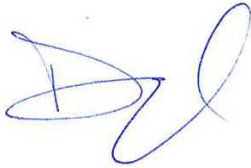


City of Calistoga

Staff Report

TO: Honorable Mayor and City Council
FROM: Dylan Feik, City Manager
DATE: October 18, 2016
SUBJECT: Consideration of an Ordinance Amending Title 1 of the Calistoga Municipal Code and adding a new section titled "Administrative Citations"

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

1 **ISSUE:** Consideration of an Ordinance Amending Title 1 of the Calistoga
 2 Municipal Code and adding a new section titled "Administrative Citations".

3
 4 **RECOMMENDATION:** Consider the ordinance and provide direction to staff.

5
 6 **BACKGROUND:** On September 20, 2016, staff presented a report regarding
 7 adoption of an administrative citation ordinance to assist with code enforcement
 8 in the City of Calistoga.

9
 10 Working with the City Attorney, staff has developed an administrative
 11 enforcement process for the adjudication of code enforcement issues. This
 12 process will allow all city departments the ability to issue administrative citations
 13 for violations of various City codes.

14
 15 The Administrative Enforcement Program for code enforcement will achieve
 16 compliance through the possible imposition of administrative fines to violators
 17 who ignore or refuse to voluntarily comply with the Calistoga Municipal Code and
 18 the Calistoga Zoning Ordinance. Administrative enforcement is designed to be

19 less expensive and achieve a quicker resolution to the violation than criminal or
20 civil enforcement.

21

22 If the violator wants to contest an administrative citation, they will receive a
23 hearing in front of a hearing officer comprised of the city manager or designee.
24 At this time, staff estimates that the hearings will be held infrequently and on
25 demand. It should be noted that each hearing can take up to one hour depending
26 on the evidence that is presented. If the violator wants to appeal the decision of
27 the hearing board, they must do so through the court system.

28

29 Overall, the Administrative Hearing Process consists of issuing “notice of
30 violations” and “administrative citations” concerning code enforcement issues
31 and adjudicating the citation in-house, rather than through established courts.
32 This is a process that has been established in many communities throughout
33 California with great success. The proposed ordinance was developed by staff as
34 a guide to benefit the needs and expectations of our community.

35

36 **Follow Up to Council Meeting – September 18th, 2016**

37 During the Council meeting on September 18th, Council members posed two (2)
38 questions to regarding the proposal. Under the current proposal draft, a hearing
39 officer may be used to adjudicate appeals by persons who received a citation.
40 City Council questioned the fairness and equity of using “city manager or
41 designee,” as the hearing officer. According to the city attorney’s office –

42

43 The Hearing Officer can be a City employee, and is a City employee in numerous
44 jurisdictions. However, [the City] should be cautious about who is designated to hear an
45 appeal and should have a number of designated hearing officers in place so that an
46 impartial hearing officer can be chosen. For example, if a resident was cited for a zoning
47 violation, you would not want the Planning Director to hear an appeal as she may have
48 been advising on the violation.

49

50 It will be in the best interests of the city manager to appoint several hearing
51 officers so impartial adjudicators can be used. The city manager will assure this
52 takes place.

53

54 The 2nd question raised by Council concerned which employees may issue
55 citations. There are requirements for issuers of penal code violations...are similar
56 requirements in place? The city attorney opined as follows -

57

58 Legally, there is no requirement as to who can issue administrative citations,
59 unlike criminal or other types of citations. The process is left to the local agency
60 adopting the administrative citation ordinance. Although, any employee can
61 issue administrative citations, we typically recommend that a local agency
62 designate certain employees who do receive some internal training on the
63 process. They will need to know how to use the citation forms and how to
64 properly cite any violations. Our office can work with [the City] on these
65 procedures after the ordinance is adopted.

66

67 Similar to designating hearing officers, the city manager will ensure that all City
68 staff who issue administrative citations will receive necessary training and
69 support to ensure compliance with the ordinance.

70

71 **DISCUSSION:** Should the City Council proceed with adoption of administrative
72 citations, an ordinance amendment will be prepared and a public hearing will be
73 set at an upcoming City Council meeting.

74

75 **FISCAL IMPACT:** The fiscal impact is difficult to determine at this time because
76 currently, administrative citations are not used, nor has the City Council adopted
77 a fine schedule for administrative citations.

78

79 **ATTACHMENT:**

80

1. Administrative Citation Ordinance DRAFT

81

2. Code Enforcement Manual, City of Calistoga