

9.65.030 - Weed abatement activity.

It shall be the duty of all responsible persons to at all times keep lots clean and free from weeds and/or debris.

(ORD-09-0022 § 6, 2009)

CHAPTER 9.65 - ADMINISTRATIVE CITATIONS AND PENALTIES

*Footnotes:**--- (11) ---*

Editor's note— ORD-09-0022 § 6 adopted Aug. 4, 2009, amended Ch. 9.65 in its entirety to read as herein set out. Former Ch. 9.658, §§ 9.65.010—9.65-200 pertained to similar subject matter and derived from ORD-05-0001, § 2, 2005; ORD-06-0012, § 6, 2006; and ORD-07-0047, §§ 1, 2, 2007.

9.65.010 - Legislative findings and statement of purpose.

- A. Enforcement of the Long Beach Municipal Code throughout the City is an important public service. Code enforcement is vital to the protection of the public's health, safety, welfare and quality of life. The City Council recognizes that a comprehensive code enforcement system that uses a combination of administrative and judicial remedies helps to gain compliance with Code regulations.
- B. The overburdening of the criminal court system has necessitated the alternative use of an administrative citation program to more effectively adjudicate the majority of nuisance related Code violations. An administrative citation program and the establishment of appropriate fines are intended to act as a reasonable deterrent in preventing violations of the Long Beach Municipal Code.
- C. The City Council hereby finds that there is a need for an alternative method of enforcement of the Municipal Code in accordance with the City's constitutional police power. The City Council further finds that an appropriate method of enforcement is the imposition of administrative penalties as independently authorized by both California Constitution Article XI, Section 7, and Government Code, Section 53069.4.
- D. The procedures established in this Chapter shall be in addition to any criminal, civil or other legal remedy established by law for violation of the Municipal Code.
- E. The City Council hereby finds and determines that enforcement of the Long Beach Municipal Code pursuant to the City's police power is a matter of public health, safety and welfare and serves important public purposes. The City of Long Beach adopts this administrative citation and penalty program in order to achieve the following goals and objectives:
 - 1. To protect the public health, safety and welfare of the citizens of the City.
 - 2. To gain compliance with the Municipal Code in a timely and efficient manner.
 - 3. To provide for an administrative process to appeal the imposition of administrative

citations and fines.

4. To provide a method to hold parties responsible when they fail or refuse to comply with the provisions of the Municipal Code.
5. To avoid and/or minimize the expense and delay of enforcement in the civil or criminal justice system.

F. Use of this Chapter shall be at the sole discretion of the City, subject to Subsection D of this Section.

(ORD-09-0022 § 6, 2009)

9.65.020 - Definitions.

- A. "Canopy structure" means and includes freestanding exterior shade structures that consist of a cover made from canvas, fabric, plastic, rubber, nylon, acetate or other pliable material that is fitted over a freestanding metal frame.
- B. "Cited party" means a legally responsible person who has been issued an administrative citation.
- C. "City" means the City of Long Beach.
- D. "Continuing violation" means any condition or activity in violation of the Municipal Code that continues beyond the date given in the administrative citation to correct the violation.
- E. "Correction period" means that period of time in which responsible persons are required to correct or otherwise remedy the violation(s)
- F. "Enforcement officer" shall mean any officer or employee of the City designated with the authority to enforce the applicable provisions of the Long Beach Municipal Code.
- G. "Hearing Officer" means an individual who has been designated by the City Manager to adjudicate administrative citation appeals.
- H. "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.
- I. "Inoperative vehicle" shall include:
 1. Any vehicle, by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power, which is not currently and validly registered for operation or use on the streets and highways in the State as required under the provisions of the California Vehicle Code; or

2. Any motor vehicle which currently is incapable of being driven under its own motor power; or
 3. Any nonmotor vehicle which currently is incapable of being moved or drawn.
- J. "Lot" means an area of land, parcel or tract, whether improved or unimproved, the boundaries of which have been established in conformance with the State Subdivision Map Act, and which has either been recorded via a final tract map or certificate of compliance on record with the Los Angeles County Recorder.
- K. "Lot cleaning levy" means all computed expenses incurred by the City in removal of weeds and/or debris, from any lot, and shall consist of processing fees, incidental enforcement costs, including, but not limited to, actual expenses for weeds and/or debris removal charged to the cited party.
- L. "Responsible person" means any individual who is the owner, partial owner, or occupant of real property, last registered owner and/or legal owner of a vehicle, the holder or the agent of the holder of any permit or entitlement, or the party or agent of a party to any agreement covered by this Chapter; or the owner or authorized agent of any business, company or entity subject to this Chapter, who creates, commits or maintains a violation subject to the enforcement provisions of this Chapter.
- M. "Vehicle removal levy" means all computed expenses incurred by the City in the removal of inoperative vehicle(s) from public or private property within the City, and shall consist of processing fees, incidental enforcement costs, including, but not limited to, land and vehicle title search information, and actual expenses incurred for inoperative vehicle removal, impoundment or disposal.
- N. "Weeds" and/or "debris" means and includes all bushes, vines, trees, grass or other vegetation, whether cultivated or uncultivated, and whether dead or growing, and all refuse, trash and rubbish of any kind or description, or wood, asphalt, concrete or similar materials, tin cans, parts of machinery, implements and automobiles, any of which cause unpleasant or noxious odors, or which are, or may become, a refuge or breeding place for insect and vermin, or which conceal or are capable of concealing filth and other unsanitary conditions, or which are, or are capable of becoming, a fire or other hazard to the use and occupancy of property, or which obstruct or hinder the use of any public street, sidewalk, alley or way.

(ORD-09-0022 § 6, 2009)

9.65.030 - Weed abatement activity.

It shall be the duty of all responsible persons to at all times keep lots clean and free from weeds and/or debris.

(ORD-09-0022 § 6, 2009)

9.65.040 - Inoperative vehicle activity.

It shall be the duty of responsible persons to prevent accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof, except for those vehicles or parts thereof exempted pursuant to Long Beach Municipal Code, Section 10.46.030.

(ORD-09-0022 § 6, 2009)

9.65.050 - Prohibited canopy structure.

Canopy structure as defined in Subsection 9.65.020.A may not:

- A. Be located in residential front or side yard setback areas, or driveway areas used for automobile parking;
- B. Have a setback of less than four feet (4') from the side and rear property lines;
- C. Be maintained in a manner that is defective, unsightly or in a condition of deterioration; or
- D. Be greater than ten feet (10') in height.

(ORD-09-0022 § 6, 2009)

9.65.060 - Issuance of administrative citation.

- A. Any responsible person who violates any provision of Titles 3, 5, 8, 9, 10, 14, 18 and 21, or Chapter 2.63, of the Long Beach Municipal Code may be issued an administrative citation, pursuant to this Chapter, by an enforcement officer designated to issue such citations.
- B. Each and every day a violation 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 City of Long Beach.
- D. Fines shall be assessed for Code violations committed by the same responsible person as follows:

1. A fine for each initial violation, in an amount established by the City Council by resolution;
2. A fine for each instance of a second violation of the same Code section within one (1) year from the date of the first violation, in an amount established by the City Council by resolution;
3. A fine for each additional violation of the same Code section within one (1) year from the date of the first violation, in an amount established by the City Council by resolution;
4. A fine for each violation of Municipal Code, Section 21.41.170 illegal garage conversions, 18.02.050 for dangerous buildings, 18.08.010 for certificates of occupancy, 18.09.010 for failure to comply with Title 18, and/or Subsection 21.31.245.C unlawful dwelling units, in an amount established by the City Council by resolution; and
5. A fine for each violation of Municipal Code, Section 21.51.227 relating to illegal automotive work, in an amount established by the City Council by resolution.

(ORD-15-0038 § 2, 2015; ORD-11-0012 § 3, 2011; ORD-09-0022 § 6, 2009)

9.65.070 - Service procedures.

An administrative citation on a form approved by the City Manager may be served upon any responsible person by an enforcement officer 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(s) and obtain the signature of the responsible person(s) on the administrative citation;
 2. If the responsible person(s) refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation or any subsequent proceedings.
- B. Service of citation by posting notice. If the enforcement officer does not succeed in personally serving a responsible person(s):
 1. The enforcement officer shall post the administrative citation or duplicate thereof in a conspicuous place on the lot where the violation(s) exists or has occurred, and such posting shall be deemed effective service;

2. Any posted notice shall be photographed on the date of posting by the enforcement officer, and a proof of service of the notice shall be made by declaration of the enforcement officer effecting the service.
- C. Service of citation by mail. If the enforcement officer does not succeed in personally serving a responsible person(s), in addition to posting notice:
 1. The administrative citation or duplicate thereof shall be mailed to the responsible person(s) at his or her residence or place of business by depositing the same in the United States Mail, postage prepaid as first class mail;
 2. A proof of service of the notice shall be made by declaration of the enforcement officer effecting the service.

(ORD-09-0022 § 6, 2009)

9.65.080 - Contents of notice.

Each administrative citation shall contain the following information:

- A. The date of service of the citation and the date, time, address or description of the location where the violation(s) was observed.
- B. The Code section(s) and condition(s) violated and a description of the violation(s)
- C. An order to the responsible person(s) to correct the violation(s) no later than the specified correction date.
- D. An explanation of the consequences of failure to correct the violation(s) in a timely manner.
- E. The amount of the fine for the violation(s).
- F. An explanation of how the fine shall be paid and the fine payment due date.
- G. Notice of the right to appeal the citation, the time within which the citation may be appealed and the place to obtain a request for hearing form to appeal the administrative citation.
- H. The name and signature of the enforcement officer and, if obtained, the signature (s) of the responsible person(s).

(ORD-09-0022 § 6, 2009)

9.65.090 - Satisfaction of administrative citation.

Upon service of an administrative citation, the cited party shall do the following:

- A. Remedy the violation(s) no later than thirty (30) days from the date of issuance of the citation as specified on the administrative citation. Correcting the violation(s) shall not excuse or discharge payment of the fine.
- B. Pay the fine no later than thirty (30) days from the date of issuance of the citation as specified on the administrative citation. 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 City. Late charges shall be imposed for fine payments made after the fine payment due date. The late charge shall be calculated at a rate of twenty-five percent (25%) of the fine, and will be imposed in addition to any outstanding fine.

(ORD-09-0022 § 6, 2009)

9.65.100 - Appeal of administrative citation.

- A. Any recipient of an administrative citation may appeal said citation by completing a written request for hearing form, obtained as directed on the citation, and returning it to the department, indicated on the citation, within thirty (30) calendar days from the date the administrative citation is served or deemed to have been served, together with a deposit in the total amount of the fine and any late charges.
- B. A failure to file a timely appeal of the administrative citation shall be deemed a waiver of the right to appeal and to seek judicial review.

(ORD-09-0022 § 6, 2009)

9.65.110 - Appeal hardship waiver.

- A. Any person who intends to appeal the administrative citation and who is financially unable to make the advance deposit as required in Section 9.65.100 may request an advance deposit hardship waiver by completing a written deposit waiver form obtained as directed on the citation.
- B. The deposit waiver request form shall be filed together with the appeal in the department indicated on the citation within thirty (30) calendar days from the date the administrative citation is served or deemed to have been served.
- C. The deposit requirement as described in Subsection 9.65.100.A shall be stayed unless or until the Director of the department indicated on the citation, or his/her designee, makes a determination regarding the waiver request.
- D.

The Director of the department indicated on the citation, or his/her designee, may waive the requirement of an advance deposit only if the cited party submits to the Director, or his/her designee, a statement under penalty of perjury, together with any supporting documents or materials, demonstrating to the satisfaction of the Director, or his/her designee, the cited party's actual financial inability to deposit with the City the full amount of the fine and late charge(s) in advance of the hearing.

- E. If the Director of the department indicated on the citation, or his/her designee, declines to issue a waiver, the cited party shall remit the full deposit to the City within ten (10) calendar days of the date of that decision or thirty (30) calendar days from the date the administrative citation is served or deemed to have been served, whichever is later.
- F. The Director of the department indicated on the citation, or his/her designee, shall issue a written determination listing the reasons for his/her determination to issue or not issue the hardship waiver. The written determination shall be final.
- G. The written determination of the Director, or his/her designee, shall be served personally or by first class mail, postage prepaid, upon the cited party who applied for the hardship waiver.

(ORD-09-0022 § 6, 2009)

9.65.120 - Hearing procedure.

- A. No hearing to appeal an administrative citation shall be held unless and until a request for hearing form has been completed and submitted, as indicated on the citation, and the deposit has been paid, or a hardship waiver has been issued.
- B. A hearing before the Hearing Officer shall be set for a date not sooner than fifteen (15) calendar days and not more than sixty (60) calendar days from the date the request for hearing is completed and submitted in accordance with the provisions of this Chapter. The cited party requesting the hearing shall be notified in writing of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing.
- C. The Hearing Officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the cited party has created, committed, or maintained the violation(s). Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify, if the Hearing Officer determines that such evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by

the Hearing Officer in accordance with the fundamentals of due process. The Hearing Officer may set reasonable limits on the length of the hearing, and shall allow the appellant at least as much time to present his/her case as is allowed to the City.

- D. The cited party contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation. The City's case shall be presented by any person designated by the City Manager. The appellant and City may be represented by counsel.
- E. The failure of the appellant to appear at the hearing shall constitute a forfeiture of the fine and a failure to exhaust administrative remedies.
- F. The administrative citation and any additional documents prepared by the City in connection with the violation(s) may be submitted and shall constitute prima facie evidence of the respective facts contained in those documents.
- G. If the enforcement officer or his/her designee submits any additional documents concerning the administrative citation to the Hearing Officer for consideration at the hearing, then, whenever possible, a copy of such document(s) shall be served by mail on the appellant at least five (5) calendar days prior to the date of the hearing.
- H. The Hearing Officer may continue the hearing or request additional information from the enforcement officer, his/her designee or the appellant prior to issuing a written decision.

(ORD-09-0022 § 6, 2009)

9.65.130 - 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 fifteen (15) business days of the hearing. The decision of the Hearing Officer shall be final.
- B. If the Hearing Officer denies the appeal, then the deposit shall be retained by the City.
- C. If the Hearing Officer grants the appeal, then the City shall refund the deposit within thirty (30) business days from the date of the final written decision.
- D. The appellant and City shall each be served with a copy of the Hearing Officer's written decision.

(ORD-09-0022 § 6, 2009)

9.65.140 - Failure to pay fines.

- A. The failure of the cited party to pay a civil fine or late penalty in a timely manner may result in the imposition of a special assessment and/or lien against the real property on which the violation occurred, after which the amount so determined shall bear interest at the rate of twelve percent (12%) per annum until paid, and/or filing of an action with the Small Claims Court for recovery of the fine and late penalty. The only issue to be adjudicated by the Small Claims Court shall be whether or not the fines and possible late fees were paid. A cited party may only obtain judicial review of the validity of the citation by first requesting and participating in an administrative hearing before a Hearing Officer. In the Small Claims Court action, the City may also recover its costs, according to proof.
- B. The City may also refuse to issue, extend or renew to any cited party who has unpaid delinquent fines, interest, penalties, liens or assessments, any City permit, license, entitlement or other City approval pertaining to the lot that is the subject of the fine and administrative citation.
- C. Any permit, license, entitlement or land use approval issued by the City may be subject to suspension or revocation of the permit, license, entitlement, or land use approval in accordance with the procedures set forth in this Title 9 and Titles 3, 5, 6, 8, 10, 14, 18 and 21 of the Long Beach Municipal Code if any unpaid fine, interest or penalties remain delinquent for a period of more than thirty (30) days.

(ORD-11-0012 § 4, 2011; ORD-09-0022 § 6, 2009)

9.65.150 - Failure to remedy weed abatement activity.

In the event a responsible person(s) is cited for violation of weed abatement, pursuant to Section 9.65.030 of this Chapter, and fails to correct the violation within the specified correction period, and also fails to file a timely appeal of the administrative citation as set forth in Section 9.65.100 of this Chapter, in addition to fine(s), late charges, and consequences resulting from failure to pay fines as defined in this Chapter, a lot cleaning levy shall also be imposed. A lot cleaning levy payment notice shall be served upon the cited party in the same manner as provided for service of the administrative citation set forth in Section 9.65.070 of this Chapter.

(ORD-09-0022 § 6, 2009)

9.65.160 - Failure to remedy inoperative vehicle activity.

In the event a responsible person(s) is cited for violation of inoperative vehicles pursuant to Section 9.65.040 of this Chapter, and fails to correct the violation within the specified period and also fails to file a timely appeal of the administrative citation as set forth in Section 9.65.100 of this Chapter, in addition to fine(s), late charges, and consequences resulting from failure to pay fines as defined in this Chapter, a vehicle removal levy shall also be imposed. A vehicle removal levy payment notice shall be served upon the cited party in the same manner as provided for service of the administrative citation set forth in Section 9.65.070 of this Chapter.

(ORD-09-0022 § 6, 2009)

9.65.170 - Appeal of lot cleaning and inoperative vehicle levy.

- A. Any recipient of lot cleaning or inoperative vehicle levy payment notice may appeal the reasonableness of the computed charges by completing a levy hearing request form and returning it to the department indicated on the administrative levy notice within fifteen (15) calendar days from the date the levy notice was served, together with a deposit in the total amount of the administrative citation fine, late charges and levy.
- B. A hearing on the appeal shall be set for a date that is not sooner than fifteen (15) calendar days and not more than sixty (60) calendar days from the date that the request for hearing is completed and submitted in accordance with the provisions of this Chapter. The person requesting the hearing shall be notified in writing of the time and place set for the hearing at least ten (10) calendar days prior to the date of the hearing.
- C. The Hearing Officer shall only consider evidence that is relevant to whether the costs used to compute the levy are reasonably related to abatement costs incurred by the City. Courtroom rules of evidence shall not apply. Relevant hearsay evidence and written reports may be admitted whether or not the speaker or author is present to testify if the Hearing Officer determines that such evidence is reliable. Admission of evidence and the conduct of the hearing shall be controlled by the Hearing Officer in accordance with the fundamentals of due process. The Hearing Officer may set reasonable limits on the length of the hearing, and shall allow the appellant at least as much time to present its case as is allowed the City.
- D. The cited party contesting the reasonableness of the levy shall be given the opportunity to testify and present witnesses and evidence concerning the computed cost. The appellant and City may be represented by counsel.

- E. The administrative citation and any additional documents prepared by the City in connection with the levy may be submitted and shall constitute prima facie evidence of the respective facts contained in those documents.
- F. In the event additional documents concerning the levy are provided to the Hearing Officer for consideration, whenever possible, a copy of such document(s) shall be served by mail on the appellant at least five (5) calendar days prior to the date of the hearing.
- G. The Hearing Officer may continue the hearing or request additional information from the City or the appellant prior to issuing a written decision.
- H. After considering all of the testimony and evidence submitted at the hearing, the Hearing Officer shall issue a written decision within fifteen (15) business days of the hearing.
- I. The appellant and the City shall each be served by mail with a copy of the Hearing Officer's written decision.
- J. If the Hearing Officer determines that the levy was properly computed, and should be upheld as reasonable, then the entire deposit with the City shall be retained by the City.
- K. In the event the Hearing Officer determines the levy, or any portion thereof, to be unreasonable, then that amount shall be refunded within fifteen (15) business days of the date of the written determination.
- L. The failure of the appellant to appear at the hearing shall constitute a forfeiture of the entire deposit and a failure to exhaust administrative remedies.
- M. A failure to file a timely appeal shall be deemed a waiver of the right to appeal the levy.

(ORD-09-0022 § 6, 2009)

9.65.180 - Dismissal of citation.

The enforcement officer, with the approval of the Director from the department indicated on the citation, or his/her designee, may dismiss an administrative citation at any time if it is determined to have been issued in error, in which event any deposit will be refunded.

(ORD-09-0022 § 6, 2009)

9.65.190 - Right to judicial review.

- A. Either the City or the appellant aggrieved by a decision of a Hearing Officer on an administrative citation or levy, may obtain review of the decision by filing a petition for review with the Los Angeles Superior Court in accordance with the time lines and provisions as set forth in California Government Code, Section 53069.4(b). Said procedure shall be available for all judicial review under this Chapter, notwithstanding that the term or condition being enforced pursuant to this Chapter may not be a matter covered by Section 53069.4(a). Judicial review of a citation shall not be available unless all administrative remedies have been exhausted as provided in this Chapter.
- B. Failure to receive any notice specified in this Chapter does not affect the validity of proceedings conducted hereunder.

(ORD-09-0022 § 6, 2009)

9.65.200 - Recovery of Code enforcement abatement costs.

The administrative citation process described in this Chapter does not preclude the City from recovering any other Code violation or nuisance abatement costs incurred by the City in performing its Code enforcement efforts.

(ORD-09-0022 § 6, 2009)