

ORDINANCE NO. 275

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIMESA ADDING CHAPTER 1.13, ADMINISTRATIVE CITATIONS, TO TITLE 1 (GENERAL PROVISIONS) OF THE CALIMESA MUNICIPAL CODE, PERTAINING TO ADMINISTRATIVE PROCEDURES GOVERNING THE IMPOSITION, ENFORCEMENT, REVIEW, AND COLLECTION OF PENALTIES FOR VIOLATIONS OF THE CALIMESA MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF CALIMESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Calimesa hereby finds:

A. Enforcement of the Calimesa Municipal Code and adopted ordinances throughout the City is an important public service. A program for enforcement of local codes is vital to protect public health, safety, and welfare. The establishment of a comprehensive and effective code enforcement program that is able to utilize both administrative and judicial remedies against violations of the City's laws is best equipped to protect public health, safety, and welfare.

B. Government Code Section 53069.4 authorizes local jurisdictions to establish an administrative citation program, and pursuant to this section, the City Council intends to establish an administrative citation program that:

1. Imposes a non-judicial civil fine for offenses of the Calimesa Municipal Code;
2. Encourages prompt abatement or correction of prohibited conditions, uses or activities in the City; and,
3. Creates deterrence against future violations of the City's laws.

C. The administrative citation remedy is not intended to replace any other remedy allowed by the Calimesa Municipal Code or state law. It is intended to provide an additional means by which the City's laws may be enforced.

D. That the adoption of an administration citation process is exempt pursuant to Section 15321 of the Guidelines for California Environmental Quality Act (California Code of Regulations, Title 14, Chapter 3).

Section 2. Title 1 (General Provisions) of the Calimesa Municipal Code is hereby amended by adding a new Chapter 1.13 entitled "Administrative Citations" to read as follows:

"Chapter 1.13 - Administrative Citations"

Sections:

- 1.13.01 Applicability
- 1.13.02 Definitions
- 1.13.03 Administrative Citation
- 1.13.04 Contents of Administrative Citation
- 1.13.05 Service of Citation
- 1.13.06 Civil Fine and Late Payment Fees
- 1.13.07 Satisfaction of Administrative Citation
- 1.13.08 Extensions of Time to Abate
- 1.13.09 Request for Administrative Hearing
- 1.13.10 Advance Hardship Waiver
- 1.13.11 Time for Administrative Hearing

- 1.13.12 Appointment of Hearing Officer
- 1.13.13 Procedures at Administrative Hearing
- 1.13.14 Hearing Officer's Decision
- 1.13.15 Appeal of Decision of Hearing Officer
- 1.13.16 Failure to Take Corrective Action
- 1.13.17 Collection of Civil Fine
- 1.13.18 Remedies Not Exclusive

1.13.01 Applicability.

(a) This Chapter provides for administrative remedies for any violation of the Calimesa Municipal Code. The City's use of this Chapter shall be at the sole discretion of the City and is one of several remedial tools and processes that the City has to address violations of the Calimesa Municipal Code. By adopting this Chapter, the City does not intend to limit its discretion or ability to utilize any criminal, civil or other remedies, or any combination thereof, to address any violation of the City's laws. The City Attorney, or his or her assistants, has sole discretion to determine whether a violation shall be prosecuted criminally. If a violation is not criminally prosecuted, the City may proceed with administrative proceedings pursuant to this Chapter.

(b) This Chapter makes any violation of the provisions of the Calimesa Municipal Code subject to a civil fine.

(c) This Chapter establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines pursuant to Government Code, Section 53069.4.

(d) As provided in this Chapter, a civil fine shall be imposed by means of an administrative citation issued by an Enforcement Official, and shall be paid directly to the City of Calimesa but it does not excuse a failure to correct a violation nor does it bar further enforcement action by the City.

(e) The City Attorney and City Manager shall promulgate procedural rules and guidelines governing the implementation of the provisions of this Chapter.

1.13.02 Definitions.

(a) "Citation" means an administrative citation that is issued to a Responsible Person pursuant to this Chapter.

(b) "Citee" means a Responsible Person to whom a Citation is issued.

(c) "City" means the City of Calimesa, California.

(d) "City Manager" means the chief administrative official of the City as appointed by the City Council.

(e) "Civil Fine" means the monetary sanction established by resolution of the City Council that is imposed by a Citation.

(f) "Code" means the entire Calimesa Municipal Code, including all Riverside County and state codes adopted by reference into the Calimesa Municipal Code, and any uncodified ordinance adopted by the City.

(g) "Courtesy Notice" means a written notice to a Responsible Person that a violation of this Code has occurred. This notice shall constitute and state that the Responsible Person is being warned that a Citation assessing a fine may be issued if the violation is not terminated or abated.

(h) "Enforcement Official" means any City employee with obligations under Section 1.13.05 to enforce the Code and any employee of another public agency that is contracted to provide services to the City and authorized to enforce provisions of the Code. The City Manager may designate additional persons to act as Enforcement Officials for purposes of implementing the provisions of this Chapter.

(i) "Hearing Officer" means and includes a public entity, organization, association or person, or a public official, or duly constituted reviewing authority or commission that is designated by the City Manager pursuant to the standards contained in Section 1.13.12 of this Chapter.

(j) "Order" means the Hearing Officer's written decision to uphold or cancel the Citation.

(k) "Owner" means and includes any Person having legal title to, or who leases, rents, occupies or has charge, control or possession of, or responsibility for, any real property in the City, including all persons identified as owners of record on the last equalized assessment roll of the Riverside County Assessor's Office. An Owner of personal property or animals shall be any person who has legal title, charge, control or possession of, or responsibility for, the personal property. An Owner may include an agent, manager or representative thereof.

(l) "Person" means and includes any individual, partnership of any kind, a corporation of any kind, limited liability company, association, joint venture or other organization or entity, however formed, as well as fiduciaries, trustees, heirs, executors, administrators, or assigns, or any combination of such persons. "Person" also includes any public entity or agency that acts as an Owner in the City.

(m) "Property" means any real property, or improvements thereon, or portions thereof, as the case may be. "Property" includes any parkway or unimproved public easement abutting such real property. "Property" shall also include all forms of personal property or animals, where applicable.

(n) "Responsible Person" means any Person or legal entity whom the Enforcement Official determines is responsible for causing or maintaining a violation of the Code. The term "Responsible Person" includes, but is not limited to, an Owner, tenant, or Person in possession of real property; or an Owner or authorized agent of any business, company or entity, or the holder or the agent of the holder of any permit or entitlement.

(o) "Violation" means an act or omission of any act, or use or condition that constitutes an offense of the Code, as well as a breach or violation of any condition of a permit, approval or license issued pursuant to the Code. As established by Section 1.3.04, any condition caused or permitted to exist in violation of a provision of the Code is a public nuisance. A "Transient" violation is one that is brief or spontaneous in its commission, or that is not typically confined to a fixed location. A "Non-transient" violation is continuing in nature and generally present at one location.

1.13.03 Administrative Citation.

(a) Any Responsible Person who violates any section of this Code, or who breaches or violates any condition of a permit, approval or license issued pursuant to this Code, may be issued a Citation by an Enforcement Official as provided in this Chapter.

(b) If the Violation pertains to building, plumbing, electrical or other similar structural or zoning issues that do not create an immediate danger to health and safety, then the Responsible Person shall be issued a Courtesy Notice only on the first Violation. The Courtesy Notice shall advise the Responsible Person of the nature of the Violation and the date upon which the Violation shall be corrected. The time within which the Responsible Person is required to correct the Violation shall be specified in the Courtesy Notice. The minimum period of time provided to correct the Violation is fifteen

(15) days. If the Violation is not corrected within the time provided on the Courtesy Notice, a Citation shall be issued. If the Violation is corrected, no further action shall be taken against the Responsible Person. The Enforcement Official may extend the time in which to correct the Violation.

1.13.04 Contents of Administrative Citation. Each Citation shall contain the following information:

(a) The name and mailing address of the Responsible Person, to the extent such information is known to the City.

(b) The date and location of the Violation and the approximate time the Violation occurred or was detected.

(c) The Code section violated and a description of the Violation.

(d) The amount of the Civil Fine imposed for each Violation, and the procedure and place to pay the Civil Fine, and any late charge(s), if not timely paid.

(e) The action(s) required to correct the Violation, if applicable, and the date by which such action(s) must be completed.

(f) A description of the administrative citation review process, including the time within which to contest the Citation and the place from which to obtain a request for hearing form to contest the Citation or Civil Fine.

(g) The name and signature of the citing Enforcement Official, and the signature of the Citee, if he or she is physically present and will sign the Citation at the time of its issuance. The refusal of a Citee to sign a Citation shall not affect its validity or any related subsequent proceeding, nor shall signing a Citation constitute an admission that a Person committed a Violation of the Code.

(h) Any other information deemed necessary by the City Manager.

1.13.05 Service of Citation.

(a) A Citation may be issued to the Responsible Person by an Enforcement Official for violations of the Code in the following manner:

(1) Personal Service. The Enforcement Official shall attempt to locate and personally serve the Responsible Person, provided the City has reason to believe that the Citee resides, is employed or is engaged in on-going business activities in the City. The City shall also, if possible, obtain the signature of the Responsible Person on the Citation. If the Responsible Person served refuses or fails to sign the Citation, the failure or refusal to sign shall not affect the validity of the Citation or of subsequent proceedings.

(2) Service by Mail. If the Enforcement Official is unable to locate the Responsible Person in the City, the Citation shall be mailed by certified mail, returned receipt requested, to the last known business or residence address as shown on public records or as known to the City. Simultaneously, the Citation may be sent by first class mail to the same location. Service of the Citation by certified mail is deemed complete on the date the recipient signs the return receipt. Service of the Citation by first class mail is deemed complete on the date of deposit with the United States Postal Service, provided the Citation sent by first class mail is not returned. The date the Citation is personally served or the date a Citation is deposited with the U.S. Postal Service shall constitute the issuance date of the Citation.

(3) If an agent, manager or representative of a Responsible Person is personally served with a Citation, a copy thereof shall also be served by certified mail to the Responsible Person at his or her last-known business or residence address as the same appears in public records of the City. In such instances, the date a copy of the Citation is deposited with the U.S. Postal Service shall constitute the issuance date of a Citation.

(4) If service cannot be accomplished personally or by mail, the Enforcement Official shall post the Citation on the Property of the Responsible Person. The date of posting shall constitute the issuance date of a Citation.

(5) If the Enforcement Official does not succeed in serving the Responsible Person personally, by certified or regular mail, or by posting the Citation on the Responsible Person's Property, the Enforcement Official shall cause the Citation to be published once a week for four successive weeks in a local newspaper published at least once a week.

(b) Failure of a Responsible Person to receive a Citation or any notice specified in this Chapter, shall not invalidate any Civil Fine, late charge, action or proceeding, if service was given in a manner stated in this Chapter. The Enforcement Official or other City employee shall complete a declaration of service.

1.13.06 Civil Fine and Late Payment Fees.

(a) The Civil Fine imposed pursuant to this Chapter for a particular Violation shall be set forth in the administrative citation schedule established by resolution of the City Council, provided that if a Violation is classified as an infraction in the Code, such Civil Fine shall not exceed \$100.00 for the first offense, \$200.00 for the second offense within one year, and \$500.00 for a third offense within one year as provided by subdivision (b) of Section 25132 and subdivision (b) of Section 36900 of the California Government Code. The administrative citation schedule shall specify the amount of any late payment charges imposed for failure to timely pay the fine. The City may impose a lesser fine of \$50.00 for the first offense, \$100.00 for the second offense within one year, and \$250.00 for a third offense within one year if it is determined that the Responsible Person has not committed the same offense within a five (5) year period.

(b) Any Person who fails to pay the City, on or before the due date, any Civil Fine imposed shall be liable for the payment of any applicable late payment charge as set forth in the administrative citation schedule established by a resolution of the City Council. The amount of a late charge may be modified from time to time by a resolution of the City Council.

(c) Civil Fines and any late charges due shall be made payable to the City and paid at such location or address as stated in the Citation, or as may otherwise be designated by the City Manager.

(d) The due date for the City's receipt of the Civil Fine shall be twenty-one (21) calendar days from the issuance of the Citation. Thereafter, a late charge shall be due and owing.

(e) Payment of a Civil Fine shall not excuse or discharge the Responsible Person from the duty to immediately abate a Violation of the Code, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a Violation of the Code.

(f) Abatement of a Violation shall not excuse the obligation of the Responsible Person to pay a Civil Fine, or any late charge imposed on that untimely payment of the Civil Fine.

(g) No interest or penalties shall accrue during the pendency of any timely appeal of the Citation.

1.13.07 Satisfaction of Administrative Citation. Upon service of a Citation, the cited party shall do the following:

(a) Pay the Civil Fine no later than twenty-one (21) days from the date of service of the Citation. Payment of the Civil Fine shall not excuse or discharge the failure to correct the Violation, nor shall it bar further enforcement action by the City.

(b) Comply with the compliance order to remedy the Violation within the time specified on the Citation.

1.13.08 Extensions of Time to Abate. All requests for extensions must be made in writing and present a reasonable hardship. The Enforcement Official may grant a one-time extension at his/her discretion after payment of the Civil Fine due. The extension shall not exceed thirty (30) days unless the matter is referred to the Community Development Director, or his/her designee, for additional time. The Community Development Director, or his/her designee, may grant additional time as determined in his/her reasonable discretion, considering all relevant facts and circumstances of the hardship. If the case has been referred to the Hearing Officer, extensions may not be granted.

1.13.09 Request for Administrative Hearing.

(a) Any Responsible Person to whom a Citation is issued may contest the Citation or amount of the Civil Fine no later than twenty-one (21) days from the date of service of the Citation by completing a request for hearing form and returning it to the City together with either a deposit in the total amount of the Civil Fine or by providing notice that a request for an advance deposit hardship waiver ("Hardship Waiver") was filed pursuant to Section 1.13.10. All requests for hearings, deposits, requests for Hardship Waivers, and any other documents, shall be filed in the Office of the City Clerk at Calimesa City Hall, 908 Park Avenue, Calimesa, California 92320. The Civil Fine that is deposited with the City shall not accrue interest. The Civil Fine deposited shall be returned to the person tendering the Civil Fine in the event a Citation or amount of the Civil Fine is overturned.

(b) Failure to timely contest the Citation or amount of the Civil Fine as provided for in subsection (a), shall be deemed a waiver of the right to appeal and to seek judicial review.

(c) A timely request for a hearing shall not excuse the Responsible Person from the duty to immediately abate the Violation for which the Citation was issued, nor from any other responsibility or legal consequences for a continuation or repeated occurrence(s) of a Violation of the Code.

(d) A request for a hearing shall contain the following:

- (1) The Citation number.
- (2) The name, address, telephone and any facsimile numbers of each Person contesting the Citation.
- (3) A statement of the reason(s) why a Citation and/or Civil Fine is being contested.
- (4) The date and signature of the Citee(s).

1.13.10 Advance Hardship Waiver.

(a) Any Person who is financially unable to make the advance deposit of the Civil Fine as required by Section 1.13.09 may request an advance deposit hardship waiver by completing a written "Hardship Waiver Form" which shall be filed together with the request for hearing within twenty-one (21) calendar days from the date the administrative citation is served. The Hardship Waiver Form, the

request for a hearing, and all required accompanying documents shall be filed in the Office of the City Clerk at Calimesa City Hall, 908 Park Avenue, Calimesa, California 92320.

(b) To be considered for a Hardship Waiver, the application form must be complete, signed, and accompanied by documents that enable the City to reasonably determine the Person's inability to deposit the Civil Fine. Documents suitable for consideration, may include, without limitation, accurate, complete and legible copies of state and federal income tax returns and all schedules for the preceding tax year, financial statements, loan applications, bank account records, income and expense records for twelve months preceding submittal of the Hardship Waiver form, as well as other documentation demonstrating the Citee's financial hardship. The City may, at a time chosen in its sole discretion and after a Citation is final or confirmed, destroy or discard the documents submitted by a Citee for a Hardship Waiver without prior notice to the Citee.

(c) The City shall issue a written decision specifying the reason for issuing or not issuing the Hardship Waiver. This decision is final and non-appealable. The decision shall be served upon the Person requesting the Hardship Waiver by first class mail.

(d) If the City determines that the waiver is not warranted, the Person shall remit the full amount of the Civil Fine to the Office of the City Clerk of the City within seven (7) calendar days of the date the decision is deposited in the mail. In the event the City does not receive the full amount of the Civil Fine in the required period, the request for a hearing is rendered incomplete and untimely, and the Responsible Person shall have waived the right to a hearing and the Citation shall be deemed final.

1.13.11 Time for Administrative Hearing.

(a) Only after a request for hearing form is filed, and the Responsible Person requesting the hearing has either deposited the Civil Fine in full or obtained a Hardship Waiver, shall the City set the date and time for the administrative hearing. The hearing shall be conducted within sixty (60) days after the request for hearing form is filed and the Civil Fine is deposited with the City or Hardship Waiver is issued. The City shall send notice of the date, time, and place of the hearing to the Person requesting the hearing at least ten (10) calendar days before the date of the hearing. The failure of the Citee to receive a properly addressed notice shall not invalidate the Citation, the amount of the Civil Fine or any hearing, City action or proceeding conducted pursuant to this Chapter.

(b) If the Enforcement Official submits any written report concerning the administrative citation for consideration at the hearing, then a copy of that report shall also be served by first class mail on the Person requesting a administrative hearing no less than three (3) calendar days prior to the date of the hearing. Failure to receive said report shall not invalidate the Citation, the hearing, or any other action conducted pursuant to this chapter.

1.13.12 Appointment of Hearing Officer. The City Manager shall establish procedures for the selection of an administrative Hearing Officer. A Hearing Officer shall be selected in a manner that avoids the potential for pecuniary or other bias and in no event shall the Enforcement Official who issued the Citation be the administrative Hearing Officer.

1.13.13 Procedures at Administrative Hearing.

(a) Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present evidence in support of his or her case and to cross-examine witnesses. The City bears the burden of proof to establish a Violation of the Code. The Citation and any additional reports submitted by the Enforcement Official shall constitute prima-facie evidence of the facts contained in those documents. In the discretion of the Hearing Officer, the evidence submitted in the hearing before the Hearing Officer may be either in the form of written declarations or by way of oral testimony. The Enforcement Official who issued the Citation is not

required to attend or participate in the hearing. All written declarations shall be made under penalty of perjury in compliance with Section 2015.5 of the California Code of Civil Procedure. The Responsible Person may bring an interpreter to the hearing provided there is no expense to the City. The evidentiary standard to be used by the Hearing Officer in finding a Violation of the Code or of any fact at issue in the hearing is the preponderance of evidence standard.

(b) If the Responsible Person fails to attend the scheduled hearing he or she shall be deemed to have waived the right to a hearing. In such instances, the Hearing Officer shall cancel the hearing and not render a decision. The Citation shall be deemed final.

(c) Hearings may be continued once at the request of a Responsible Person or the Enforcement Official who issued the Citation. The Hearing Officer may also continue the hearing for cause.

1.13.14 Hearing Officer's Decision. No later than 10 days after the date on which the administrative hearing concludes, the Hearing Officer shall issue an Order to uphold or cancel the Citation and/or Civil Fine and shall state the reasons for his or her decision. If the Citation is upheld, the City shall retain the Civil Fine deposited by the Responsible Person. If the Civil Fine has not been deposited pursuant to a Hardship Waiver, the Hearing Officer shall specify in the Order a payment schedule for the Civil Fine. The Hearing Officer's decision shall be final and the Order shall notify the Responsible Person of the right to appeal as provided in Section 1.13.15. The Order shall be served by first class mail and shall be deemed to be served on the date the Order is deposited with the U.S. Postal Service. The failure of the Responsible Person to receive a properly addressed Order shall not invalidate the Citation or the Hearing Officer's Order.

1.13.15 Appeal of Decision of Hearing Officer.

(a) Within 20 days after service of the Hearing Officer's Order upon the Responsible Person, he or she may seek review of the Order by filing a Notice of Appeal with the superior court. The Responsible Person shall serve the Notice of Appeal upon the City Clerk in person or by first class mail within five (5) calendar days of the court filing. If the Responsible Person fails to timely file a Notice of Appeal, the Hearing Officer's Order shall be deemed confirmed.

(b) The superior court is the sole reviewing authority and an appeal from a Hearing Officer's decision is not appealable to the City Council. If the Responsible Person prevails on appeal, the City shall reimburse his or her filing fee, as well as the Civil Fine deposited in accordance with the court judgment. These monies shall be mailed to the Responsible Person within thirty (30) calendar days of the City's receipt of a notice of judgment or ruling from the superior court clerk.

1.13.16 Failure to Take Corrective Action. Failure of the Responsible Person to comply with a corrective action stated in any uncontested Citation shall constitute a misdemeanor.

1.13.17 Collection of Civil Fine. The failure of any Person to pay the Civil Fine and/or late charges imposed by a Citation shall constitute a debt that may be collected in any manner allowed by law, including by way of lien or special assessment. The City shall be entitled to recover its attorney fees and costs arising from an action to collect the Civil Fine and/or late charge if it is the prevailing party and provided it made the election to seek attorney fees at the commencement of the action. A Responsible Person shall be entitled to recover his or her attorney fees if the City made the election to seek attorney fees at the outset of the action and the Responsible Person prevails in that collection action.

(a) Interest: The City may collect any past due Civil Fine, including a late payment fine, at the legal rate of interest compounding monthly, and costs of collection by all available legal means. Interest shall not accrue during the pendency of any timely appeal of a Citation.

(b) Liens:

(1) The City may collect the Civil Fine by recording a lien against the Property.

(2) Prior to recording a lien against the Property, the City Manager shall prepare a report detailing the address, parcel number, and owner of record's name and address, the amount of the Civil Fine and/or penalties, the date of the Order or Citation and the violations. The report shall include a statement that the City intends to place a lien against the Property in the amount of the Civil Fine and/or penalties owed.

(3) A notice of intent to record a lien shall be sent by certified mail, to the owner of record at the address shown on the current assessment roll and any other address shown in City records and to the holder of any recorded interest, whose address may be ascertained from title records or who is otherwise known to the Enforcement Official, with a notice of time and date on which the City Council will hold a hearing to determine whether to record a lien against the Property. If the owner of record cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the Property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the county in which the Property is located pursuant to Government Code Section 6062. Notice shall be given at least ten (10) days prior to the hearing and shall specify that objections may be presented at the hearing or filed in writing five (5) days in advance of the hearing.

(4) The City Manager's report shall be forwarded to the City Council, which shall consider the report, together with any objections or protests that may be raised by any owner of record liable for the cost of a Civil Fine and/or penalty, the holder of any recorded interest in the Property and any other Responsible Person. The City Council may make such correction, revision or modification in the report as it may deem just. The report, as amended, shall be confirmed by resolution.

(5) Immediately upon confirmation of the amount of the lien, the City Clerk shall cause to be filed in the office of the county recorder of Riverside County a notice of lien stating that it is recorded pursuant to this section. The lien shall also include the parcel's address, legal description, assessor's parcel number, the owner of record's name and address, the date of the Citation or Order, the amount of Civil Fine and/or penalties assessed, and the rate of interest. The form of the lien shall be approved by the City Attorney.

(6) In the event the lien is discharged, released or satisfied, either through payment or foreclosure, the City shall record notice of the discharge containing the information specified in the preceding paragraph.

(7) The lien may be foreclosed by an action brought by the City for money judgment.

(c) Assessment

(1) The City may also collect the Civil Fine by way of a special assessment against the Property.

(2) The City Manager shall prepare a report detailing the address, parcel number, owner of record's name and address, the amount of the Civil Fine, the date of the Order or Citation and the violations. The report shall include a statement that the City intends to file a special assessment against the Property in the amount of the Civil Fine and/or penalties owed.

(3) A copy of the City Manager's report shall be sent to the owner of record, by certified mail, at the address shown on the current assessment roll and any other address shown in City records, to the holder of any recorded interest, whose address may be ascertained from title records or

who is otherwise known to the Enforcement Official, with a notice of time and date on which the City Council will hold a hearing to determine whether to file a special assessment against the Property. If the owner of record cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the Property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the county in which the Property is located pursuant to Government Code Section 6062. Notice shall be given at least ten (10) days prior to the hearing and shall specify that objections may be presented at the hearing or filed in writing five (5) days in advance of the hearing.

(4) The City Manager's report shall be forwarded to the City Council, which shall consider the report, together with any objections or protests that may be raised by any owner of record liable for the cost of a Civil Fine and/or penalty, the holder of any recorded interest in the Property and any other Responsible Person. The City Council may make such correction, revision or modification in the report as it may deem just. The report, as amended, shall be confirmed by resolution.

(5) Upon confirmation of the special assessment, the City Clerk shall cause to be filed in the office of the county recorder of Riverside County a notice of assessment stating that it is recorded pursuant to this section. The special assessment shall also include the parcel's address, legal description, assessor's parcel number, the record owner's name and address, the date of the Citation or Order, the amount of Civil Fine and/or penalties assessed, and the rate of interest. The form of the special assessment shall be approved by the City Attorney.

(6) The City shall provide notice to the record owner at the time of imposing the assessment. The notice shall specify that the Property may be sold after three years by the tax collector for unpaid delinquent assessments. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. If any real property to which the special assessment applies has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a special assessment against the Property but instead shall be transferred to the unsecured roll for collection.

(7) The City Clerk shall request that the county auditor enter the special assessment on the county tax roll against the Property. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and procedure and sale in case of delinquency as is provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

(8) The City may, subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code conduct a sale of vacant residential property for which the payment of a special assessment is delinquent.

1.13.18 Remedies Not Exclusive. The procedures established in this chapter shall be in addition to criminal, civil or other remedies which may be simultaneously pursued. The use of this chapter shall be at the City's sole discretion.

Section 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part hereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portions of this Ordinance or any part hereof. The City Council of the City of Calimesa hereby declares that it would have passed each section, subsection,

subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

Section 4. The City Clerk shall certify to the adoption of this ordinance and cause it, or a summary of it, to be published once in the News Mirror, a newspaper of general circulation printed and published in the City of Calimesa.

INTRODUCED AND PASSED UPON FIRST READING by title only, on this 4th day of February, 2008, upon the following roll call vote:

AYES: **Mayor Chlebnik, Mayor Pro Tem Hyatt, Council Member Davis and Council Member McIntire.**

NOES:

ABSENT: **Council Member Quinto.**

ABSTAIN:

PASSED, APPROVED AND ADOPTED on this on this 19th day of February, upon the following roll call vote:

AYES: **Mayor Chlebnik, Mayor Pro Tem Hyatt, Council Member McIntire and Council Member Quinto.**

NOES:

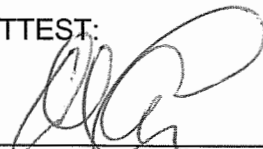
ABSENT: **Council Member Davis**

ABSTAIN:




JOHN CHLEBNIK, MAYOR

ATTEST:



DAVID LANE, CITY CLERK

APPROVED AS TO FORM:



KEVIN ENNIS, CITY ATTORNEY