



STAFF REPORT – CITY COUNCIL MEETING

February 15, 2023

TO: Honorable Mayor and City Council Members

FROM: Emily Sinkhorn, Director of Environmental Services

PREPARER: Emily Sinkhorn, Director of Environmental Services

DATE: February 01, 2023

TITLE: **Adopt Resolution No. 223-35, A Resolution of the City Council of the City of Arcata Establishing A Fee Schedule for Administrative Fee Citation Procedures for Municipal Code Title VII, Chapter 3—Water.**

RECOMMENDATION:

It is recommended that the Council adopt Resolution No. 223-35, a resolution of the City Council of the City of Arcata establishing a fee schedule for administrative fee citation procedures for Title VII—Public Works, Chapter 3—Water.

INTRODUCTION:

On January 3, 2018, the Arcata City Council adopted Ordinance No. 1498, An Ordinance of the City Council of the City of Arcata Amending the Administrative Citation Procedure of the Municipal Code. Previously, the City had more cumbersome options for obtaining compliance with its building, zoning and other Municipal Code provisions including administrative, civil and criminal approaches, each providing unique benefits and remedies that may be tailored to effectively address individual circumstances. On March 6, 2019 the Council adopted a resolution establishing fees for noncompliance for violations of the Arcata Municipal Code related to building codes, solid waste management, stormwater management and sewers. If approved this resolution will begin to establish the fees for noncompliance for violations of the water section of the Arcata Municipal Code.

BACKGROUND:

Existing Section 1210 of the Arcata Municipal Code allows the City to assess administrative fines or penalties for violations of the City's Municipal Code, including zoning and building ordinances. Fines are assessed by the City Manager after providing notice, and in the case of building or zoning violations that do not create an immediate danger to health or safety, after allowing at least 30 days to correct the violation. Fines are subject to an administrative appeal.

On January 3, 2018 the Arcata City Council approved Ordinance No. 1498 which further defined the administrative fine process by requiring the issuance of an administrative citation in advance of a fine assessment and specifying the process for seeking an administrative appeal, including a hardship waiver for persons who are financially unable to pay the fine deposit. The administrative citations may be issued by the City employee charged with authority to enforce the specific code provision.

For building or zoning violations that do not create an immediate danger to health or safety, the City must allow up to six months to correct or remedy the violation before the fine may be assessed. The City Manager may extend the pre-fine assessment time period by an additional six months for complex situations, and the City Council may provide additional time to correct the problem.

State law allows fines to be assessed for violations of City building and safety codes up to \$100 for the first offense, \$500 for the second offense within the same year, and \$1,000 for each additional offense in the same year. Ordinance No. 1498 updated the Municipal Code penalty schedules to be consistent with these state law maximums. Additionally, under Ordinance No. 1498, a specific penalty schedule utilizing these maximum statutory limits needs to be adopted by resolution by the City Council. Delinquent fines, late fees and interest may be collected through collection, property assessment liens and judicial foreclosure.

On March 6, 2019 the City Council adopted such a penalty schedule for violations of Arcata Municipal Code pertaining to building codes, stormwater management, solid waste management and sewers.

DISCUSSION:

This Resolution No. 223-35 if approved will allow the City to issue fines of \$100/day for the first violation in a year related to the City's water section of the Arcata Municipal Code (Title VII Chapter 3). Such violations include the disrepair or lack of a backflow device which protect the City's water supply from potential cross-contamination from other uses of water on private properties.

Exhibit A outlines a fee schedule for the proposed code section covered and progressive penalty amounts occurring within a year. Once adopted the fee schedule will also be included in the City's Master Fee Schedule. The City will always encourage voluntary compliance and determine an acceptable compliance time depending on the severity of the violation, and increases its level of enforcement only if voluntary compliance fails to correct the problem in a timely manner. The assessment of administrative penalties provides an additional tool to ensure an effective code compliance program. Fee schedules for additional Municipal Code sections for other violations may be added from time to time to create a more comprehensive method of enforcing other aspects of the Municipal Code.

BUDGET/FISCAL IMPACT:

Minimal violations/fines may be occasionally received but voluntary compliance is the goal and allowing violators to enter into progressive agreements to correct deficiencies and gain compliance.

ATTACHMENTS:

- A. Resolution No. 223-35 - Administrative Fees for Code Violations (PDF)