



# CITY OF IONE CITY COUNCIL STAFF REPORT



**FOR THE MEETING OF: APRIL 7, 2009**

**DATE: APRIL 1, 2009**

**TO: MAYOR ARD AND CITY COUNCIL**

**FROM: KIMBERLY A. KERR, CITY MANAGER**

**SUBJECT: REVIEW AND DISCUSS AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IONE AMENDING IONE MUNICIPAL CODE, TITLE 1 – “GENERAL PROVISIONS”, BY CREATING AND ADDING CHAPTER 1.10 –“ADMINISTRATIVE ENFORCEMENT PROVISIONS”**

**RECOMMENDED ACTION:**

That the City Council:

1. Receive staff report;
2. Waive first reading, by substitution of title only, of Ordinance No. 419, An Ordinance of the City Council of the City of Ione Amending Ione Municipal Code, Title 1 – “General Provisions”, by Creating and Adding Chapter 1.10 – “Administrative Enforcement Provisions”;
3. Open Public Hearing;
4. Close Public Hearing;
5. Approve Resolution No. 1718, A Resolution of the City Council of the City of Ione Limiting City Staff’s Code Enforcement Activities Pursuant to Ordinance No. 419 for a Period of Six Months; and
6. Schedule second reading of Ordinance No. 419 for April 21, 2009.

TYPE OF ITEM:  
 \_\_\_\_\_ Consent  
 \_\_\_\_\_ Departmental  
 \_\_\_\_\_ Public Hearing  
 \_\_\_\_\_ Other \_\_\_\_\_

City Council for the City of Ione  
 Upon motion of Council Member  
 Seconded by Council Member  
 And carried \_\_\_\_\_ by those members present,  
 The Council hereby adopts the recommended action contained in this report.

PREVIOUS ACTION/REFERRAL:  
 Council Order No. \_\_\_\_\_  
 Meeting of: \_\_\_\_\_

Dated: \_\_\_\_\_  
 Janice Traverso, City Clerk  
 By: \_\_\_\_\_

**SOURCE OF FUNDING:** All Funds

**DISCUSSION:**

Staff has reviewed the City's Municipal Code regarding code enforcement issues and determined that there was a need to improve the City's ability to do Administrative Enforcement (Code Enforcement).

Based on that review staff has worked with the Building Division, Police Department, Fire Department, Planning Department, and the City Attorney to develop a comprehensive Administrative Enforcement process. Ordinance #419 is reflective of that effort.

On December 16, 2008, the City Council discussed the draft Ordinance #419 regarding amending the General Provisions by adding the Administrative Enforcement in Chapter 1. During the discussion in December, the City Council directed staff to schedule a Town Hall meeting and obtain input from the public regarding the Ordinance as well as other options for addressing code violations. In January a town hall meeting was held and approximately 35 people attended and provided input. The outcome of the Town Hall meeting was that the corridors into the City, SR 104 and SR 124 should be the initial focus and that the City should provide dumpsters in different areas to assist residents with cleanup. Also, the City Council raised concerns at the meeting in December about not proactively doing Code Enforcement. Staff has discussed options with the local solid waste provider, Waste Connection, who indicated that they would work with the City to provide dumpsters with no charge for dumpster rental and the City would be responsible for the dumping costs.

Ordinance #419 is back before the City Council because of the need to implement the Administrative Enforcement procedures to complement the Zoning Code updates as well as update Weed Abatement, Abandoned Vehicle Removal, and Foreclosed Property. All four of these updates follow this public hearing and if Ordinance #419 is not moved forward, the other four Ordinances will need to be revised. Staff is recommending at this time that the City Council conduct the Public Hearing on Ordinance #419 and schedule the second reading of the Ordinance on April 21<sup>st</sup>. In response to the Council's concerns about proactively enforcing the new Administrative Enforcement provisions, staff is requesting that the City Council approve Resolution #1718 indicating that if Ordinance #419 is adopted on April 21, 2009 that City staff will not proactively enforce Ordinance #419 unless the City receives a complaint for a violation or the violation creates a significant danger to health and safety. The City needs an Administrative Enforcement policy to allow the enforcement of the Municipal Code by the City.

**FINANCIAL IMPACT:**

There are no costs associated with the implementation of the Ordinance other than the cost for the Public Hearing notice and implementation of the Administrative Procedures. Implementation of the Administrative Procedures will result in an expense to the party violating the Municipal Code and will be recoverable through the process.

**OTHER AGENCY INVOLVEMENT:** City Attorney’s Office, Building Department, Police Department, Planning Department, and Fire Department

**ALTERNATIVES TO STAFF RECOMMENDATIONS:**

The City Council could elect to leave the current policies in place. However, staff is recommending that the revised policies be adopted to ensure that the City’s policies reflect the current status of the law and provide a process to address code violations in various areas.

**ATTACHMENTS:**

Ordinance #419 – Ordinance of the City Council of the City of Ione Amending Ione Municipal Code, Title 1 – “General Provisions”, by Creating and Adding Chapter 1.10 – “Administrative Enforcement Provisions”

Resolution # 1718 - Limiting City Staff’s Code Enforcement Activities Pursuant to Ordinance No. 419 for a Period of Six Months

ORDINANCE NO. \_\_\_\_\_  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IONE  
AMENDING IONE MUNICIPAL CODE, TITLE 1 – “GENERAL  
PROVISIONS”, BY CREATING AND ADDING CHAPTER 1.10 –  
“ADMINISTRATIVE ENFORCEMENT PROVISIONS”

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF IONE AS FOLLOWS:

SECTION 1. CHAPTER 1.10 – “ADMINISTRATIVE ENFORCEMENT PROVISIONS” is hereby added to Ione Municipal Code Title 1 – “GENERAL PROVISIONS”, as follows:

CHAPTER 1.10

ADMINISTRATIVE ENFORCEMENT PROVISIONS

ARTICLE I – DEFINITIONS

Section 1.10.010 Definitions.

ARTICLE II – CODE ENFORCEMENT – ADMINISTRATIVE PROVISIONS

- Section 1.10.020 Declaration of purpose.
- Section 1.10.030 Violations of code; misdemeanor.
- Section 1.10.040 Violations of code subject to administrative review.
- Section 1.10.050 Administrative enforcement authority.
- Section 1.10.060 Disclaimer of liability.
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- Section 1.10.080 Proof of notice.
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- Section 1.10.100 Initial notice of violation.

ARTICLE III – ENFORCEMENT OF CODE VIOLATIONS BY ADMINISTRATIVE CITATION

- Section 1.10.110 Administrative citation; authority.
- Section 1.10.120 Administrative citation; procedures.
- Section 1.10.130 Contents of administrative citation.
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- Section 1.10.170 Abatements; declaration of purpose.
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- Section 1.10.190 Abatement of a public nuisance by the city.
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ARTICLE V – ADMINISTRATIVE HEARINGS

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- Section 1.10.230 Authority to hold administrative hearing.
- Section 1.10.240 Notification of administrative hearing.

- Section 1.10.250 Appointment and powers of hearing officers.
- Section 1.10.260 Procedures at administrative hearing.
- Section 1.10.270 Failure to attend administrative hearing.
- Section 1.10.280 Administrative order.
- Section 1.10.290 Appeal of hearing officer's decision.
- Section 1.10.300 Judicial review.
- Section 1.10.310 Failure to comply with the administrative order.

ARTICLE VI – COLLECTION OF ADMINISTRATIVE FINES, PENALTIES AND COSTS

- Section 1.10.320 Payment of fines, penalties or costs.
- Section 1.10.330 Code enforcement fees; purpose.
- Section 1.10.340 Assessment of costs.
- Section 1.10.350 Waiver of fees or costs.
- Section 1.10.360 Notification of code enforcement fines, penalties or costs.
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- Section 1.10.380 Imposition of code enforcement lien.
- Section 1.10.390 Satisfaction of the code enforcement lien.

Article I – DEFINITIONS

Section 1.10.010 Definitions.

- A. ADMINISTRATIVE CITATION: is a citation issued by a City Director, pursuant to this Chapter, to a Responsible Person who has violated or is violating the provisions of this Code. The Administrative Citation may direct the Responsible Person to take specific action either immediately or within a definitive period of time; impose fines or Penalties; or inform the Responsible Person that the City will take certain action with regard to the subject property. Such action includes but is not limited to, abatement of a Public Nuisance, recording administrative enforcement proceedings with the County Recorder's Office, or setting an administrative hearing.
- B. ADMINISTRATIVE ORDER: is an order issued by a Hearing Officer after an administrative hearing pursuant to this Chapter. The Administrative Order may order a Responsible Person to correct violations, order abatement of a Public Nuisance, order payment of administrative fines, Penalties, Costs, or order any other action as authorized by this Code or applicable state law.
- C. CODE ENFORCEMENT LIEN: is a lien recorded with the Amador County Recorder's Office for the purposes of collecting outstanding fines, civil Penalties or administrative Costs arising from administrative or judicial actions pursuant to this Chapter.
- D. COSTS: means and includes any and all costs incurred by the City in connection with enforcement of this Code including, but not limited to, costs of investigation, staffing costs incurred in preparation for the administrative hearing and for the administrative hearing itself, the services of the Hearing Officer, any abatement

costs, and costs for all re-inspections necessary to enforce the Administrative Citation or Administrative Order, including attorney's fees.

- E. DIRECTOR: shall include each of following: Police Chief, Fire Chief, City Manager, Finance Director, Building Official. As used in this Chapter, a Director shall include any designated agents or City staff within the Director's jurisdiction.
- F. HEARING OFFICER: is any Person who is charged with presiding over administrative hearings pursuant to this Chapter.
- G. NOTICE OF SATISFACTION: is a notice that indicates that (1) all outstanding fines, Penalties and Costs have been paid in full, or (2) that a subsequent final administrative or judicial decision has resolved such outstanding charges, or (3) an agreed amount of appropriate charges has been negotiated between the City and Responsible Person, and such amount has been paid in full. Recordation of Notice of Satisfaction with the Amador County Recorder's Office shall have the effect of cancelling any Code Enforcement Lien on the subject Property.
- H. NOTICE OF VIOLATION: is a notice that informs a Responsible Person of Code violations present on the subject property.
- I. OWNER: as applied to a building or real property, shall include any part Owner, joint Owner, tenant, tenant in common, joint tenant, of the whole or a part of such building or land. An Owner includes the record Owner of real property as listed on the last equalized assessment roll maintained by the Amador County Assessor.
- J. PENALTY: refers to and means any fines or sanctions for Code violations established by City Council resolution pursuant to Section 1.10.140.
- K. PERSON: includes any Person, firm, association, organization, partnership, business trust, company, corporation, public entity, the State of California, its political subdivisions and/or instrumentalities thereof, or any other entity which is recognized by law as the subject of rights or duties.
- L. PUBLIC NUISANCE DEFINED: a Public Nuisance includes anything that is injurious to health, is indecent, offensive to the senses, obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property, or obstructs the free passage or use in the customary manner of any public park, square, street or highway. This section shall not be deemed the exclusive definition or designation of what constitutes a Public Nuisance, but shall supplement and be in addition to other regulatory codes, statutes, and ordinances enacted by the City, State, or any other legal entity or agency having jurisdiction in the City. It is unlawful and a Public Nuisance for any Person owning, renting, leasing, or having charge or possession of any property in the City to maintain any of the following conditions on such property:

1. All weeds, as that term is defined in Section 39561.5 of the California Government Code, dry grasses, dead shrubs, dead trees, rubbish, or any material growing upon the streets, sidewalks, or upon private property within the City, which bear seeds of a wingy or downy nature or by reason of their size, manner of growth and location constitute a fire hazard, or which, when dry will, in reasonable probability constitute a fire hazard.
2. The exterior accumulation of dirt, litter, rubbish, debris, rank growths or waste matter that is visible from a public or private street, sidewalk or right-of-way.
3. Broken, abandoned or discarded furniture or other household equipment, appliances, or fixtures, packing boxes, lumber, junk, trash, rubbish, or other materials or debris, such as rubble, asphalt, concrete, plaster, crates, cartons, metal and glass containers, or fencing built with non-fencing materials, which are visible from a public or private street, sidewalk or right-of-way, or which pose a fire danger or other threat to health and safety. This includes the dumping, spillage or storage of solids or liquids, which adversely affect the aesthetic or olfactory nature of the area.
4. Buildings, fences or other structures, the exterior walls or windows, which are visible from a public or private street, sidewalk or right-of-way, containing graffiti or inscribed material or which are cracked, broken, leaning, fallen, decayed, deteriorated or defaced.
5. Neglected or improperly maintained landscaping, visible from a public or private street, sidewalk or right-of-way, including, but not limited to, dead, debris laden, weed infested or overgrown vegetation, such as trees, shrubs, hedges, grass and ground covers, or vegetation dying as a result of physical damage, disease, insect infestation or lack of water, or the removal or failure to maintain in good condition any landscaping required as a condition to any permit or development approved or included in the project plans or application, without City approval; provided, however, that the provision as to dead or dying vegetation due to lack of water may not be enforced during a drought year.
6. Buildings for human use or occupancy that are boarded by voluntary action of the Owner or as a result of enforcement activity by the City which are not rehabilitated within 90 days after the building is boarded.
7. Buildings designed for human use or occupancy that stand vacant for more than 90 consecutive days, unless a Director finds in writing that any of the following applies:

(i) The building is the subject of an active building permit for repair or rehabilitation and the Owner is progressing diligently to complete the repair or rehabilitation.

(ii) The building meets all codes, does not contribute to blight, is ready for occupancy, and is actively being offered for sale, lease or rent.

(iii) The building does not contribute to and is not likely to contribute to blight because the Owner is actively maintaining and monitoring the building so that it does not contribute to blight. Active maintenance and monitoring shall include:

1) Maintenance of landscaping and plant materials in good condition.

2) Maintenance of the exterior of the building including, but not limited to, paint and finishes in good condition.

3) Regular removal of all exterior trash, debris and graffiti.

4) Maintenance of the building in continuing compliance with all applicable codes and regulations.

5) Prevention of criminal activity on the property including, but not limited to, use and sale of controlled substances, prostitution and criminal street gang activity.

8. Where visible from a public street, sidewalk or right-of-way, the exterior storage or maintenance in a residential zone of metal storage bins or containers, including garbage bins and dumpsters, that are larger than 120 cubic feet, unless expressly permitted by law or a permit duly issued by the City.
9. Where visible from a public or private street, sidewalk or right-of-way, the exterior storage or maintenance of parts or machinery, building materials or merchandise, unless specifically authorized by use permit; or construction equipment or garbage bins except when excavation, construction or demolition operations covered by an active building permit or other City permit are in progress on the subject or adjoining property.
10. The storage of tires in a manner that allows any accumulation of water or creates a fire hazard.
11. The parking or storage of any vehicle, boat, trailer, camper, motor home or other mobile equipment, whether or not motorized, or portions or parts and

(i) Located on any front lawn, front yard or street side yard; or

(ii) Located in any side or rear yard so as to prevent a three (3) foot wide continuous fire access way from the front of the property.

12. Any abandoned, wrecked or inoperative vehicles.
13. The use of any trailer, camper or motor home for residential occupancy except on property zoned for mobile home parks or camping, or except as otherwise permitted by the Code.
14. Any unmounted camper shell visible from a public street, sidewalk or right-of-way.
15. Land, the topography, geology or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, that causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare or to adjacent properties.
16. Obstruction or encroachment upon any public property including, but not limited to, any public street, sidewalk, highway, right-of-way, and park or building, without prior City consent. Such obstructions or encroachments include, but are not limited to, overgrown trees and shrubs, building materials, merchandise or other personal property, and buildings or portions of buildings or structures protruding into public property.
17. Use of property in residential district for the purpose of performing major vehicle repair.
18. Maintenance of any combustible material or substance, which because of its quantity, concentration or physical, chemical or infectious characteristics, may either cause or substantially contribute to an increase in mortality or serious illness or pose a significant present or potential hazard to human health or the environment if improperly managed.
19. Any condition recognized in law or in equity as constituting a Public Nuisance.
20. The making or continuing to be made any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity residing in the area.

21. The illegal sale or use of controlled substances and/or other illegal drugs and/or substances which creates a Public Nuisance as defined in Civil Code Sections 3479 and 3480 and Health and Safety Code Section 11570, or the frequent gathering, or coming and going, of people who have intent to purchase or use illegal drugs and/or controlled substances on the premises.
  22. The occurrence of prostitution, as defined in Penal Code Sections 11225 and 11230.
  23. Consumption of alcoholic beverages on nearby outdoor public or private property except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a valid license issued by the Department of Alcoholic Beverage Control.
- M. **RESPONSIBLE PERSON:** means a Person, as determined by a Director, who is responsible for causing, permitting, or maintaining a violation of this Code. A Responsible Person includes, but is not limited to, an Owner, tenant, Person with a legal interest in the subject property, Person in possession of the subject property or Person that exercises custody and control over the subject property. If a Responsible Person is a minor, then the parents or guardians of the minor shall be the Responsible Person.
- N. As used in this Chapter, the word SHALL is mandatory and MAY is permissive.

## Article II – CODE ENFORCEMENT – ADMINISTRATIVE PROVISIONS

### Section 1.10.020 Declaration of purpose.

- A. The City Council finds that the enforcement of the Lone Municipal Code is an important public service. Code enforcement is vital to the protection of public health, safety and the quality of life. The City Council further finds that a comprehensive Code enforcement system requires a variety of administrative and judicial remedies. The City Council also finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to this Code. It is the purpose and intent of the City Council to afford due process of law to any Person who is directly affected by any administrative enforcement action, and efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action. The City retains the sole discretion to select the manner in which it enforces Code violations, or pursue other legal remedies available to the City.

### Section 1.10.030 Violations of code; misdemeanor.

- A. Whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any act is required or the failure to do any act is declared to be unlawful, such violation of this Code or failure to comply with its requirements shall constitute a misdemeanor, unless expressly provided

otherwise. Any violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction. A conviction of a misdemeanor under the provisions of this Code, unless otherwise provided in this Chapter, shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for a period of not more than six (6) months or by both fine and imprisonment. A conviction of an infraction under the provisions of this Code, unless otherwise provided in this Chapter, shall be punishable by a fine as follows: Upon a first conviction by a fine not exceeding one hundred dollars (\$100.00); upon a second conviction within a period of one (1) year, a fine not exceeding two hundred fifty dollars (\$250.00); and for a third conviction or any subsequent conviction within a period of one (1) year, by a fine not exceeding five hundred dollars (\$500.00).

- B. In addition to or in lieu of the remedies provided in subsection A of this section, the City may commence an action for abatement including, but not limited to, an injunction thereof, in the manner required by law and may take such other steps to obtain such relief as will abate or remove a violation and restrain and enjoin any Person from violating any provisions of this Code, or other applicable laws. All Costs, including attorney's fees, shall be collected in the manner provided for by law.
- C. Each and every day any violation of this Code exists may be deemed a separate and distinct offense.

#### Section 1.10.040 Violations of code subject to administrative review.

This section declares that a violation of this Code or of any ordinance enacted by the City Council is subject to an administrative fine or Penalty. The procedures are activated by an Administrative Citation, which may be used at the sole discretion of the City. The remedies provided by this Chapter shall be in addition to and cumulative of all other remedies, criminal or civil, which may be pursued by the City to address any violation of its Code or ordinances. Unless expressly provided elsewhere in this Code, this Chapter shall govern the procedures for enforcement of and remedies for violations of this Code.

#### Section 1.10.050 Administrative enforcement authority.

A Director has the authority to determine whether a violation of this Code exists and take action pursuant to this Chapter to enforce compliance with this Code and other applicable law. This authority includes the power to issue written orders and notices regarding Code violations; the power to issue fines and civil Penalties; the power to inspect public and private property and abate Code violations and nuisances thereon; and the power to recover enforcement Costs and pursue administrative, judicial, and other available remedies. A Director may enter upon any property or premises within the City to ascertain whether a violation of this Code or applicable state law exists, and may conduct any necessary inspections, examinations and surveys. If an Owner, occupant, agent or other Responsible Person does not consent to City staff's entry on

or inspection of the premises, the City may seek an administrative warrant or pursue other remedies provided by law to secure entry.

Section 1.10.060 Disclaimer of liability.

Nothing in this Code shall be construed as requiring the City to enforce its prohibitions against all properties that may violate this Code. This Code will be enforced in the City's prosecutorial discretion, as resources permit. This Code is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 1.10.070 Service of notices.

- A. Except for an initial Notice of Violation, whenever a Notice is required to be given under this Code for enforcement purposes, the Notice shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply.
  - 1. Personal service; or
  - 2. Certified mail, postage prepaid, return receipt requested. Simultaneously, the same Notice may be sent by regular mail. If a Notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided that the Notice that was sent by regular mail is not returned;
  - 3. Posting the Notice conspicuously on or in front of the property. The form of the posted Notice shall be approved by the City Manager or his or her designee;
- B. Service by certified or regular mail in the manner described above shall be effective on the date of mailing;
- C. The failure of any Person with an interest in the property to receive any Notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.
- D. The Notice shall be served to the Responsible Person and Owner, if different from the Responsible Person. Mailings to the Owner shall be sent to the address listed in the last equalized assessment roll of the Amador County Assessor.
- E. The service requirements of this section do not apply to Notices of Violation, which may be sent by regular mail.

Section 1.10.080 Proof of notice.

Proof that Notice has been served may be made by the certificate of any officer or employee of the City, or by affidavit of any Person over the age of 18 years, declaring that service of the Notice was effected in conformity with this Chapter.

Section 1.10.090 Notice of pending administrative enforcement action.

- A. For purposes of this Chapter, a Director may record with the Amador County Recorder's Office a Notice against a property, stating that such property is the subject of an administrative enforcement action pending with the City.
- B. A Notice of pending administrative enforcement action shall be on a form approved by the City Manager or his or her designee and shall describe the nature of the administrative action and refer to the Code sections governing such action. The Notice shall also specify the name of the Owner, the assessor's parcel number, the street address, the parcel's legal description.
- C. If the Director determines that the violations for which a Notice of administrative enforcement action has been recorded have been timely corrected, the Director shall record a Notice of Compliance with the Amador County Recorder's Office. The recordation of the Notice of Compliance shall have the effect of cancelling the pending administrative enforcement action.

Section 1.10.100 Initial notice of violation.

- A. Whenever a Director determines that violation of this Code exists, a Director may issue a Notice of Violation to the Responsible Person. The Notice of Violation is intended to serve as an initial notice of a violation of this Code, but is not required to precede any other notice, citation or enforcement action pursuant to this Chapter. The Notice of Violation shall include the following information:
  - 1. The name of the Responsible Person;
  - 2. The name of the Owner, if different from the Responsible Person;
  - 3. Street address of the property at issue;
  - 4. The Code sections in violation;
  - 5. A description of the conditions which violate the applicable Code sections;
  - 6. A list of actions necessary to correct the violation or abate a Public Nuisance;
  - 7. A date by which the violation must be corrected or the Public Nuisance abated, or a date by which certain action must be taken; and
  - 8. A list of the potential consequences for failure to comply with the Notice of Violation including, but not limited to: criminal prosecution, civil injunction,

abatement, Administrative Citations, civil fines or Penalties, revocation of permits, and withholding of future municipal permits.

### Article III – ENFORCEMENT OF CODE VIOLATIONS BY ADMINISTRATIVE CITATION

#### Section 1.10.110 Administrative citation; authority.

- A. Any Person violating any provisions of this Code may be issued an Administrative Citation by a Director. A continuing violation of the Code constitutes a separate and distinct violation each and every day that such violation exists.
- B. An Administrative Citation may levy fines or Penalties. Such monies shall be payable directly to the City, unless otherwise noted on the Administrative Citation. Monies assessed by Administrative Citation shall be collected in accordance with the procedures specified in this Chapter.

#### Section 1.10.120 Administrative citation; procedures.

- A. Upon discovering any violation of this Code, or applicable state law, a Director may issue an Administrative Citation to a Responsible Person in the manner prescribed by this Chapter. The Administrative Citation shall be issued on a form approved by the City Attorney.
- B. If the Responsible Person cannot be located, the Director shall attempt to locate the Owner and issue the Owner an Administrative Citation. If the Director can only locate the manager or on-site supervisor at the subject property, the Administrative Citation may be given to the manager or on-site supervisor. A copy of the Administrative Citation shall also be mailed to the Owner in the manner prescribed in Section 1.10.070 of this Chapter.
- C. If the Responsible Person is located, the Director shall attempt to obtain the signature of the Responsible Person on the Administrative Citation. If the Responsible Person refuses or fails to sign the Administrative Citation, such failure or refusal shall not affect the validity of the Administrative Citation or subsequent enforcement proceedings.
- D. If the Director is unable to locate the Responsible Person, the Administrative Citation shall be mailed to the Responsible Person in the manner prescribed in Section 1.10.070 of this Chapter.
- E. If no one can be located on the property, the Administrative Citation shall be posted in a conspicuous place on or near the property.
- F. The failure of any Person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Chapter.

Section 1.10.130 Contents of administrative citation.

- A. An Administrative Citation shall contain all of the following information:
1. The name of the Responsible Person;
  2. The name of the Owner, if different from the Responsible Person;
  3. The Street address of the property at issue;
  4. The Code sections in violation;
  5. A description of the conditions which violate the Code sections;
  6. The date and location of the violations and, if applicable, the approximate time the violations were observed;
  7. A list of actions necessary to correct the violation and/or bring the property into compliance with this Code;
  8. A date by which the violation must be corrected or a specific date by which certain action must be taken;
  9. The amount of fines or Penalties imposed for the violation, if any;
  10. A statement explaining how and when the fine or Penalty must be paid, and the consequences of failure to pay the fine Penalty;
  11. A statement explaining all rights and procedures to appeal the Administrative Citation;
  12. The Administrative Citation shall contain the signature of the Director and the signature of the Responsible Party, if he or she can be located; and
  13. An Administrative Citation shall also contain a statement that identifies the consequences of failure to correct the violation. Such consequences may include:
    - (i) Abatement or summary abatement of a Public Nuisance or City action to correct a violation on the property;
    - (ii) Imposition of additional fines or Penalties or recordation of a Code Enforcement Lien on the property;
    - (iii) Recordation of the Administrative Citation with the Amador County Recorder's Office;
    - (iv) For serious violations, an Administrative Hearing to determine the imposition of civil or criminal Penalties; or

(v) Pursuit of other legal remedies, such as an injunction against the Responsible Person or condemnation of the property.

Section 1.10.140 Penalties and payments for administrative citations.

- A. The Penalty for Code violations imposed by this Chapter shall be set forth in a schedule of Penalties established by the City Manager or his or her designee and confirmed by resolution of the City Council.
- B. A Penalty shall be paid to the City of Lone within 30 days of the date of the Administrative Citation.
- C. Payment of a Penalty under this Chapter shall not excuse or discharge any continuation or repeated occurrence of the Code violation that is the subject of the Administrative Citation.
- D. A violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues, that do not create an immediate danger to health or safety, shall not be subject to a Penalty unless the violation is not corrected or otherwise remedied within 30 days of the Administrative Citation.

Section 1.10.150 Prohibition against issuance of city permits.

For property in violation of this Code, the City may withhold issuing or processing permits for repair, construction and/or alteration of property, or entitlements for such property until the violation has been corrected.

Section 1.10.160 Appeal of administrative citation.

An appeal from the issuance of an Administrative Citation shall follow the procedures set forth in Article V of this Chapter.

Article IV – ABATEMENT OF NUISANCES

Section 1.10.170 Abatement; declaration of purpose.

The City Council finds that it is necessary to establish appropriate procedures for the abatement and summary abatement of Public Nuisances. The procedures established in this Chapter are in addition to any other legal remedy, criminal or civil, established by law that may be pursued to address violations of this Code.

Section 1.10.180 Authority.

Whenever the Director determines that a Public Nuisance exists, the Director may commence abatement proceedings under this article.

Section 1.10.190 Abatement of a public nuisance by the city.

- A. Whenever a Director determines that a Public Nuisance exists, the Director may issue an Administrative Citation that orders the Responsible Person to abate the Public Nuisance, within the time provided in the Administrative Citation.
- B. The Administrative Citation shall contain the information required by Article III of this Chapter, and shall be served in the manner provided therein.
- C. If the Responsible Person does not timely act to abate the public nuisance, an Administrative Hearing shall be held on the abatement of the Public Nuisance as set forth in Article V of this Chapter, and notice of the Administrative Hearing shall be provided to the Responsible Person, as provided therein.
- D. After the Administrative Hearing, the City may act to abate the Public Nuisance as directed by the Administrative Order. City personnel or a private contractor may enter upon the subject property, as provided by law, to abate the Public Nuisance.

Section 1.10.200 Recovery of costs.

- A. The Director will keep an account of the Costs, including incidental expenses, of abating the Public Nuisance. The Costs of abatement may be recovered against the Owner or Responsible Person.
- B. The Director will give notice of the Costs of abatement by registered or certified mail addressed to the Owner. The notice will include a statement of the hearing rights of the Owner concerning the Costs of abatement. The Owner may file a written request for a hearing on abatement Costs. If requested, an Administrative Hearing on abatement Costs shall be held in accordance with Article V of this Chapter.
- C. The recovery of Costs for abatement of a Public Nuisance is cumulative and in addition to any other remedy that may be pursued by the City for enforcement actions related to Public Nuisances. The City may impose and recover costs of abating the Public Nuisance as provided by law, including recording a lien on the property.

Section 1.10.210 Summary abatement of a public nuisance.

Whenever a Director determines that a Public Nuisance creates an imminent health and safety hazard that requires immediate correction or elimination, the Director may summarily abate the Public Nuisance or exercise the following powers without prior notice to the Responsible Person:

- A. Order the immediate vacation of any tenants and prohibit occupancy of the subject property until all repairs are completed, the Public Nuisance no longer exists, or the premises are safe for occupancy;
- B. Post the premises as unsafe, substandard or dangerous;

- C. Board, fence or secure the building or site, or take other action to prohibit entry on the property;
- D. Raze and grade that portion of the premises or site or remove any hazard to the public;
- E. Make any emergency repairs as necessary to eliminate any imminent health and safety hazard;
- F. Take any other action as appropriate under the circumstances.
- G. If the Director determines that it is feasible, the Director will attempt to give verbal notice to the Owner or occupant prior to summarily abating the Public Nuisance. When summarily abating a Public Nuisance, the Director shall pursue only the level of repairs, action or abatement necessary to eliminate the immediate health and safety hazards. Costs incurred by the City during summary abatement proceedings shall be assessed, collected and recovered against the Responsible Person in accordance with this Chapter. The Director may also pursue any other administrative or judicial remedy established by law to take any remaining corrective action.

## Article V – ADMINISTRATIVE HEARINGS

### Section 1.10.220 Procedures for requesting an appeal hearing.

- A. A Person served with one of the following documents, orders or notices may file an appeal within 10 calendar days from the date of service:
  - 1. Any Administrative Citation or other Notice to abate a Public Nuisance issued pursuant to this Chapter;
  - 2. Any other Notice pursuant to this Chapter for which an appeal is allowed or any other City action for which an appeal is allowed by this Code.
- B. The appeal shall be made in writing stating the grounds for the appeal and shall be filed with the City Clerk.
- C. The appeal hearing shall be held by a hearing officer governed by the procedures for administrative hearings set forth in Sections 1.10.240 et seq. of this Article. As set forth in Section 1.10.290, the decision of the hearing officer is appealable to the City Council. However, when an appeal hearing is requested pursuant to this Section, the City Council retains the discretion to hold the appeal hearing in the first instance if it is deemed necessary for the timely or efficient enforcement of this Chapter.
- D. The filing of an appeal shall stay all further enforcement proceedings regarding the Code violation that is the subject of the appeal.

- E. The appeal shall be accompanied by a fee, as set by resolution of the City Council.

Section 1.10.230 Authority to hold administrative hearing.

The City may hold an administrative hearing prior to further enforcement action pursuant to this Chapter, such as the abatement of a Public Nuisance, or the imposition or collection of fines or Penalties.

Section 1.10.240 Notification of administrative hearing.

- A. Written notice of the time and place of the administrative hearing shall be served on the Responsible Person at least ten calendar days before the date of the administrative hearing.
- B. The notice of hearing may be served by any of the methods of service listed in Section 1.10.070 of this Chapter.

Section 1.10.250 Appointment and powers of hearing officers.

- A. Appointment of Hearing Officers. The City may appoint Hearing Officers to conduct administrative hearings pursuant to this Chapter. Any Person designated to serve as a Hearing Officer is subject to disqualification for bias, prejudice, interest, or any grounds for disqualification of a judge as set forth in the California Code of Civil Procedure. The City Manager and his or her designee shall develop policies and procedures relating to the appointment, compensation and disqualification of Hearing Officers.
- B. Powers of Hearing officer.
  - 1. Upon receipt of a written request which is submitted no later than five (5) days before the administrative hearing, the Hearing Officer shall subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary. All costs related to the subpoena, including witness and mileage fees, shall be borne by the party requesting the subpoena. The City Manager or his or her designee shall develop policies and procedures relating to the issuance of subpoenas in administrative hearings, including the form of the subpoena and related costs. It is unlawful for any Person to refuse to obey a subpoena issued by a Hearing Officer.
  - 2. The Hearing Officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Order, modifying an Administrative Order, or, where extraordinary circumstances warrant, granting a new hearing. The Hearing Officer may continue a hearing based on good cause shown by one of the parties or if the Hearing Officer determines that due process has not been adequately afforded.

3. The Hearing Officer has the authority to require the Responsible Person to post a bond to ensure compliance with an Administrative Order for the payment of fines or Penalties, or costs of enforcement of this Chapter.

Section 1.10.260 Procedures at administrative hearing.

- A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery need not apply. The City Manager or his or her designee may from time to time adopt procedures for administrative hearings.
- B. The City bears the burden of proof at an administrative hearing to establish the existence of a violation of this Code.
- C. The burden of proof in an administrative hearing is to be supported by a preponderance of the evidence.
- D. The Hearing Officer shall hear and consider all relevant evidence including, but not limited to, applicable staff reports, oral, physical and documentary evidence regarding the alleged violation, the proposed method of abatement, and the administrative Costs incurred by the City.
- E. Each witness, prior to testifying, shall be sworn in by the Hearing Officer or a clerk designated by the Hearing Officer.
- F. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of the party's cause.
- G. On its own motion or on the motion of either party, the Hearing Officer may continue the hearing for good cause, provided that notice is given to each party. The notice shall include the time, date and place at which the hearing is continued.

Section 1.10.270 Failure to attend administrative hearing.

The failure to appear at any administrative hearing by the Responsible Person or other affected Person shall not affect the validity of any final Administrative Order resulting from the administrative hearing.

Section 1.10.280 Administrative order.

- A. After considering all of the testimony and evidence submitted at the administrative hearing, the Hearing Officer shall issue a written Administrative Order with the Director within 15 days. The Administrative Order shall either uphold, modify or cancel any Administrative Citation or other enforcement action ordered by the City pursuant to this Chapter. The Administrative Order shall list the findings in support of the decision and the imposition of any Penalty. The Administrative Order may include, but is not limited, to the following:

1. The Administrative Order may affirm, modify or reject the daily rate or duration of the Penalties imposed for a violation of this Code, or increase or decrease the total amount of Penalties and Costs assessed.
  2. The Administrative Order may order the Responsible Person to cease from violating this Code, or take necessary corrective action by a specific date.
  3. The Administrative Order may establish a deadline for the payment of Penalties and Costs or condition the total or partial assessment of Penalties on the Responsible Person's ability to complete compliance by specified deadlines.
  4. The Administrative Order may impose additional Penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation.
- B. The Hearing Officer shall serve the Administrative Order on each party. When the Administrative Order is served, the Administrative Order shall be final.
- C. When the Administrative Order upholds or modifies the Administrative Citation as to one or more Responsible Persons, the Hearing Officer shall impose and assess not only the prescribed Penalty, but also impose and assess administrative Costs against each Responsible Party. When the Administrative Order directs abatement of a violation, including a Public Nuisance, the violation may be corrected or abated as authorized within this Chapter or as otherwise permitted by law.
- D. The Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Order.
- E. The Hearing Officer may authorize the City to take necessary action, including the action listed below, to abate a Public Nuisance after an Administrative Order becomes final. Additionally, the City retains discretion to take the action specified below whenever any required repair or demolition pursuant to an Administrative Order is not commenced within 30 days after the Administrative Order becomes final:
1. The Director may cause the building, structure, or other property described in the Administrative Order to be vacated by posting at each entrance thereto a notice reading:

**Substandard Building  
Do Not Occupy**  
**It is a misdemeanor to occupy this building, or to remove or deface this  
notice.**  
**[Director's Name and Title], City of Ione.**

No Person shall occupy any building that has been posted as specified in this subsection. No Person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the Director have been completed and, where applicable, a certificate of occupancy issued pursuant to the provisions of the building code.

2. The Director is authorized to enter upon any property or premises within the City to abate, repair, or demolish any building, structure, or other property pursuant to an Administrative Order. If an Owner, occupant, or agent refuses permission to enter, inspect, abate, repair, or demolish any thing described in such order, the Director may seek an administrative inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Sections 1822.50 et. seq.
3. The Director may, in addition to any other remedy herein provided, cause the building, structure, or other property to be repaired to the extent necessary to correct the conditions that render the building substandard as set forth in the Administrative Order; or, if the Administrative Order required demolition or abatement, to cause the building, structure, or other property to be sold and demolished; or, to be demolished, and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this Chapter. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the Person or persons lawfully entitled thereto.

Section 1.10.290 Appeal of hearing officer's decision.

- A. The Hearing Officer's decision and any Administrative Order therefrom may be appealed in writing to the City Council, by any interested person, by filing an appeal with the City Clerk. The appeal must be filed within ten days after the date of service of the Hearing Officer's Administrative Order, and must contain the following information:
  1. A specific identification of the property that is the subject of the proceeding;
  2. A brief statement setting forth the legal interest of the appellant;
  3. A statement in ordinary and concise language of the specific order or action protested, together with the contentions of the appellant;
  4. The address and signatures of each person appealing; and
  5. Verification of at least one appellant as to the truth of the matter stated in the appeal.

- B. An appeal may be deemed filed upon receipt by the City Clerk and payment of any appeal fee or bond, as set by resolution of the City Council. Except as otherwise provided, the filing of an appeal shall stay the Hearing Officer's decision and enforcement of the Administrative Order. The City Clerk shall set a date on which the City Council will hear the appeal, which shall be no later than 30 days from the date that the appeal was filed. Written notice of the time and place for the appeal hearing shall be provided no later than ten days prior to the hearing.
- C. The failure to file an appeal to the City Council pursuant to this chapter shall render the decision, Administrative Order, or any abatement order of the Hearing Officer final and conclusive, and shall be deemed a failure to exhaust administrative remedies.
- D. The appeal hearing shall be governed by the procedures set forth in this Article.
- E. If the City Council finds that the violation or Public Nuisance conditions do not exist, it shall dismiss the proceeding. If the City Council finds that a violation or a Public Nuisance exists, it shall issue a written order of abatement requiring abatement thereof, setting forth the findings of facts relied upon in making the order, the conditions constituting the violation or Public Nuisance, the required manner of abatement, and the date by which such nuisance or violation must be abated.
- F. The decision and any abatement order of the City Council is final on the date it is issued. The decision shall be served in the manner set forth in 1.10.070.

Section 1.10.300 Judicial review.

- A. Any Responsible Person who is aggrieved by a decision of the City pursuant to this Chapter, and who has exhausted all administrative remedies provided in this Code, or any other applicable law, shall have the right to seek judicial review of such decision by filing a petition for writ of mandate within 90 days after such decision becomes final, in accordance with California Code of Civil Procedure Sections 1094.5 and 1094.6.
- B. Notwithstanding the provisions of Sections 1094.5 or 1094.6 of the California Code of Civil Procedure, where a shorter time limitation to seek judicial review of any City act is provided by any other law, such shorter time limitation shall apply.
- C. Within 20 days after service of the final Administrative Order, or after the decision of the local agency is made pursuant to an ordinance enacted in accordance with California Government Code Section 53069.4 regarding the imposition, enforcement or collection of administrative fines or Penalties, any Person contesting a final Administrative Order or decision made pursuant to this Chapter may seek review by filing an appeal to be heard by the superior court. The right to appeal is limited to the terms and conditions in Government Code Section 53069.4.

Section 1.10.310 Failure to comply with the administrative order.

Failure to comply with an Administrative Order constitutes a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding six months, or by both such fine and imprisonment. The Director may use other appropriate legal means to recover any fines, Penalties or administrative Costs, and obtain compliance with the Administrative Order, including seeking an injunction.

Article VI – COLLECTION OF ADMINISTRATIVE FINES, PENALTIES AND COSTS

Section 1.10.320 Payment of fines, penalties or costs.

All fines, Penalties, fees or Costs assessed shall be payable to the City of Lone, unless otherwise directed on the Administrative Citation or Administrative Order.

Section 1.10.330 Code enforcement costs; purpose.

In addition to fines and Penalties for violations of this Chapter, the City may also recover all Costs incurred in the City's enforcement of this Chapter. The City's assessment and collection of Code enforcement Costs pursuant to this Chapter shall not preclude the imposition of, and shall be cumulative to, any administrative or judicial civil Penalties, fines, Costs or fees.

Section 1.10.340 Assessment of costs.

A Director may assess enforcement Costs against the Responsible Person when the City incurs Costs pursuant to this Chapter. Costs may be assessed for work including, but not limited to, inspection or reinspection of property, processing case files, preparing, posting or mailing Notices or other City communications pursuant to this Chapter, requesting administrative warrants, preparing for and appearing at administrative or judicial hearings pursuant to this Chapter, or any other enforcement action as may be necessary to obtain compliance with this Code or applicable state law. A Code enforcement Cost schedule shall be established and revised as necessary by the City Council. The Code enforcement Cost schedule shall be filed in the City Clerk's office.

Section 1.10.350 Waiver of fees or costs.

A Director retains discretion to waive or refund any Code enforcement Costs if any of the following circumstances exist:

- A. A Notice of Compliance has been issued;
- B. The Director determines that the Responsible Person has not caused the Code violation, or that the Code violation was caused by circumstances beyond the Responsible Person's control; or

- C. The Responsible Person corrects a violation set forth in any warning or written notice issued under this Chapter on or before the deadline for compliance set by the City.

Section 1.10.360 Notification of code enforcement costs.

- A. A Director shall provide the Responsible Person with a written notice assessing Code enforcement Costs that includes the following information: (1) a description of the Code enforcement action for which Costs are charged; (2) the amount charged; and (3) a deadline by which the Costs must be paid. This Notice may appear in any other Notice issued pursuant to this Chapter, and may be served by any of the means provided in this Chapter.
- B. The failure of any Responsible Person to receive such notice shall not relieve the Responsible Person from the obligation to pay such enforcement Costs, or other fines and Penalties imposed pursuant to this Chapter.

Section 1.10.370 Collection of fines, penalties and costs.

- A. The Director may collect all fines, Penalties and Costs of Code enforcement by the use of all appropriate legal means, including, but not limited to, the recordation of a Code Enforcement Lien. If unable to collect the obligation, the Director may refer the obligation to the City Attorney to file a court action to recover any fines, Penalties and Costs.
- B. The Director may refer delinquent or unpaid fines, Penalties or Costs to the Finance Department or other designated agent for collection. Alternatively, the Director may pursue any other legal remedy to collect such monies including, but not limited to, those remedies provided in Title 1, Chapter 1.08 of this Code. For all delinquent, unpaid fines, Penalties or Costs, there shall be a Penalty imposed in the amount of ten percent (10%) of the citation amount, and an additional one percent (1%) per month of the total monies dues for each month during the time that fines, Penalties, or Costs remain unpaid after its delinquency date. The delinquency date for fines, Penalties, or Costs shall be 60 days following the imposition of the fine or Penalty or Costs, or the service of the Administrative Order, whichever is later.
- C. Administrative fines, Penalties or Costs collected pursuant to this Article shall be deposited into the Special Revenue Fund for enforcement of this Code.

Section 1.10.380 Imposition of code enforcement lien.

- A. Whenever the amount of any administrative fine or Penalty or Costs, imposed in an Administrative Order pursuant to this Chapter has not been satisfied in full within 60 days and/or has not been successfully challenged by timely judicial review, these outstanding monies may constitute a special assessment or Code Enforcement Lien against the real property on which the violation occurred.

1. If the Responsible Person has not paid the administrative fine or Penalty or Costs, in full within 60 days and the City wishes to confirm the charge as a special assessment against the property, the Director shall request the confirmation of the special assessment or Code Enforcement Lien to be placed on the consent agenda of the City Council within 120 days of the Administrative Order.
2. The Director shall provide written notice to the Responsible Person of the request to the City Council for the confirmation of the fine or Penalty as a special assessment or Code Enforcement Lien against the property at least ten days prior to the City Council action.

Section 1.10.390 Satisfaction of the code enforcement lien.

Once payment in full is received by the City for outstanding fines, Penalties and Costs, the Director shall either record a Notice of Satisfaction or provide the property Owner or financial institution with a Notice of Satisfaction so that they may record this notice with the office of the Amador County Recorder. Such Notice of Satisfaction shall cancel the City's Code Enforcement Lien.

SECTION 2. CONFLICT. All ordinances or parts of ordinances in this Code that conflict with this Chapter are repealed insofar as such conflict may exist.

SECTION 3. SEVERABILITY. If any Chapter, article, subsection or subdivision thereof, provision, sentence, clause or phrase of this code, or any application thereof, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining provisions of this code, which can be given effect without the invalid portions and, therefore, such invalid portions are declared to be severable. The City Council hereby declares that it would have enacted this Code and each of its articles, sections, subsections, or subdivisions thereof, provisions, sentences, clauses or phrases irrespective of the fact that one or more of them is declared invalid.

SECTION 4. EFFECTIVE DATE AND PUBLICATION. This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk is directed to publish this ordinance in a newspaper of general circulation in the City of Ione. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to Government Code Section 36933(c)(1).

PASSED AND ADOPTED by the City Council of the City of Ione this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by the following vote:

AYES:	COUNCILMEMBERS
NOES:	COUNCILMEMBERS
ABSENT:	COUNCILMEMBERS

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MAYOR of the CITY OF IONE

ATTEST:

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JANICE TRAVERSO, CITY CLERK

## **RESOLUTION NO. 1718**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IONE LIMITING CITY STAFF'S CODE ENFORCEMENT ACTIVITIES PURSUANT TO ORDINANCE NO. 419 FOR A PERIOD OF SIX MONTHS**

**WHEREAS**, the City Council of the City of Ione ("City Council") desires to make the City of Ione a clean, safe, and attractive place to live; protect the health of its residents; enhance and beautify the downtown corridor and other areas of the City; and encourage all City residents and business owners to care for and maintain their property by removing debris, waste matter, junk and abandoned vehicles, and keeping such property clean and well-maintained; and

**WHEREAS**, to promote these values, the City Council has instituted the Ione Beautification Project; and

**WHEREAS**, as part of the Ione Beautification Project, the City Council and City staff have solicited the participation and comments from numerous City residents and business owners and undertaken significant outreach efforts to the community, including numerous public workshops and publications in local media and the City newspaper; and

**WHEREAS**, the City Council finds that, in addition to the City's public outreach and the Ione Beautification Project, it is necessary to adopt provisions of the Ione Municipal Code that will enable to the City to enforce violations of the Ione Municipal Code, particularly violations that threaten the health and safety of its residents, constitute a public nuisance, or contribute to blight and urban decay; and

**WHEREAS**, on April 7, 2009, the City Council conducted a first reading of Ordinance No.419, which amends Title 1—"General Provisions" of the City of Ione Municipal Code, and creates and adds Chapter 1.10—"Administrative Enforcement Provisions," and;

**WHEREAS**, Section 4 of Ordinance No.419 states that this Ordinance shall take effect thirty (30) days after its adoption; and

**WHEREAS**, because Ordinance No.419 will allow the City to assess new fines and penalties and pursue administrative and judicial remedies against persons or entities for violations of the Ione Municipal Code, the City Council desires that City staff limit enforcement activities authorized by Ordinance No.419 for an initial six-month period.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Ione, that City staff shall limit code enforcement activities pursuant to Ordinance No.419 for a period of six (6) months following the effective date of this Ordinance, as described below.

**BE IT FURTHER RESOLVED**, by the City Council of the City of Ione, that City staff shall not actively enforce, prosecute, or search for Ione Municipal Code violations pursuant to Ordinance No.419 for a period of six (6) months after the Ordinance's effective date. However, City staff may take enforcement action and prosecute violations of the Ione Municipal Code as

permitted by Ordinance No. 419, if City staff receive notice of a violation that poses a severe or immediate threat to persons, property, or to public health and safety, or if City staff receive legitimate complaints of significant, recurring violations of the Ione Municipal Code.

Introduced and adopted at the regular meeting of the City Council of the City of Ione on \_\_\_\_\_, 2009 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

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**Mayor**

**ATTEST:**

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**Janice Traverso, City Clerk**