NOTICE OF PUBLIC HEARING

CITY OF PATTERSON

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, AMENDING CHAPTERS 1.36 AND 1.44 OF TITLE 1 OF THE PATTERSON MUNICIPAL CODE

(TO ESTABLISH PROCEDURES FOR ISSUING ADMINISTRATIVE CITATIONS)

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City Council of the City of Patterson (the "City") at its next regularly scheduled meeting on Tuesday, March 1, 2016 at 7:00 p.m. at Council Chambers: 1 Plaza, Patterson, California 95363 to consider the adoption of an ordinance (the "Ordinance") amending Chapter 1.36 and 1.44 of Title 1 of the Patterson Municipal Code (the "P.M.C.") to establish procedures for issuing administrative citations. If approved by a majority vote of the City Council, the Ordinance will become effective 30 days after adoption.

NOTICE IS ALSO HEREBY GIVEN that this document including the Ordinance is available for public review at the City of Patterson City Hall, City Clerk's Office during normal business hours, and on the City of Patterson web site www.ci.patterson.ca.us under Popular Links; Legal Notices & Public Hearings and Agenda Center, City Council Agenda of March 1, 2016. The City of Patterson City Hall is located at 1 Plaza, Patterson, California. All interested parties are invited to review these documents prior to the March 1, 2016 Public Hearing.

ALL INTERESTED PARTIES are invited to attend the hearing and express opinions or submit evidence for or against the proposed Ordinance as described above. At the above noted time and place, testimony from interested persons will be heard by the City Council and duly considered prior to taking action on the above proposed Ordinance. Any material submitted to the City Council for consideration (photographs, petitions, letters, etc.) will be retained by the City and cannot be returned. Upon request, the agenda and the documents in the hearing agenda packet can be made available to persons with a disability. In compliance with the Americans with Disabilities Act, the City of Patterson encourages those with disabilities to participate fully in the public hearing process. Any person requiring special assistance to participate in the meeting should call voice (209) 895-8014 or (209) 895-8010 at least forty-eight (48) hours prior to the meeting. If a challenge to the above proposed actions is made in court, persons may be limited to raising only those issues they or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City Council.

FURTHER INFORMATION regarding the described above may be obtained at the City of Patterson City Hall, City Clerk's Office, 2nd Floor, or by calling (209) 895-8014 or by email cityclerk@ci.patterson.ca.us

BY ORDER OF THE CITY COUNCIL OF THE CITY OF PATTERSON.

DATES ADVERTISED: February 18, 2016
February 25, 2016

Maricela Vela, City Clerk
City of Patterson, City Hall, Administration Department
1 Plaza, 2nd Floor
Patterson, CA 95363
Direct No. 209-895-8014
Email: cityclerk@ci.patterson.ca.us
Web Site: www.ci.patterson.ca.us

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PATTERSON, AMENDING CHAPTERS 1.44 AND 1.36 OF TITLE 1 OF THE PATTERSON MUNICIPAL CODE

WHEREAS, Government Code sections 36901 and 53069.4 authorize cities to provide an administrative enforcement mechanism for violations of the city's municipal code as an alternative to state civil and criminal remedies; and

WHEREAS, the city council finds that implementing an alternative enforcement mechanism for municipal code violations allows the city to efficiently enforce the laws of the city which are in place to ensure the health, safety, and welfare of the public; and

WHEREAS, under the authority provided by Government Code sections 36901 and 53069.4, the city council desires to streamline an alternative enforcement mechanism to allow municipal code violations to be processed through the issuance of an administrative citation; and

WHEREAS, under the authority provided by Government Code section 38771 *et seq.* and Civil Code sections 3479 and 3480, the city council desires to prohibit the occurrence of municipal code violations throughout the city and to provide a procedure whereby the city's staff may enforce the city's code.

THE CITY COUNCIL OF THE CITY OF PATTERSON, CALIFORNIA DOES ORDAIN AS FOLLOWS:

Section 1.44.010 of Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.44.010 Declaration of purpose.

A. The council finds that there is a need for an alternative method of enforcement for minor violations of this code and applicable state codes. The council further finds that an administrative citation program is an appropriate alternative method of enforcement for violations as authorized by Government Code section 53069.4.

B. The procedures established in this chapter shall be in addition to other legal remedies established by law which may be pursued to address violations of this code or applicable state codes.

C. The council hereby finds and determines that the enforcement of the code and other ordinances adopted by the city is a matter of local concern and serves an important public purpose.

D. Use of this chapter for the enforcement of code provisions shall be at the sole discretion of the city, its officers, agents and employees.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.015 which shall read as follows:

1.44.015 Definitions.

"Code" shall mean the Patterson Municipal Code.

"Correction period" shall mean the period of time designated in the notice of violation within which a responsible party may correct or abate the violation.

"Days" shall mean calendar days.

"Enforcement officer" shall mean any officer or employee authorized by ordinance or resolution of the council to enforce the code, or his or her designee.

"Hearing officer" shall mean any person appointed by the city manager to preside at administrative hearings pursuant to Chapter 1.36.020 of the code.

"Responsible party" shall mean any individual, owner, or occupant of real property, or owner or authorized agent of any business, company, or entity, or the parent or legal guardian of any person under the age of eighteen years, who causes or maintains or allows to continue, by his or her action or failure to act, a violation of the code.

Section 1.44.020 of Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.44.020 Authority.

Any person violating any provision of this code or applicable state law may be issued an administrative citation by an enforcement officer as provided in this chapter. A violation of this code includes, but is not limited to, a violation of the code, a violation of any uniform code adopted by the council, a violation of any uncodified city ordinance, or failure to comply with any condition imposed by any entitlement, permit, or license issued or approved under this code.

A. Each and every day a violation of the code or applicable state code exists constitutes a separate and distinct offense.

B. A civil penalty shall be assessed by means of an administrative citation issued by the enforcement officer which shall be payable directly to the city and deposited in the code enforcement fund established pursuant to section 1.32.110 of this title.

C. A civil penalty assessed by means of an administrative citation shall be collected in accordance with the procedures specified in this chapter.

Chapter 1.444 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.025 Fine Schedule which shall read as follows:

1.44.025 Fine Schedule.

Unless otherwise provided in the code, the fine amount for each violation shall be:

A. A fine not to exceed $100.00 for the first violation;

B. A fine not to exceed $200.00 for the second violation of the same code provision, or condition of a permit, license, or entitlement within the same calendar year of the first violation;

C. A fine not to exceed $500.00 for each additional violation of the same code provision, or condition of a permit, license, or entitlement within the same calendar year of the first and second violation.

Section 1.44.030 of Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.44.030 Procedures.

Upon discovering any violation of this code or applicable state codes, the enforcement officer may issue an administrative citation to a responsible person in the manner prescribed in this chapter.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add Section 1.44.032 Notice of Violation which shall read as follows:

1.44.032 Notice of Violation.

When a violation is determined to exist or be recurring, the enforcement officer may serve the responsible party with a notice of violation in a manner permitted under section 1.32.090 to give the responsible party the opportunity to correct the violation before an administrative citation is issued. The notice of violation shall contain:

A. The conditions constituting the violation;

B. References to the code sections violated and describe how the sections are violated;

C. All actions required to correct the violations, if any;

D. A specified time period from the date of service of the notice of violation within which the violation must be corrected or abated;

E. A statement requiring the responsible person to immediately correct the violations and an explanation of the consequences for failure to correct the violations;

F. The penalty amount imposed for the violation;

G. Explanation of how the penalty shall be paid, the time period by which it shall be paid, and the consequences for failure to pay the penalty;

H. A statement of the fine that will be levied if the violation is not corrected;

I. A statement that the responsible party may submit in writing to the enforcement officer any information relating to a determination of the existence of a violation;

J. Identify all rights of appeal; and

K. Contain the signature of the enforcement officer and the signature of the responsible person if they can be located, as outlined in this chapter.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.035 which shall read as follows:

1.44.035 Correction or Abatement of Violation.

The notice of violation shall provide a responsible party a reasonable period of time from the date of service to correct the violation, except that if the violation creates an immediate danger to the health or safety of persons or property, the notice of violation may require that the violation be corrected immediately. If the enforcement officer determines that a good faith effort is being made to correct or abate the violation, he or she may grant an additional period of time to complete the correction. If the violation cannot be completely corrected, the violation must be abated in the manner described in the notice of violation. Nothing in this chapter limits the city's authority to perform summary abatements when necessary.

When the enforcement officer determines that the violation has been corrected or satisfactorily abated, the enforcement officer shall provide the responsible party with a letter acknowledging that the correction has occurred. If the violation is corrected or satisfactorily abated within the correction period, no administrative citation shall be issued.

Section 1.44.040 of Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.44.040 Administrative Citation.

For a one time code violation that cannot be corrected, no notice of violation is necessary. Instead an administrative citation may be issued to impose an immediate fine. If a notice of violation is issued and the violation is not corrected on the date the compliance deadline expires, the enforcement officer may issue an administrative citation. The administrative citation shall refer to the date and location of the violation and the approximate time the violation occurred, and shall include:

A. A description of the conditions or incident causing the violation;

B. The name and address of the responsible party and, if applicable, the physical address or description of the location where the violation exists or occurred;

C. Reference to the code sections violated;

D. When applicable, the date the notice of violation was served on the responsible party and the specified time period for correction of the violation;

E. When applicable, a statement that the violation has not been corrected within the correction period;

F. The amount of the penalty imposed for the violation;

G. An explanation of how the penalty shall be paid, the time period by which it shall be paid, and the consequences of failure to pay the penalty;

H. A statement of any late penalty that will be assessed if the fine is not paid on time;

I. A statement that the responsible party may submit in writing to the enforcement officer any information relating to a determination of the existence of a violation;

J. A statement of the right to a hearing; and

K. The signature of the enforcement officer and the signature of the responsible person if they can be located, as outlined in this chapter.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.042 Service under this Chapter which shall read as follows:

1.44.042 Service under this Chapter.

A. Service under this chapter shall be performed in a manner prescribed in section 1.32.090 of the code.

B. If an enforcement officer physically issues an administrative citation to a responsible party at the time of the incident resulting in the violation, the physical issuance of the administrative citation shall be sufficient service.

C. If the responsible person is a business, the enforcement officer shall attempt to locate the business owner or responsible person and issue the business owner or responsible person an administrative citation. If the enforcement officer cannot locate the business owner or responsible person, and can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation shall be mailed to the business owner or responsible person as prescribed in section 1.32.090 of this title. The mailing of the administrative citation shall include a request for the business owner or responsible person to sign and return the copy of the administrative citation. Failure of the business owner or responsible party to sign and return the administrative citation shall not affect the validity of any proceeding.

D. Once the responsible person is located, the enforcement officer shall attempt to obtain the signature of that person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings.

E. If the violation relates to property and no one can be located on the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the responsible person as prescribed in section 1.32.090 of this title and shall include a request for the business owner or responsible person to sign and return the copy of the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the administrative citation and subsequent proceedings.

F. Failure of any person with an interest in the property to receive notice of an administrative citation shall not affect the validity of any proceeding taken under this chapter.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.045 Direct Citation which shall read as follows:

1.44.045 Direct Citation.

An enforcement officer may issue an administrative citation without first issuing a notice of violation if:

A. The enforcement officer personally observes an action by the responsible party that constitutes a violation; or

B. The violation does not pertain to building, plumbing, electrical, or other similar zoning issues and creates an immediate danger to health or safety; or

C. The violation occurred within the immediate vicinity of a posted notice of the requirements of the code provision being violated.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.047 Duty to Cooperate which shall read as follows:

1.44.047 Duty to Cooperate.

Any person who does not possess photo identification, refuses to identify himself or herself to an enforcement officer or who gives a false identity or address to an enforcement officer, shall be guilty of a misdemeanor.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add Section 1.44.049 Satisfaction of Administrative Citation which shall read as follows:

1.44.049 Satisfaction of Administrative Citation.

A. If the payment of a fine is not received by the city within thirty (30) days of service of the administrative citation, then the city may assess a late fee in the amount of fifty percent (50%) the total amount of the fine.

B. Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the city.

C. If the responsible party fails to correct the violation, subsequent administrative citations may be issued for maintaining, continuing, or repeating the same or similar violation or allowing the same or similar violation to be maintained, continued, or repeated.

D. The city may collect any past due administrative citation fines and late payment charges by the use of small claims court or through any other permissible available legal means and may collect all costs and attorney fees pursuant to code section 1.44.080.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.070 Parental Responsibility which shall read as follows:

1.44.070 Parental Responsibility.

Any parent or legal guardian having care, custody, control, or charge of a minor child shall be responsible for paying any fines or fees resulting from a violation of the code pursuant to Welfare and Institutions Code sections 730.5 and 730.6.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.080 Attorney's Fees which shall read as follows:

1.44.080 Attorney's Fees.

In addition to the cost of enforcement and incidental expenses incurred as a result of the enforcement proceeding, pursuant to section 3877.5 of the Government Code, in any proceeding brought to enforce any administrative citation order or recover any fine, the prevailing party shall be entitled to recover attorney's fees, provided that, pursuant to section 38773.5, attorney's fees shall only be available in those proceedings in which the city has provided notice at the commencement of such proceedings that it intends to seek and recover attorney's fees.

Chapter 1.44 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.44.090 Severability which shall read as follows:

1.44.090 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The council declares that it would have adopted such section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 1.36.010 of Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.36.010 Administrative remedies.

A. The council finds that there is a need for a variety of administrative remedies to enforce violations of this code and applicable state codes. The procedures established by these remedies are in addition to any other legal remedy established by law which may be pursued to address municipal code and applicable state code violations.

B. Whenever the enforcement officer determines that a violation of this code or applicable state code exists, the enforcement officer may pursue any of the administrative remedies enumerated in this title.

C. Unless otherwise noted in this chapter, terms and titles shall have the same meaning as defined in Chapter 1.44 of the code.

Section 1.36.020 of Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.36.020 Administrative enforcement hearings.

A. The council 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 this council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to effectively, expeditiously and fairly resolve issues raised in any administrative enforcement hearing. Any person charged with an administrative violation who has been served with a notice of violation or administrative citation and who wishes to contest the violation or penalty may request a hearing.

B. The city manager is authorized to develop policies and procedures relating to the qualification, disqualification and appointment of enforcement hearing officers, hearing officer powers, hearing procedures, scope of the hearing, and other matters relating to administrative enforcement hearings. Any person designated to serve as an enforcement hearing officer is subject to disqualification for bias, prejudice, interest or for any other reason for which a judge may be disqualified in a court of law.

C. The council or city manager shall appoint independent hearing officers for administrative enforcement hearings or contract with an organization that provides independent hearing officers.

D. Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the responsible person. The format and contents of the hearing notice shall be in accordance with the rules and policies developed by the city manager. The notice of hearing shall be served by any of the methods of service listed in section 1.32.090 of this title.

E. The hearing officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the hearing officer independently determines that due process has not been adequately afforded. The hearing officer has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an administrative enforcement order, modifying an administrative enforcement order, or where extraordinary circumstances exist, granting a new hearing. The hearing officer has the authority to require a responsible person to post a code enforcement bond to ensure compliance with an administrative enforcement order.

F. Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish the existence of a violation of this code or applicable state code. In the case of an abatement hearing, the city bears the burden of proof to establish the existence of a public nuisance. The standard of proof to be used by the hearing officer in deciding the issues at an administrative hearing is by a preponderance of the evidence. Each party shall have the opportunity to present evidence in support of his or her case.

(1) No hearing to appeal an administrative citation shall be held unless and until a request for hearing form has been completed and filed with a deposit of the citation fine, unless a hardship form has been filed and approved.

(2) The person requesting the hearing shall be notified of the time and place of the hearing at least ten (10) days prior to the hearing via first class mail to the address stated on the hearing request form.

(3) The hearing officer shall only consider evidence that is relevant to whether the violation(s) occurred and whether the responsible party caused or maintained the violation of the code.

(4) The responsible party contesting the administrative citation shall be given the opportunity to testify and present witnesses and evidence concerning the administrative citation, and to cross-examine witnesses and question evidence.

G. Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to the hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing was provided.

Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.36.025 which will read as follows:

1.36.025 Advanced Hearing Deposit.

If a person requests a hearing under this chapter regarding an administrative citation fine, the person must also pay a deposit to the city for the amount of the fine upon filing the hearing request with the city. If the person has a financial hardship, he or she may file a financial hardship form to avoid paying the deposit to the city. The advanced hearing deposit requirement will only be waived if city approves a timely submitted financial hardship form. Approving a financial hardship in lieu of a fine deposit in no way abrogates the city's right to collect the fine once an administrative enforcement order has been issued.

Section 1.36.030 of Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.36.030 Administrative enforcement order.

The decision of the hearing officer shall be entitled "administrative enforcement order." Within ten (10) days of the hearing, the hearing officer will serve an administrative enforcement order, briefly stating the reasons for the decision. The administrative enforcement order shall become final on the date of service of the order, and shall be served on all parties by any one of the methods listed in section 1.32.090 of this Chapter. Once the administrative enforcement order becomes final, the time in which judicial review of the order must be sought shall be governed by the Code of Civil Procedure section 1094.6.

Section 1.36.040 of Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.36.040 Judicial review.

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final administrative enforcement order pursuant to section 1.32.090 of the code, to fail to comply with the order. Any person aggrieved by an administrative enforcement order may obtain review of the administrative decision in the appropriate court in accordance with the timelines and provisions set forth in Government Code section 53069.4.

Section 1.36.060 of Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to read as follows:

1.36.060 Hearing Procedures.

A. A person served with one of the following documents may file a request for a hearing within ten (10) calendar days from the service of notice:

   1. An administrative abatement notice issued pursuant to Chapter 1.52 of the code;

   2. An administrative citation issued pursuant to Chapter 1.44 of the code;

   3. A letter from the enforcement officer indicating intent to record a notice of violation pursuant to section 1.40.030 of the code.

B. The hearing request shall be made in writing and filed with the city clerk. As soon as practicable after receiving the written notice of hearing, the city clerk shall request the council or city manager to appoint, or cause to be appointed, a hearing officer and schedule a date, time and place for an administrative enforcement hearing pursuant to the procedures and policies set forth in section 1.36.020. Failure to attend the administrative enforcement hearing by the persons appealing a notice of violation or administrative citation shall constitute a waiver of his or her rights to an administrative enforcement hearing and adjudication of the notice of violation or administrative citation or any portion of the notice of violation or administrative citation.

Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.36.070 Extension of Appeal Deadline which shall read as follows:

1.36.070 Extension of Appeal Deadline.

A. In the event that a person files a financial hardship form, the person shall have an additional ten (10) calendar days from the date the city mails notice to the person of whether the advanced deposit waiver request has been accepted to file a hearing request form and, if required, provide an advanced deposit.

   If the city denies the financial hardship waiver request, the person may file a written appeal of the denial with the council within ten (10) calendar days of the date notice was mailed that the advanced deposit waiver request has been denied. If a person files a timely appeal of a advanced deposit waiver request with the council, the council shall hear the request at its next regularly scheduled meeting. The person shall have five (5) calendar days from the date of the council's decision on their request to file his or her hearing request form and, if necessary, provide an advanced deposit.

B. If the deadline for filing any request with the city under this chapter falls on a day that the city's offices are closed, then the deadline shall be extended to the first day that the city's offices are open after the initial deadline lapses.

C. Requests and other documents filed with the city pursuant to this chapter shall be deemed filed on the day the document is personally delivered to the city or the date the document is postmarked after being deposited in the United States mail.

Chapter 1.36 of Title 1 of Patterson's Municipal Code shall be amended to add section 1.36.080 Severability which shall read as follows:

1.36.080 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The council declares that it would have adopted such section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

This Ordinance shall be published by one insertion in The Patterson Irrigator, a newspaper of general circulation, printed and published in the City of Patterson, within fifteen (15) days after its final passage, and shall take effect and be in force thirty (30) days after its final passage.

Introduced at a regular meeting of the City Council of the City of Patterson, held on the XX day of XXXX, 20XX, and given its first reading and introduction at said meeting. Said Ordinance was given a second reading and adopted at a meeting of the City Council held on the XX day of XXXX, 20XX, and after such reading, Councilmember XXXX, who moved its adoption, seconded by Councilmember XXX, and said ordinance was thereupon adopted by the following vote:

AYES:
NOES:
EXCUSED:

APPROVED:

_____
Luis I. Molina
Mayor of the City of Patterson

ATTEST:

_____
Maricela L. Vela
City Clerk of the City of Patterson

CITY OF PATTERSON POLICY REGARDING QUALIFICATIONS AND APPOINTMENT OF HEARING OFFICERS

Pursuant to Patterson Municipal Code (the "P.M.C.") Section 1.36.020, the city council or the city manager ("City Officials") are responsible for appointing independent hearing officers ("Hearing Officers") for the City of Patterson (the "City") to conduct administrative hearings. Under the P.M.C. the City Official is also responsible for developing procedures for the qualifications, disqualification and appointment of Hearing Officers. The policies related to the qualifications, disqualification, and appointment of Hearing Officers are as follows:

Qualifications:

(1) A Hearing Officer shall be an impartial person who is an attorney who is licensed to practice law in the State of California.

(2) A Hearing Officer shall have a minimum of twenty (20) hours of training related to administrative hearings with options of topics including but not limited to: (1) due process, (2) evaluation of evidence, (3) hearing procedures, (4) effective oral and written communication; and (5) interpretation of municipal and state laws. Up to twelve (12) hours of training may be substituted by twelve (12) hours of actual experience in conducting administrative hearings.

(3) A Hearing Officer must have the ability to render fair and unbiased decisions.

Appointment Procedure:

Any individual interested in becoming a Hearing Officer for the City may submit an application with the City stating his or her qualifications. If the minimum qualifications are met, and the individual agrees to all of the terms and conditions of employment, the individual shall be added to the City's list of Hearing Officers.

Additionally, the City may at any time enter into a contract with an organization that supplies Hearing Officers for the exclusive provision of Hearing Officers for its administrative hearings. If the City elects to enter into an exclusive contract with an organization that provides trained Hearing Officers, then the City will not be required to accept applications from individuals.

Reappointment:

Every two (2) years a Hearing Officer will be required to reapply with the City. The application must represent and warrant that the applicant is in good standing with the California bar and has not been convicted of a felony or misdemeanor involving moral turpitude. If the applicant is in good standing with the California bar, has not been convicted of a felony or misdemeanor of moral turpitude, and is not otherwise disqualified under these requirements, then the application will be granted and the Hearing Officer will be placed on the list for another two (2) years.

If the City contracts with an organization that provides Hearing Officer's, the terms of the contract shall include that the organization agrees to only provide Hearing Officer's that meet the City's qualifications. Additionally, the contract shall include that the City has a right to demand and the organization has an obligation to provide, proof that each of its Hearing Officer's meets the City's qualifications.

List of Hearing Officers:

The City shall maintain a list of qualified Hearing Officers. Once a person is determined to be qualified and added to the list as a Hearing Officer, that individual shall not be removed from the list unless and until:

(1) The individual indicates they would like to be removed from the list;

(2) The City is unable to contact the individual after at least three attempts are made for three separate hearings;

(3) The City finds that the individual no longer meets the required qualifications to be a Hearing Officer;

(4) The City finds that the individual has engaged in misconduct normally sufficient to justify termination of employment that is unrelated to the amount of administrative fines upheld or the decisions rendered by the person during administrative hearings.

If the City enters into an exclusive contract with an organization to supply Hearing Officers, then the organization shall have the responsibility of maintaining a list of eligible Hearing Officers and the City will not be required to maintain such a list.

Selection of a hearing officer for a hearing:

When the City Official, is informed that a hearing must be scheduled, he or she, or a person designated by him, will call a person on the Hearing Officer list on a rotating basis, starting with the name below the person who was scheduled for the last hearing. If a person cannot be reached or is unavailable for the hearing date, the next name shall be called until a Hearing Officer is found. The Hearing Officer last scheduled for a hearing shall not be called again unless or until everyone else on the list has been called and, either could not be reached, or found to be unavailable.

The selection of a Hearing Officer will in no way be affected by the outcome of hearings or the amount of fines upheld by a Hearing Officer.

If the City Official determines that a case requires expertise in a particular area, the City Manager may employ an ad hoc Hearing Officer or panel to hear the case provided that the employment is only for one hearing and future employment is not conditioned upon the outcome of the hearing.

At any time and for any reason the City Official can elect to contact an organization that provides trained Hearing Officers to supply Hearing Officers for a hearing. The City Officer may do this prior to calling any member on the Hearing Officer list, even if the organization has been selected to hear the last scheduled hearing. If the City has an exclusive contract with an organization for these services, then the organization will have the responsibility of objectively selecting a Hearing Officer to preside over any given administrative hearing and the City will not be involved in the selection.

Disqualification:

Any Hearing Officer may be disqualified from a hearing based on bias, prejudice, conflict of interest, or for any other reason for which a judge may be disqualified in a court of law. Each person on the list of Hearing Officers shall be informed of their duty to disqualify themselves as soon as they learn that they may have bias, conflict of interest or prejudice in a hearing outcome.

When a person receives notice of the date of an administrative hearing, the notice shall also contain the name of the selected Hearing Officer and shall state that the person has a right to challenge a Hearing Official by submitting a written petition prior to the hearing. If the City receives a petition, the City Official shall randomly select another Hearing Officer from the pool and inform the person of the new Hearing Officer.

If a person challenges the second Hearing Officer selection prior to the hearing, the City Official will evaluate the reasons given for the petition, make a determination of whether bias exists, and inform the person of his decision. The petition for a different Hearing Officer shall not extend the date of the hearing and a new Hearing Officer may be appointed the day of the hearing without notice.

A person may also lodge a petition for a new Hearing Officer at the beginning of the hearing. If such a petition is made, the Hearing Officer will make a determination as to whether disqualification is appropriate. If the Hearing Officer disqualifies himself or herself, the hearing will be continued to allow for the appointment of a new Hearing Officer. If the Hearing Officer determines that disqualification is not necessary, the petition will be recorded and the hearing will move forward. After the hearing, a person may appeal the Hearing Officer's determination to the city council by submitting a petition stating why the Hearing Officer should be disqualified. The city council shall hold a public hearing on the matter at the next regularly scheduled meeting and make a determination.

If city council finds that the Hearing Officer should have been disqualified, the person shall have the opportunity of another hearing before a different Hearing Officer. If the city council determines that there was no reason to disqualify the Hearing Officer, then the administrative order will be upheld unless overturned for other reasons.

CITY OF PATTERSON

Phone: (209) 895-8000
Fax: (209) 895-8019

PO BOX 667
PATTERSON, CA 95363
Web Page: www.ci.patterson.ca.us

REQUEST FOR HEARING ON ADMINISTRATIVE CITATION

Name:_____ Address:_____

Home Phone: (___)_____ Work Phone: (___)_____

Citation Number:_____ Date Issued:_____

Any appeal must be filed within ten calendar (10) days of the date the citation was issued. The time requirement for filing a request for hearing shall be deemed jurisdictional and may not be waived.

Reason for appeal (attach additional pages if necessary):_____

_____

_____

_____

_____

Requested action:_____

Do you or a witness need an interpreter?* Yes / No If yes, please explain:_____

_____

Do you or a witness need reasonable accommodations?** Yes / No If yes, please explain:_____

_____

_____

Amount of administrative fine: $_____

Prepayment of the full amount of the fine is required to file this appeal. Payment may be made by of cashier's check, money order, or personal check payable to the City of Patterson. You may submit a "Financial Hardship Form: Advanced Hearing Deposit Waiver Request" along with this form to request a waiver of the advanced deposit requirement. However, if granted, the advanced hearing deposit waiver in no way waives the city's right to later collect any fine owed.

The city may issue a deposit waiver if the city is satisfied that you are unable to deposit the full amount of the fine prior to the hearing. If the city denies the request, a written determination will be provided. You have ten (10) calendar days from the date a decision is mailed to file a request for hearing with the required hearing deposit, or file a written appeal of the decision to the city council. If you appeal to city council, you have five (5) calendar days from the date of the city council decision to file a request for hearing with any hearing deposit required. Pursuant to Patterson Municipal Code section 1.36.070.

Any administrative citation fine that has been deposited **shall be refunded** if it is determined, after a hearing, that the person or entity charged with the violation was not responsible for the violation or that there was no violation as charged in the administrative citation.

I here request a hearing before a hearing officer on this citation.

Dated:_____ Signed:_____

Return this form to either of the following addresses:

City of Patterson
c/o Citations
PO Box 667
Patterson, CA 95363

City of Patterson
City Hall
1 Plaza
Patterson, CA 95363

Notice of the date and time of your hearing shall be mailed to you at least ten (10) days prior to the hearing.

* The hearing officer shall have the discretion to determine how the cost of providing an interpreter shall be allocated between the city and the party requesting the interpreter. In making such determination, the hearing officer shall give equitable consideration to all circumstances in the case, including the ability of the party needing the interpreter to pay for the service pursuant to the guidance provided in Government Code section 11435.25.

** The City of Patterson complies with the Americans with Disabilities Act.

Administrative Citation Hearing Information:

The City of Patterson administrative citation program, as created in the city's municipal code permits city staff and law enforcement to issue administrative citations in response to code violations. If you have received an administrative citation but are not responsible for the code violation, you may request an administrative hearing before an independent hearing officer. The city's policies and procedures for administrative hearings are provided in more detail in chapters 1.36 and 1.44 of the city's municipal code. You can access copies of the city's code online at: http://codepublishing.com/ca/patterson/ or by visiting the city clerk's office at 1 Plaza, Patterson, California 95363 during regular business hours.

Filing a Request for Hearing:

You must file a request for a hearing on an administrative citation within ten (10) calendar days of the date the citation was issued. To file a request for a hearing, complete the attached form, with any additional information you wish to provide, and return the form to the city clerk's office with a deposit for the full amount of the fine in the form of: (1) a personal check; (2) credit card; (3) cashier's check; or (4) money order made payable to: City of Patterson. Please write the citation number on the memo line of your check or money order. DO NOT SEND PAYMENT IN CASH. A $25.00 charge will be added for any returned checks.

To return this form and the required payment, either (1) mail all documents to: **City of Patterson, c/o Citations, PO Box 667, Patterson, CA 95363**; or (2) deliver all documents to **City Hall, 1 Plaza, Patterson, CA 95363** during normal business hours. To inquire about the city clerk's business hours, call (209) 895-8000. Requests will be deemed filed on the date they are personally delivered to, and received by, the city clerk's office or the date they are postmarked. In the event that the deadline to request a hearing falls on a date when the city's offices are closed for business, the deadline shall be extended to the next date that the city is open.

If you are unable to pay the deposit of the administrative fine at the time you wish to request a hearing, you may qualify for an advanced hearing deposit hardship waiver. To request an advanced hearing deposit hardship waiver, complete a financial hardship form and return it to the city with this hearing request. The city will evaluate the financial hardship form and mail or make available to you otherwise, a written decision to you regarding whether or not it is granting you an advanced hearing deposit waiver. You have ten (10) calendar days from the date a decision is mailed to file a request for hearing with the hearing deposit, if required, or file a written appeal of the decision to the city council. If you appeal to the city council, you have five (5) calendar days from the date of the city council decision to file a request for hearing with any hearing deposit required. P.M.C. section 1.36.070.

Written notice of the time and place of the hearing and the name of the hearing officer will be mailed to you at the address indicated on this form.

What to Expect at the Hearing:

The administrative hearing shall be conducted by a trained and independent hearing officer. The hearing shall be informal in nature. You will be required to take an oath and have the right to present testimony or evidence either written or verbal concerning the violation. You may bring witnesses to your hearing who can answer questions regarding the violation or your own culpability. You will also have the opportunity to cross examine any witnesses who are present at the hearing on behalf of the city. If you are a minor, you have a right to have a parent or guardian present at the hearing. You may also, but are not required to, be represented by an attorney at the hearing.

The hearing officer shall make findings based on the record of the hearing and all evidence received and testimony heard. The hearing officer shall a make a written decision based on the findings and mail you the within ten (10) calendar days after the hearing. The decision of the hearing officer is final and conclusive, subject to review by the superior court in accordance with state law.

If the hearing officer dismisses the administrative citation the penalty and the deposit will be returned to you. If the hearing officer upholds the administrative citation the city shall retain the advanced deposit to satisfy the administrative fine and you will be required to correct any outstanding violation or face criminal prosecution or the imposition of additional administrative penalties. If the hearing officer upholds the administrative citation and you have not deposited the amount of the fine with the city due to an advanced hearing deposit waiver, the amount of the fine shall be due within twenty (20) days of the hearing officer's decision being mailed.

Should you have any questions regarding the administrative hearing procedure, you may contact the city clerk's office by calling (209) 895-8011 during normal business hours.

CITY OF PATTERSON
Phone: (209) 895-8000
Fax: (209) 895-8019

PO BOX 667
PATTERSON, CA 95363
Web Page: www.ci.patterson.ca.us

CITY OF PATTERSON ADMINISTRATIVE CITATION FINANCIAL HARDSHIP FORM: ADVANCED HEARING DEPOSIT WAIVER REQUEST

Name:_____ Address:_____

Home Phone: (___)_____ Work Phone: (___)_____ Amount of Fine $_____

Citation Number:_____ Date Issued:_____

If you intend to request a hearing to contest an administrative citation on the basis that no violation of the Patterson Municipal Code ("P.M.C.") occurred or that you are not the responsible party, you are required to deposit the full amount of the administrative citation fine at the time the request for the hearing is made pursuant to P.M.C. section 1.36.025. You may request a waiver of this deposit requirement by filing this form. The city may issue an advanced deposit hardship waiver if the city is satisfied that you are unable to deposit the full amount of the fine prior to the hearing. The city will mail, or make available to you otherwise, a written decision regarding whether it is granting your request. You have ten (10) calendar days from the date a decision is mailed to file a request for hearing with the hearing deposit, if required, or file a written appeal of the decision to the city council. If you appeal to the city council, you have five (5) calendar days from the date of the city council decision to file a request for hearing with any hearing deposit required. P.M.C. section 1.36.070.

REASON(S) FOR HARDSHIP WAIVER (attach additional pages if needed):

_____
_____
_____
_____
_____
_____

Please provide copies of documentation verifying sources of income. Documents may include Social Security, general assistance, Aid to Families with Dependent Children (AFDC), current paychecks, etc.

I declare, under penalty of perjury, that the foregoing statement and information provided by me is correct.

_____ _____
Signature (Contesting Party) Date

You will be notified by first-class mail if the request has been approved or denied. Please mail or deliver this form with the attached documentation to either:

City of Patterson
c/o Citations
PO Box 667
Patterson, CA 95363

City of Patterson
City Hall
1 Plaza
Patterson, CA 95363

CITY OF PATTERSON
ADMINISTRATIVE CITATION

PO Box 667, Patterson, CA 95363
Phone: (209) 895-8000 Fax (209) 895-8019
www.ci.patterson.ca.us

ADMINISTRATIVE CITATION NO. _____

DATE ISSUED:	**TIME:**	**AM**	**PM**
LOCATION OF VIOLATION:			
RESPONSIBLE PARTY: (name-first, middle, last)			**DOB**
DRIVER LICENSE #:			
MAILING ADDRESS:			
CITY	**STATE**		**ZIP CODE**
DESCRIPTION OF VEHICLE: (make, model, year, license plate #)			

☐ **Property Owner**	☐ **Occupant**	☐ **Contractor**	☐ **Individual**	☐ **Business Owner**	☐ **Other**

The violation(s) listed below exist or occurred at the location, date and time identified above.

City of Patterson Code Section	Description of Violation	Notice of Violation /Warning Only*	Base Violation Fine Amount**
		☐	
		☐	
		☐	

***For Notice of Violation or WARNING: No fine applies if the violation(s) is corrected by the date described below. If you have any questions regarding how to correct the violation(s), contact the enforcement officer at (209)_____. Additional citations and fines may be issued for continuing or repeating the violations. A fine of $ will be assessed if the violation(s) is not corrected by___/___/___.**	****Total Fines $**

****The Base Violation Amount only lists the fine amount for a first offense. If the responsible party has committed the violation more than once, the total fine amount will be increased accordingly after a review of the party's record. If the City determines that a greater fine is due, it shall mail an amended citation with the new amount.**

IF THE RESPONSIBLE PARTY IS A MINOR COMPLETE 1-3:

(1) NAME OF PARENT OR GUARDIAN:	
(2) PHONE NUMBER:	
(3) WAS THE PARENT CONTACTED?	

DESCRIPTION OF INCIDENT:

☐ **Prior Notice of Violation/WARNING was issued on __/__/____. Corrections were required before __/__/____ but were not completed on time. Fines are now due.**	
Enforcement Officer: **Issue Date:** **Photos:** ☐	**Badge/ID No. (if applicable)**

Payment Information: Payment of fine must be made within thirty (30) calendar days. Make your check or money order payable to: City of Patterson. DO NOT MAIL CASH. For proper credit please write the Citation No. on your check or money order. LATE PAYMENT FEE – If the payment is not received within thirty (30) calendar days, an additional late fee of twenty percent (20%) of the total amount will be added to the amount owed. Deliver payment by either of the following methods:

See Below for Payment Information and Appeal Procedures.

Mail to:
City of Patterson
Attn: Citations
PO Box 667
Patterson, CA 95363

Deliver to:
City Hall
1 Plaza
Patterson, CA 95363

I Hereby Acknowledge Receipt of this Citation **Date:**

_____ _____

(Signature is not required for citation to be valid).

FAILURE TO IDENTIFY.

(1) Was the responsible party informed that refusing to identify himself or giving a false identity to the enforcement officer is is a misdemeanor offense under Patterson Municipal Code section 1.44.047? **YES** **NO**

(2) Did the responsible party refuse to give a true and correct identify? **YES** **NO**

_____ _____ _____

Enforcement Officer **Signature** **Date**

ADMINISTRATIVE CITATIONS - Each and every day a violation of the City of Patterson Municipal Code ("P.M.C.") or other city ordinances exists constitutes a separate and distinct offense and is subject to citation. Additional administrative citations may be issued to you for the same violation(s) if the violation(s) is not corrected within the time specified. Fines incurred are $100 – 1st Violation; $200 – 2nd Violation; $500 – for each subsequent violation(s). These are civil not criminal fines. Administrative fines may be imposed for each individual violation deemed to violate the P.M.C. or other city ordinances.

TO APPEAL THIS CITATION – Within ten (10) calendar days of the date of this citation, you may file an appeal by depositing with the city the total fine amount as shown on the citation along with a Request for Appeal of Administrative Citation form. Forms may be picked up at City Hall, 1 Plaza, Patterson, CA. Fill out the form in its entirety, mail or deliver with payment to either of the following addresses:

City of Patterson
Attn: Citations
PO Box 667
Patterson, CA 95363

City of Patterson
City Hall
1 Plaza
Patterson, CA 95363

Appeals received without the full deposit will not be accepted. Upon acceptance of your appeal, you will be notified of your hearing date. If your appeal is successful, the amount designated by the hearing officer will be refunded to you. The city complies with the Americans with Disabilities Act. If you or a witness require reasonable accommodations, you should inform the city at the time you file the appeal.

If you wish to appeal but cannot afford to deposit the full amount of the fine you may qualify for an Advanced Deposit Hardship Waiver ("Deposit Waiver"). The Deposit Waiver does not relieve your obligation to pay the fine if the violation is upheld but allows you to appeal the violation without first making a deposit. You can obtain a Deposit Waiver form at City Hall, 1 Plaza, Patterson, CA.

If you submit a Deposit Waiver, the city will mail a written decision of whether it is granting the request. You have ten (10) calendar days from the date a decision is mailed to file a request for hearing with the hearing deposit, if required, or file a written appeal of the decision to the City Council. If you appeal to City Council, you have five (5) calendar days from the date of the City Council decision to file a request for hearing with any required hearing deposit. Pursuant to P.M.C. section 1.36.070.

HOW TO PAY THE FINE – Payment must be received in full within thirty (30) calendar days of the issuance of the citation. Payment should be made by personal check, credit card, cashier's check, or money order payable to the City of Patterson, and either (1) mailed to: City of Patterson, c/o Citations, PO Box 667, Patterson, CA 95363; or (2) delivered to City Hall, 1 Plaza, Patterson, CA 95363 during normal business hours. Please write the citation number on your check or money order. DO NOT SEND CASH. A $25.00 charge will be added for returned checks.

CONSEQUENCES OF FAILURE TO PAY THE FINE – Failure to pay the fine assessed by the administrative citation within the time specified may result in the City pursuing legal remedies to collect the civil fine(s). If the fine is not received within thirty (30) calendar days of the issuance of the citation, a late penalty of fifty percent (50%) of the total fine amount will be charged. If the City must initiate proceedings to recover the fine or enforce the order, the City may elect to pursue attorney's fees when it initiates the proceeding and the prevailing party shall be entitled to attorney's fees and incidental expenses incurred in enforcing the order or recovering the fine pursuant to P.M.C. Section 1.44.070. Documents are considered filed with the City on the date of delivery or the day they are postmarked. If the last day to file an appeal falls on a day City offices are closed, the deadline shall be the next day City offices are open for business.

IF YOU NEED FURTHER CLARIFICATION about the payment or appeal of this citation, please call (209) 895-8000. If you wish to read the city ordinances they are available on the city's website at www.ci.patterson.ca.us.

IF YOU NEED FURTHER INFORMATION ABOUT HOW TO COMPLY with this citation, contact the enforcement officer listed on the front of this citation.

White Copy (Responsible Party) ***Canary Copy (City of Patterson)*** ***Pink Copy (Officer)***