer, if any, shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.

Sec. 1-8.09**Hearing procedure.**

(a) No hearing to contest an administrative citation before a hearing officer shall be held unless and until a request for a hearing form has been completed and submitted and the fine has been deposited in advance.

(b) A hearing before the hearing officer shall be set for a date not less than fifteen and not more than sixty days from the date of the filing of the request for a hearing in accordance with the provisions of this chapter.

(c) The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible person has caused or maintained the violation(s) of the permit, code or law, on the date(s) specified in the administrative citation.

(d) The responsible person contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation.

(e) The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(f) The administrative citation and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

(g) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall be served by mail on the person requesting the hearing at least five days prior to the date of the hearing.

(h) At least ten days prior to the hearing, the recipient of an administrative citation shall be provided with copies of the citation(s), reports and other documents submitted or relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.

(i) The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision.

Sec. 1-8.10 Hearing officer's decision.

(a) After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision within ten days of the hearing to uphold or deny the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

(b) If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the county shall be retained by the county.

(c) If the hearing officer determines that the administrative citation should be canceled and a fine was deposited with the county, then the county shall promptly refund the amount of the deposited fine.

(d) The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision by first class mail.

Sec. 1-8.11 Failure to pay fines.

The failure of any person to pay the civil fines assessed by an administrative citation within the time specified on the citation may result in the matter being referred to the Plumas County Treasurer/Tax Collector to file a claim with the small claims court. Alternatively, the county may pursue any other legal remedy to collect the civil fines. The county may also recover all collections costs.

Sec. 1-8.12 Right to judicial review.

Any person aggrieved by the decision of the hearing officer may obtain review of the administrative decision by filing a petition for review with the Plumas County Superior Court in accordance with the timelines and provisions as set forth in California Government Code Section 53069.4.

Sec. 1-8.13

Notices.

(a) The administrative citation and all notices to be given by this chapter shall be served on the responsible person in accordance with the provisions of this chapter.

(b) Failure to receive any notice specified in this chapter does not affect the validity of the proceedings conducted as set forth in this chapter.

SECTION 2. EFFECTIVE DATE; PUBLICATION; CODIFICATION.

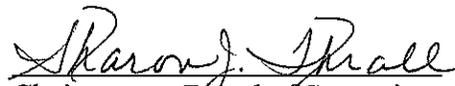
This ordinance shall become effective 30 days after its date of adoption. It shall be published in the Chester Progressive, Indian Valley Record, Feather River Bulletin and the Portola Reporter, publications of general circulation serving Plumas County, within 15 days of adoption. Section One of this ordinance shall be codified; the remainder shall be uncodified.

Introduced at a regular meeting of the Board of Supervisors on the 3rd day of August, 2010, and passed and adopted by the Board of Supervisors of the County of Plumas, State of California, on the 10th day of August, 2010, by the following vote:

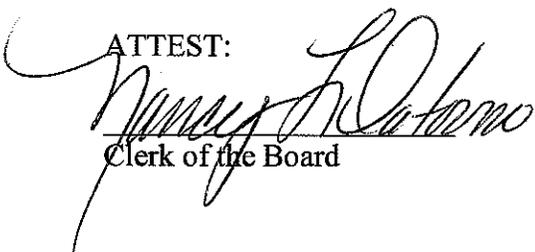
AYES: Supervisors: Swofford, Simpson, Olsen, Thrall

NOES: Supervisors: None

ABSENT: Supervisors: Meacher


Chairperson, Board of Supervisors

ATTEST:


Clerk of the Board