



CITY of CALABASAS

CITY COUNCIL AGENDA REPORT

DATE: OCTOBER 19, 2020

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: SCOTT H. HOWARD, CONTRACT CITY ATTORNEY
MATTHEW T. SUMMERS, ASSISTANT CITY ATTORNEY
COLANTUONO HIGHSMITH & WHATLEY, PC

SUBJECT: INTRODUCTION OF ORDINANCE NO. 2021-386, AMENDING SECTION 1.17.080 (ADMINISTRATIVE CITATIONS) AND SECTION 1.17.110 (AMOUNT OF ADMINISTRATIVE FINES AND PENALTIES) OF CHAPTER 1.17 (ADMINISTRATIVE ENFORCEMENT) OF TITLE 1 (GENERAL PROVISIONS) OF THE CALABASAS MUNICIPAL CODE; AND ADOPTION OF URGENCY ORDINANCE NO. 2020-385U, AMENDING SECTION 1.17.080 (ADMINISTRATIVE CITATIONS) AND SECTION 1.17.110 (AMOUNT OF ADMINISTRATIVE FINES AND PENALTIES) OF CHAPTER 1.17 (ADMINISTRATIVE ENFORCEMENT) OF TITLE 1 (GENERAL PROVISIONS) OF THE CALABASAS MUNICIPAL CODE

MEETING
DATE: OCTOBER 28, 2020

SUMMARY RECOMMENDATION:

Staff recommends City Council introduce Ordinance No. 2021-386 [requires a majority vote] and Adopt Urgency Ordinance No. 2020-385U [requires a 4/5 vote] to amend Section 1.17.080 (Administrative Citations) and Section 1.17.110 (Amount of Administrative Fines and Penalties) of Chapter 1.17 (Administrative Enforcement) of Title 1 (General Provisions) of the Calabasas Municipal Code to establish specified administrative fine amounts for violations of the Calabasas Municipal Code and adopt related procedural provisions.

BACKGROUND:

The City has recently seen an uptick in code enforcement and nuisance abatement cases. Many of the new violations have tied to activities not allowed under the COVID-19 novel coronavirus protection orders by the City, made more consequential as many more residents are at home for most of the day. Staff has increased code enforcement efforts in response, and as part of that process has identified a need for adjustment to the City's administrative fines and citation ordinance.

ANALYSIS:

In addition to other lawful remedies and code enforcement tools, such as civil litigation or criminal prosecution, the City has the power to impose administrative fines for violations of the Calabasas Municipal Code. The City's current ordinance provides for administrative fines and citations, but does not have precisely stated fine amounts. To remedy this, staff recommends that the City Council amend the Calabasas Municipal Code, by urgency ordinance and non-urgency ordinance, to immediately adopt a specified set of administrative fines. Administrative fines will be a helpful tool for certain chronic code enforcement violations that do not lend themselves to direct abatement by the City, such as continued violations of land use codes, as distinct from a dangerous tree that could be trimmed once with appropriate authority. In addition to or separate from administrative citations, the City can still, in the appropriate cases as judged by the City Prosecutor, pursue criminal enforcement, or as authorized by the City Council, pursue civil nuisance abatement. The City can also continue to collect certain costs of code enforcement, such as nuisance abatement costs, under Government Code section 38773, et seq., and Calabasas Municipal Code Chapter 8.20.

The proposed amendments to Section 1.17.080 state that an enforcement officer does not have to first issue a Notice of Violation before issuing an administrative citation and fine, except for violations of the building code and certain portions of the zoning code— an exception required by state law for continuing violations of building, plumbing, electrical, or other similar structural or zoning code provisions.¹ This resolves a present ambiguity in the code and confirms that a Notice of Violation is not required before an enforcement officer issues a citation for any other violation, including those that are an immediate danger to health or safety.

The proposed amendments to Section 1.17.110 establish a graduated series of administrative fine amounts, set at the maximums permitted by state law.² The proposed amendments also establish a state-required administrative process for a

¹ Gov't Code, § 53069.4, subd. (a)(2).

² Gov't Code, § 36900, 36901, & 53069.4.

violator subject to the higher fines for certain building code violations to seek a hardship reduction.³

To ensure immediate and continued authority to issue administrative fines and citations, the City Attorney has drafted two related ordinances for the Council's consideration. The first is the proposed Urgency Ordinance, which requires a 4/5 vote and will take immediate effect. Second, to ensure continued administrative fine and citation authority without needing to defend the urgency findings indefinitely, staff recommends that the Council simultaneously consider a standard ordinance, adopted after first and second readings, which will take effect 30 days after adoption. This is the City Attorney's recommended standard procedure with respect to urgency ordinances that address long-term issues. The urgency ordinance may be introduced and adopted at a single meeting, and becomes effective immediately if adopted by a 4/5 vote. The non-urgency ordinance may be introduced at the same meeting, and if adopted at the following meeting, would take effect 30 days after adoption, scheduled for the City Council's next regular meeting. The standard ordinance is identical to the urgency ordinance, but does not contain the specific findings of urgency. Upon becoming effective, the standard ordinance will repeal the urgency ordinance. The reason for proceeding by this method would be to ensure that the City can immediately issue administrative citations in the specified fine amounts as appropriate code enforcement cases arise, thereby protecting and preserving the public's peace, health, and safety, while also ensuring that the City need only rely on the urgency findings for a limited period of time.

FISCAL IMPACT:

The adoption of these ordinances is expected to result in some increased revenue to the City through administrative fines, which may offset in part by increased code enforcement costs incurred to investigate violations. Unpaid administrative fines can be collected through civil actions. Further, for public nuisance code enforcement cases, the City can pursue full cost recovery through the procedures set forth in Chapter 8.20 and other applicable laws, including imposition of a nuisance abatement lien or a nuisance abatement special assessment.

REQUESTED ACTION:

Staff recommends that the City Council take the following actions:

1. Introduce Ordinance No. 2021-386, Amending Section 1.17.080 (Administrative Citations) And Section 1.17.110 (Amount Of Administrative Fines And Penalties) Of Chapter 1.17 (Administrative Enforcement) Of Title 1 (General Provisions) Of The Calabasas Municipal Code; and

³ Gov't Code, § 36900, subd. (d).

2. Adopt Urgency Ordinance No. 2020-385U, Amending Section 1.17.080 (Administrative Citations) And Section 1.17.110 (Amount Of Administrative Fines And Penalties) Of Chapter 1.17 (Administrative Enforcement) Of Title 1 (General Provisions) Of The Calabasas Municipal Code.

ATTACHMENTS:

A - Ordinance No. 2021-386

B – Ordinance No. 2020-385U