

SONOMA COUNTY WASTE MANAGEMENT AGENCY

ORDINANCE NO. 2014-01

**AN ORDINANCE OF THE SONOMA COUNTY WASTE MANAGEMENT AGENCY
RELATING TO ADMINISTRATIVE PENALTIES**

**THE SONOMA COUNTY WASTE MANAGEMENT AGENCY DOES ORDAIN AS
FOLLOWS:**

SECTION 1. Article I of Chapter I is hereby adopted to read as follows:

Article I.

Administrative Citations

Sec. 1.10 Purpose and Intent.

This Article establishes an enforcement mechanism for all violations of Agency ordinances. The procedures established in this Article are in addition to any other procedures or legal remedies used to address violations of Agency ordinances.

Sec. 1.11 Definitions:

- (a) Administrative Citation. An Administrative Citation is an official notification, on an appropriate form as established by this Article, of violation of any provision of an Agency ordinance. Said Citations require correction of the violation and impose fines upon the responsible party.
- (b) Agency. The Agency is the Sonoma County Waste Management Agency.
- (c) Enforcement Officer. An Enforcement Officer is any person designated by ordinance or appointed by the Executive Director or his or her designee to implement the provisions of this Article.

Sec. 1.12 Administrative Citation; Fines.

- (a) A fine for violation of an Agency ordinance may be assessed through an Administrative Citation, issued by the Enforcement Officer and payable directly to the Agency.
- (b) Each day of violation of the Agency ordinance constitutes a separate, additional violation.
- (c) Said fine shall be collected in accordance with the procedures specified in this Article.
- (d) The Agency Board shall establish by resolution the amount of the fine to be assessed for Administrative Citations.

(e) Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the Agency.

(f) All fines shall be payable to the Agency at the address provided on the Administrative Citation.

(g) Any fine paid pursuant to subsection a) above shall be refunded if it is determined, after an appeal hearing, that there was no violation as charged in the Administrative Citation.

(h) If payment of a fine is not received by the Agency within thirty (30) days of service of the Administrative Citation, then a late fee shall be assessed. The amount of the late penalty shall be fifty percent (50%) of the total amount of the fine owed.

(i) The Agency may collect any past due Administrative Citation fines and/or late payment charges by the use of the small claims court, or any other legal remedy.

Sec. 1.13 Procedures for Administrative Citations.

(a) The Executive Director may establish appropriate administrative regulations for implementing this Article.

(b) Unless appointed by ordinance, the Executive Director or his or her designee shall appoint an Enforcement Officer(s) to implement the provisions of this Article.

(c) When the Enforcement Officer observes a violation of an Agency ordinance, the Enforcement Officer may issue an Administrative Citation to any responsible person.

(d) Each Administrative Citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The name, address, and other identifying information for the person being cited.
- (4) The section of the Agency ordinance violated and a description of the violation;
- (5) The fine schedule for the violation;
- (6) A description of how, when and where the fine must be paid;
- (7) An order prohibiting the continuation or repeated occurrence of the violation;
- (8) A brief description of the appeal process;
- (9) The name and signature of the citing Enforcement Officer.

(e) The person cited shall be requested to sign the citation to acknowledge receipt of the citation.

Sec. 1.14 Notices.

All notices required under this Article shall be served on the responsible party in accordance with the following provisions:

(a) If the person cited is not the owner of the business where the alleged violation occurred, written notice shall be personally delivered or sent by certified mail to the owner of the business at the address of the property where the alleged violation occurred.

(b) If the person cited is not the owner of the property where the alleged violation occurred, written notice shall be personally delivered or sent by certified mail to the property owner at the address shown on the last equalized County assessment role.

(c) When personal service by certified mail upon the person cited is unsuccessful, a copy of the notice shall be posted in a conspicuous place on the property where the alleged violation occurred.

Sec. 1.15 Appeal of Administrative Citation.

(a) Any recipient of an Administrative Citation may contest the citation by requesting an appeal hearing within ten (10) calendar days from the date of the citation. The Appeal must be in writing on a form furnished by the Agency specifying the basis for the appeal in detail. The person requesting the appeal hearing shall deposit with the Agency either the amount of the fine or a hardship waiver pursuant to Section 1.15. If the deadline to request an appeal hearing falls on a weekend or Holiday, then the deadline shall be extended until 5:00 p.m. on the next regular business day.

(b) The Agency shall hold a hearing within thirty days of receipt of an appeal. The person requesting the appeal hearing shall be notified of the time and place of the hearing at least ten (10) days prior to the date of the hearing.

(c) In order to hear appeals of Administrative Citations, the Executive Director shall appoint one or more Hearing Officers who shall serve at his or her pleasure. A hearing officer may be an Agency employee.

(d) The failure of any person with an interest in the property to receive properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter.

(e) Failure to file an appeal in accordance with the provisions of this chapter shall constitute a waiver of rights to contest the accompanying Administrative Citation and the imposition of the fine.

Sec. 1.16 Hearing Procedure.

(a) The Hearing Officer shall conduct an orderly hearing and accept evidence on which persons commonly would rely in the conduct of their business affairs.

(b) At the appeal hearing, the party contesting the citation shall be given the opportunity to testify and to present evidence, including witnesses, concerning the alleged violation. Any other interested party, including but not limited to the property or business owner, employees, or neighbors, may also present testimony.

(c) The Administrative Citation and any additional reports submitted by the Enforcement Officer shall constitute prima facie evidence of the facts contained in those documents.

(d) The Hearing Officer may take the matter under consideration or may continue the hearing and/or request additional information from the Enforcement Officer and/or the person cited.

(e) The Hearing Officer shall determine whether to affirm or dismiss the Administrative Citation. The hearing officer may not reduce, waive or conditionally reduce the fines established by the Agency.

(f) The Hearing Officer shall make findings based on the record of the hearing and shall issue a written decision based on the findings. The Agency shall preserve all exhibits submitted by the parties for a 30-day period and shall serve the decision by certified mail, postage prepaid, return receipt requested within ten (10) working days after the hearing. The decision of the Hearing Officer affirming or dismissing the citation is final and conclusive, without right of further administrative appeal.

Sec. 1.17 Hardship Waiver.

(a) Any recipient of an Administrative Citation who requests an appeal hearing and is financially unable to deposit the required fine may file a request with the Agency for a hardship waiver of the advance deposit requirement.

(b) Requests for hardship waivers shall be filed with the request for an appeal hearing. The request shall be accompanied with a sworn affidavit, together with any supporting documents or materials demonstrating to the satisfaction of the Executive Director the person's actual financial inability to deposit the fine in advance of the appeal hearing.

(c) The Executive Director shall either grant or deny the request for a waiver within ten days of receipt of such request. If the Executive Director denies the request for a waiver, he/she shall issue a written determination on the person requesting the hardship waiver. The decision of the Executive Director shall be final.

(d) If the request for a hardship waiver is denied, the fine shall be deposited with the Agency within ten days of the denial or thirty days from the date of the Administrative Citation, whichever is later.

(e) If the request for a hardship waiver is granted, but the Administrative Citation is upheld by the Hearing Officer, the fine must be paid within ten (10) working days.

Sec. 1.18 Right to judicial review.

Any person aggrieved by an administrative decision of a Hearing Officer may obtain review of the administrative decision by filing a petition for review with the Superior Court in Sonoma County in accordance with the timeliness and other provisions set forth in California Government Code Section 53069.4.

SECTION 2. A summary of this ordinance shall be printed and published twice in the Santa Rosa Press Democrat, a newspaper of general circulation, printed and published in the County of Sonoma.

SECTION 3. This Ordinance shall be effective 30 days following its adoption by the Agency. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the Agency Board Members voting for and against it.

INTRODUCED at a regular meeting of the Board of Directors of the Sonoma County Waste Management Agency on the 15th day of January 2014, and

PASSED AND ADOPTED this 19th day of February 2014, by the following vote:

MEMBERS:

<u>-AYE-</u> Cox, Cloverdale	<u>-AYE-</u> Harvey, Cotati	<u>-AYE-</u> Klassen, County	<u>-AYE-</u> Wood, Healdsburg	<u>-AYE-</u> St. John, Petaluma
<u>-AYE-</u> McArthur Rohnert Park	<u>-AYE-</u> Phillips, Santa Rosa	<u>-AYE-</u> Kelly, Sebastopol	<u>-AYE-</u> Barbose, Sonoma	<u>-AYE-</u> Fudge, Windsor

AYES -10- NOES -0- ABSENT -0- ABSTAIN -0-

SO ORDERED

The within instrument is a correct copy
of the original on file with this office.

ATTEST:

DATE: February 19, 2014

Rebecca Lankford
Clerk of the Sonoma County Waste Management Agency
Agency of the State of California in and for the
County of Sonoma
AGENCY CLERK