

ORDINANCE NO. 312

**AN ORDINANCE OF THE CITY OF BRADBURY AMENDING
TITLE 1 OF THE BRADBURY MUNICIPAL CODE TO
ESTABLISH AN ADMINISTRATIVE ENFORCEMENT PROCESS**

**THE CITY COUNCIL OF THE CITY OF BRADBURY, CALIFORNIA DOES
HEREBY ORDAIN AS FOLLOWS:**

Section 1. Article 1 of the Bradbury Municipal Code is hereby amended to add a new Chapter 5 to read as follows:

CHAPTER 5

ADMINISTRATIVE ENFORCEMENT

1501. Purpose and intent.

The City Council has determined that the enforcement of this Code, any uniform or other code it adopts by reference, and any other ordinance of the City is an important public service and is vital to the protection of the public's health, safety, and quality of life. The City Council has determined that there is a need for alternative methods of code enforcement and that a comprehensive code enforcement system includes criminal, civil, and administrative remedies.

1502. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- A. "Administrative citation" is a notice issued pursuant to Section 15080 of this chapter.
- B. "Appellant" is a person who seeks an administrative hearing on an administrative citation in the manner required by this chapter.
- C. "Business day" means a day when Bradbury City Hall is open for business.
- D. "Code violation" is any violation of this Code or any other ordinance of the City, including any codes adopted by reference as permitted by law and any violation of any condition imposed upon the issuance of any permit, license, or other approval (*e.g.*, subdivision map, use permit, variance) pursuant to this Code or any other ordinance of the City.
- E. "City Manager" is the City Manager or his or her designee.
- F. "Day" means calendar day unless other expressly stated.

G. "Enforcement officer" is an individual designated by the City Manager to act under this chapter.

H. "Hearing authority" is the City Manager or his or her designee.

I. "Issue" means to provide a notice of violation, an administrative citation, a notice of hearing, a notice of the continuance of a hearing, or a notice of decision by (i) personally serving it on a responsible person, (ii) mailing it to a responsible person by first-class mail, or (iii) posting it in a conspicuous place on the property to which it relates and mailing a copy of it to a responsible person at the address where the violation occurred.

J. "Notice of decision" is defined in section 15150(H) of this chapter.

K. "Notice of violation" is any notice that informs a person that a code violation has occurred whether or not given in compliance with section 15040 of this chapter.

L. "Preliminary reviewing authority" is the City Clerk/Management Analyst.

M. "Responsible person" is any of the following:

1. A person who, by action or inaction, causes, maintains, permits or allows a code violation.
2. A person whose agent, employee, or independent contractor, by action or inaction, causes, maintains, permits or allows a code violation.
3. An owner of real property on which a code violation occurs.
4. A lessee or sublessee with the current right of possession of real property on which a code violation occurs.
5. A person that uses real property on which a code violation occurs.
6. An on-site manager who regularly works on real property on which a violation occurs and who is responsible for the business or other activities on that real property.
7. The owners, majority stockholders, corporate officers, trustees, general partners and any other person with the authority to act for a legal entity that is a responsible person under subsections 1 through 6 above.
8. If any of the above persons are minors or incompetent, the parents or guardians of such persons shall be deemed responsible persons.

1503. General enforcement authority.

Enforcement officers may issue notices of violation and administrative citations, inspect public and private property, and use whatever judicial and administrative remedies are available under this Code and other law to enforce the ordinances of the City. More specific provisions regarding administrative or other enforcement authority and procedures for particular violations may exist in this Code and shall to fullest extent permissible, be construed to complement rather than contradict this chapter.

1504. Notice of violation.

When the violation pertains to building, plumbing, electrical or other similar structural or zoning issues which create an immediate danger to health or safety, an enforcement officer may immediately issue an administrative citation without a notice of violation. In the absence of an emergency, whenever an enforcement officer determines that a violation exists, the enforcement officer may issue a notice of violation to any responsible persons. The notice of violation must include the following information:

- A. The ordinance violated or condition violated which is imposed by any permit, license, or other approval.
- B. A description of the condition creating or constituting the violation(s).
- C. The address where the violation(s) occurs.
- D. The name of the responsible person and any other involved persons known to the enforcement officer.
- E. The date and, if relevant, time at which the violation was observed.
- F. If applicable, a list of any corrections necessary to bring the property into compliance.
- G. If applicable, a deadline by which to correct the violation(s).
- H. The signature of the enforcement officer issuing the notice of violation.
- I. The date the notice of violation is issued.

1505. Authority to inspect.

Enforcement officers are authorized to enter upon any property or premises within the City to ascertain whether code violations exist, and to make any examination and surveys as may be necessary in the performance of their enforcement duties, in accordance with Fourth Amendment of United States Constitution and the related protections of the California Constitution. These inspections may include the taking of photographs, samples, or other physical evidence. All inspection, entries, examinations and surveys shall be performed reasonably and in accordance with law. If an owner or occupant or property or his or her agent refuses to consent to entry and

inspection, an enforcement officer may seek an administrative inspection warrant pursuant to law.

1506. Notice of pending administrative enforcement.

An enforcement officer may record with the Los Angeles County Assessor a notice against a property which is the subject of an administrative enforcement action to give notice to potential transferees of the property of code violations thereon. A notice of pending administration action shall be on a form approved by the City Manager and shall describe the nature of the administrative action and refer to the Code provision governing the pending administrative action.

1507. Administrative fines and penalties.

- A. Any responsible person may be subject to an administrative fine pursuant to this chapter for any code violation.
- B. Each and every responsible person is jointly and severally liable, in accordance with notice and procedures of this chapter, for all fines, penalties and interest imposed for the code violation(s) as to which he she or it is a responsible person.
- C. Each day a code violation is committed, continued or permitted, shall be a separate violation for which a citation may be issued. An enforcement officer may charge several violations of the code on a citation.
- D. The administrative fines delineated in this chapter are in addition to, and do not preclude imposition of, any other remedies, criminal, civil, or administrative, available to the City. Imposition of administrative fines shall be at the sole discretion of the City.

1508. Administrative citations. If a responsible person(s) fails to correct a code violation within the time prescribed in a notice of violation, an enforcement officer may issue an administrative citation to each and every responsible party who knew or reasonably should have known of that notice of violation of whom the enforcement officer has knowledge.

1509. Contents of administrative citation.

An administrative citation shall include the following:

- A. The ordinance violated or condition violated which is imposed by any permit, license, or other approval.
- B. A description of the condition creating or constituting the violation(s).
- C. The address where the violation(s) occurs.
- D. The name of the responsible person(s) and any other involved persons known to the enforcement officer.

- E. The date and, if relevant, time at which the violation was observed.
- F. If applicable, a list of any corrections necessary to correct the code violations.
- G. The signature of the enforcement officer issuing the administrative citation.
- H. The date the administrative citation is issued.
- I. The amount and due date of the fine.
- J. A description of the procedure to pay the fine.
- K. A description of the procedure for requesting a preliminary review, waiver of fine deposit, and hearing to contest the administrative citation.
- L. A statement that a lien may be imposed against the property on which a violation occurs in the amount of any unpaid fines and any penalties and interest thereon.
- M. Any other information deemed necessary for enforcement or collection of the administrative fines.

1510. Consideration in other proceedings.

The City Council, Planning Commission, any other board or commission of the City, and City staff may consider the fact that a person has been issued an administrative citation which has become final when determining whether to grant, suspend, revoke, or deny any permit, license, or other approval, regarding a matter related to the condition causing a code violation, and may consider such administrative citation to be evidence that the person has committed acts that threaten the health, safety, and welfare of the general public.

1511. Amount of administrative fines and penalties.

- A. The fines for a code violation shall be established from time to time by resolution of the City Council. The schedule of fines may include escalating fine amounts for repeated code violations within specific periods of time.
- B. If a responsible person does not pay an administrative fine on or before the due date, he or she shall also incur a penalty and interest for every day of delinquency, as the City Council shall establish from time to time by resolution.

1512. Payment of fines.

- A. All fines are due on the day specified in the administrative citation.
- B. Fines shall be paid to the City of Bradbury. Payment may be made by mailing the fine amount paid by check or money order. Cash payments may be made only at City Hall.
- C. Payment of a fine pursuant to this chapter shall not excuse or discharge any continued or repeated violation of this Code.

D. Pending a hearing by the hearing authority, payment of a fine may be stayed if the preliminary reviewing authority determines, pursuant to Section 15130 that a responsible person is unable to pay the fine.

1513. Preliminary review.

A. A person to whom an administrative citation is issued may request a preliminary review within ten (10) days of the date the administrative citation is issued. Failure to request a preliminary review within that time waives any preliminary review.

B. A request for a preliminary review shall be made in writing and filed with the City and shall include all information that the person requesting the review desires the preliminary reviewing authority to consider. A request for preliminary review may include a request for waiver of the fine deposit. A person requesting a waiver of fine deposit bears the burden to establish by substantial evidence, including a sworn affidavit, that he or she is unable to pay the fine imposed by the administrative citation. With this sworn affidavit, the person shall submit documents that enable the City to reasonably determine his or her present inability to deposit the fine. Documents suitable for consideration, may include, without limitation, the following: (i) accurate, complete and legible copies of state and federal income tax returns and all schedules for the preceding tax year; (ii) financial statements, (iii) loan applications, (iv) bank account records, (v) income and expense records for twelve (12) months preceding the submittal for a request for waiver, and (vi) other documentation demonstrating the citee's financial hardship. The City may, at a time chosen in its sole discretion and after a citation is final or confirmed, destroy the documents submitted for a hardship waiver without prior notice.

C. The preliminary review authority shall review the administrative citation, the written request for a preliminary review, and any evidence the person requesting the review may submit and make the determination required by subsection F of this section.

D. The cited person shall be notified of the results of the preliminary review within ten (10) business days of the filing of a request for preliminary review. The decision on a preliminary review is not a final disposition of an administrative citation and therefore is not, in and of itself, subject to judicial review.

E. A request for preliminary review shall not extend any time period for correction of a code violation, the date that any fine is due, or the time in which to request an administrative hearing.

F. If the preliminary reviewing authority concludes that the code violation(s) stated in the administrative citation did not occur or that the person to whom the administrative citation issued is not a responsible person with respect to the code violation(s), then he or she shall dismiss the administrative citation in its entirety, if all cited violations are disproved, or as to the cited violations which are disproved, without prejudice to the issuance of a further administrative citation should additional evidence be developed. Otherwise, the preliminary reviewing authority shall confirm the administrative citation. The preliminary reviewing

authority shall also determine whether the responsible person qualifies for waiver of the fine deposit, if a waiver is requested.

1514. Administrative hearing.

- A. A person to whom an administrative citation is issued may request an administrative hearing within thirty (30) days of the issuance of the administrative citation whether or not he or she requested a preliminary review of that citation and whether or not a preliminary review occurred. Failure to timely request an administrative hearing in the manner required by this chapter constitutes a waiver of the hearing and a failure to exhaust administrative remedies.
- B. A request for an administrative hearing shall be made in writing and filed with the City, and shall state any grounds which the appellant wishes the City to consider. Unless waived upon preliminary review, the request shall be accompanied by a deposit of the fine imposed by the administrative citation, in the event the fine has not yet been paid.
- C. An appellant may request one continuance of a hearing provided he or she does so in writing before the date of the hearing and states a reasonable basis for the request. Unless the City issues a written notice of continuance, the hearing shall take place on the date, time and location specified in a notice of hearing issued to the appellant. An appellant's failure to attend a hearing shall constitute an abandonment of the request for the hearing and a failure to exhaust administrative remedies.

1515. Hearing procedures.

- A. The hearing shall be conducted by the hearing authority on the date, time, and location specified in a notice of hearing issued to the appellant.
- B. An administrative citation and other reports prepared by an enforcement officer concerning a code violation shall be accepted by the hearing authority as prima facie evidence of the facts stated in such documents.
- C. The hearing authority shall allow the appellant an opportunity to testify at the hearing and to present evidence about any code violation(s) specified in the administrative citation.
- D. The enforcement officer and other representatives of the City may, but need not, attend the hearing.
- E. The hearing authority may continue a hearing from time to time and allow an appellant or other responsible person additional time to remedy a violation. In addition, the hearing authority may request additional information or evidence from the appellant.
- F. All hearings shall be recorded on a video or audio device, unless the City elects to use a court reporter. If a court reporter is not used, the City need not provide transcriptions of any hearings, but, within fifteen (15) calendar days after payment of reasonable duplication fee, shall make a copy of the video and audio recordings available to any responsible person with respect to the code violations which were the subject of the hearing. If a court reporter is

used, such a responsible person may obtain a copy of the transcript upon payment of any fees or costs incurred by the City in obtaining and providing the transcript.

- G. A hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence 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. The hearing authority may exclude irrelevant or unduly repetitious evidence. The appellant, and enforcement officer, if present, shall have an opportunity to present evidence and witnesses and to cross-examine witnesses. An appellant may bring an interpreter to the hearing provided there is no expense to the city therefor. The hearing authority may question any person who presents evidence or who testifies at any hearing.
- H. After considering all testimony and evidence submitted at the hearing, the hearing authority shall issue a written decision to affirm, modify or dismiss the administrative citation in whole or in part. The decision shall include the hearing authority's findings, as well as information regarding the cited person's right to seek judicial review of the decision and the time in which to do so. The City shall issue the hearing authority's written decision (the "notice of decision") to the appellant. The decision of the hearing authority shall be final.
- I. If the hearing authority determines that the administrative citation should be affirmed in whole or in part, the City shall retain any funds on deposit as payment of the fine (to the extent needed) for any code violation affirmed and any penalty or interest whether or not with respect to an affirmed code violation. The City shall refund to the person who paid them the fine (or part thereof) for any code violation which is not affirmed and, if an administrative citation is overturned in its entirety, any penalties and interest imposed on account of that administrative citation, as well.

1516. Judicial review. An appellant may seek judicial review of the hearing authority's decision by filing a petition for review with the Superior Court, pursuant to Government Code section 53069.4, within twenty (20) days after the notice of decision is issued to him or her.

1517. Collection of delinquent fines and penalties and other remedies.

- A. The City may pursue any and all legal and equitable remedies for the collection of fines, interest and penalties; resort to any one remedy shall not foreclose subsequent or simultaneous resort to any other.
- B. Delinquent fines, interest, and penalties may be recorded as a lien or special assessment against a property on which a code violation occurred. Prior to recording a lien or special assessment, the City shall prepare a cost report itemizing the amount owed by the responsible persons and give known responsible parties reasonable opportunity to be heard with respect to that cost report. The City shall comply with any other law applicable to the recording of any delinquent fines, interest, and penalties as a lien on the property, or as a special assessment.
- C. 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.

SECTION 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Bradbury hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 3. Effective Date. This Ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code section 36937.

SECTION 4. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

PASSED, APPROVED and ADOPTED this 17th day of November, 2009.

Mayor Richard G. Barakat

ATTEST:

Claudia Saldana, City Clerk

APPROVED AS TO FORM:

Cary S. Reisman, City Attorney

I, CLAUDIA SALDANA, CITY CLERK of the City of Bradbury, do hereby certify that Ordinance No.312 was introduced at the regular meeting of the City Council on October 20, 2009, and was thereafter adopted and passed at the regular meeting of the City Council held on November 17, 2009, by the following votes:

AYES:

NOES:

ABSENT:

ABSTAIN:

Claudia Sadana
City Clerk