

CITY COUNCIL MEETINGS

April 21, 1982

PROCEDURE FOR
ABATEMENT OF
MUNICIPAL CODE
ZONING VIOLATIONS
WHICH IS AN
AMENDMENT TO
CHAPTER 27, SEC
27-22 OF THE CITY
CODE

C. 5261

A lengthy discussion followed with questions being directed to Staff, and to the City Attorney. On motion of Mayor Pro Tempore Murphy, Olson second, Council referred the matter to the Planning Commission for review.

RECEIVED
FEB 2 - 1982
SECURITY
DEVELOPMENT
DEPARTMENT



cc-536a)

CITY COUNCIL

JAMES A. McCARTY, Mayor
ROBERT G. MURPHY, Mayor Pro Tem
RICHARD L. HUGHES
WALTER KATNICH
JAMES W. PINKERTON, Jr.

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

April 28, 1982

Mr. James Schroeder
Community Development Director

Dear Jim:

Enclosed herewith please find procedure for the abatement of Municipal Code zoning violations, which is an amendment to Chapter 27, Sec. 27-22 of the City Code of the City of Lodi.

Following a report on this matter by City Attorney Stein at the April 21, 1982 City Council Meeting, by motion action, the matter was referred to the Planning Commission for review.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AR:dg

Enc.

COUNCIL COMMUNICATION

TO: THE CITY COUNCIL
FROM THE CITY MANAGER'S OFFICE

DATE
April 19, 1982

NO.

SUBJECT: Citation Procedure for Municipal Zoning Code Violations

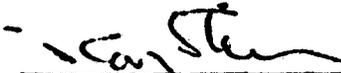
At a recent conference of City Attorneys, I was made aware of a procedure in Walnut Creek for the abatement of zoning code violations. Attached hereto is a copy of the procedure.

At present in the City of Lodi, in order to abate a zoning code violation, it becomes necessary to follow a very cumbersome procedure which ends up with the Police Department having to go out and cite an individual for a violation or, in the alternative, having the City Attorney prepare a written complaint and have the individual taken into court.

The Penal Code permits officers or employees of a city to issue citations for violations of the zoning code for which they were hired to enforce. With this in mind, the City of Walnut Creek permits their building inspectors and zoning compliance personnel to issue citations for violations of the zoning code. I have spoken with our Community Development Director and the Chief of Police and both agree that such a procedure would be valuable in the City of Lodi.

For your consideration, I have attached a copy of a proposed ordinance amendment to our zoning code in this regard. Mr. Schroeder and Chief Yates and I are also working out a model citation form to be used. It will be necessary for this Council to amend the appropriate zoning code sections.

My suggestion is that Council put this on for a shirtsleeve to discuss it or set for a future Council meeting to in fact institute same.



RONALD M. STEIN
CITY ATTORNEY

RMS:vc

attachments

COMMUNITY DEVELOPMENT DEPARTMENT

PROCEDURES FOR IMPLEMENTATION OF CITATION PROCESSFOR ABATEMENT OF MUNICIPAL CODE VIOLATIONS

Ordinance No. 1465 of the City Municipal Code approved by the City Council on May 6, 1980, and effective on June 20, 1980, authorizes the enforcement of violations of the zoning ordinance through a citation procedure. Ordinance No. 1501, approved by the City Council on May 20, 1981, and effective on June 20, 1981, expands the infraction procedure to include Chapter 1 of Title 7, Article 2, Chapter 6 of Title 4, and Chapter 3 of Title 5. The procedure for implementation of this citation program is as follows:

1. In conformance with City Ordinance No. 1465, only the City Manager, Community Development Director, Chief of Code Enforcement, and Code Enforcement Inspectors may issue a citation under this procedure.
2. If a violation of the zoning ordinance is observed and reported to the City, the Chief of Code Enforcement or Community Development permit center representative should be contacted as soon as possible.
3. The Community Development Department representative shall record the complaint on the department Zoning Investigation Form and forward to the Chief of Code Enforcement for assignment of follow-up action.
4. The City staff member assigned to follow up on the zoning complaint will visit the site and determine if a violation of the City's zoning ordinance does exist.
5. If a violation does exist, City staff will verbally notify the property owner or occupant (violation) of the existence of the violation and specify action necessary to correct it. If the violator agrees in a very positive manner to comply with the requested corrective action, City staff may simply record the violation and required corrective action on the Zoning Investigation Form and make a return visit at an agreed-upon date to insure that the violation was corrected. No issue of a City warning notice may be necessary at this time.
6. If the violator does not appear cooperative or on the return visit to the site the violation is not corrected, the staff member shall complete and issue a written City Warning Notice. The City warning notice shall indicate 1) the specific nature of the complaint; 2) the Municipal Code section of the zoning ordinance that is in violation; and 3) a reasonable time or date for the violation to be corrected by the violator. City staff shall retain one copy of the Warning Notice and the second copy shall be given to the violator. The time limit for compliance shall vary depending upon the violation and be a reasonable period for the violator to correct the violation. A copy of the warning notice is enclosed.
7. A City warning notice may be given on the first visit if City staff feels that the violation should be quickly abated.
8. If City staff finds, upon returning to the site after the time period for compliance, that the citation has not been corrected and the violator has no reasonable excuse for failure to abate the violation, a citation shall be issued. A citation may only be issued when the authorized City staff member has witnessed the violation.

9. The citation includes 1) standard information on the violator; 2) the date the violation was observed; 3) location of the violation and the Municipal Code section applicable to the violation, and 4) brief information describing the violation, as required. The citation (Notice to Appear) must be signed by the violator or person responsible for the premises. This may be the owner, lessee or manager. The citation must be issued to the responsible person (violator).

10. The violator's signature on the citation is not an admission of guilt, only a promise to appear as instructed or pay the bail and the violator is released upon his signing. Refusal to sign would require physical arrest.

11. The promise to appear is a release stating that the defendant will appear in court or pay the bail in lieu of physical arrest. If City staff encounters an individual who refuses to sign the citation after all reasonable efforts have been pursued, a police officer should be summoned. City staff should explain the situation to the officer and request the individual be taken into custody. Police officers responding to assist will attempt to persuade the violator to sign the citation. If the violator is taken into custody, the enforcing officer will sign the citizens arrest block of the police officer's Citizens Arrest Report (CAR). The police officer will write a brief report of the violation in accordance with standard policy department procedures.

12. Each citation is numbered and must be accounted for. Citation books shall be issued by citation number to the assigned enforcing staff member. The staff member is accountable for each by number. The Community Development Department is responsible for maintaining administrative control of issued citations and delivering the Court Clerk's copy of the citation to the Court Clerk's office. The Department shall maintain a citation log, entering each citation and final disposition. If a mistake is made while a citation is being written, it shall be voided and all copies retained in the Citation Log Book maintained by the Community Development Department.

13. Transient violations involving persons who are transient are handled by a citation or by arrest if the violation is committed in the enforcing officer's presence. When a physical arrest is necessary, a police officer shall be requested to take the violator into custody and ensure proper procedures are followed.

14. General citation procedures are as follows:

a. When the citation is written and completed, copies will be distributed as follows:

- (1) Cited persons copy (yellow) - give to violator.
- (2) Court copy (hard copy) - attach copy of warning notice and mail-delivered to the Clerk of the Walnut Creek-Danville Municipal Court at 640 Ygnacio Valley Road, Walnut Creek, California 94596.
- (3) File copy (white, original) - the Department's office copy.

b. Citations shall be issued only where a violation of a specific section or section of the appropriate code or ordinance has occurred and the citing staff member has witnessed the violation.

c. Documentation establishing prior efforts to gain compliance shall exist, using the Department Warning Notice and Zoning Investigation Form. (Prior documentation of evidence is unnecessary when citations are issued for violations which present imminent life hazards or in presence of staff member).

d. The date to appear as shown on the citation shall be as for three weeks from the date of issuance. These should be designated by staff as three weeks from the date of the citation at 1:30 p.m.

by the local Municipal Court from the date of issuance.

e. All violations shall be indicated on the citation with reference to the appropriate code or regulations, including the specific section number.

f. All violations as shown on the citation shall be explained to the violator prior to his signing.

15. Citation Program Fine and Bail Schedule: \$50 plus court costs.

16. Each citation for a violation is a separate offense. A fine will be assessed for each citation.

17. While it is not envisioned that every citation issued will be reviewed by a judge, the gathering of supportive evidence to document the case is extremely important as a fundamental part of the investigation process.

1. Supportive Evidence: To avoid possible antagonistic confrontations later, photographs and measurements should be made as soon as it is determined by the enforcing officer that a violation exists and warning notice given. The date, location, file number and photographer's initials should be recorded on the reverse side of each picture or slide. Measurements of violations pertaining to height, setbacks, property lines, etc., should be noted on a rough sketch of the site.

2. Warning Notice: A copy of the warning notice shall be attached to the Court Clerk's copy of the citation in addition to any other supportive evidence. No citation shall be issued unless the violator was given a warning notice. Exception: A warning notice is not required when the citation is issued for an imminent life hazard.

18. The violator may elect to pay the prescribed bail and not appear in court only if the violation is corrected. It is the violator's responsibility to contact the City staff member who issued the violation for reinspection and certification that the violation has been corrected. If the violation has been corrected, the staff member must sign the back side of the violation under "Certification of Correction" and indicate the date. The City's copy should also be signed record of the correction.

19. If the violation is not corrected after a citation is given but before the court hearing, other citations may continue to be given during this time to force abatement of the violation provided a reasonable period for abatement is given by the City staff member each time prior to issuance of another citation.

20. If a violator, upon issuance of a warning notice, corrects the violation but then engages in the same violation at a later date, the City staff member may give a citation without a warning notice for such activity. These situations may occur with the abatement of illegal banners, paper signs and real estate signs.

21. At the Court hearing on the citation, the staff member issuing the citation must be present to provide any additional information required by the Court. Staff from the City Attorney's office need not attend if the defendant has legal representation.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING SECTION 27-22
(ENFORCEMENT; PENALTIES; LEGAL PROCEDURE)
OF CHAPTER 27 (ZONING) OF THE LODI
MUNICIPAL CODE.

The City Council of the City of Lodi does ordain as
follows:

SECTION 1. Section 27-22 (Enforcement; penalties; legal
procedure) of Chapter 27 (Zoning) of the Lodi Municipal
Code is hereby amended to read in full as follows:

"Section 27-22. Enforcement; penalties; legal procedure.

For the purpose of requiring full compliance with
all of the provisions of this chapter, the following
regulations shall govern:

(a) Enforcement.

The City Manager, Community Development
Director, Chief Building Inspector, Building
Inspectors, and Assistant Planner are hereby
vested with the authority to arrest any person
who violates any of the provisions of this
chapter.

All officials of the City of Lodi charged by
the law with the general duty of enforcing City

ordinances shall also enforce this Chapter and the provisions of the same.

(b) Licenses and permits.

All departments, officials and public employees of the city, who are vested with the duty and authority to issue licenses or permits where required by law shall conform to the provisions of this chapter and shall issue no such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this chapter. Licenses or permits, if issued in conflict with the provisions of this chapter, shall be null and void.

(c) Penalties for violation.

Unless otherwise indicated, it shall be an infraction for any person to do any act forbidden or fail to perform any act required by this chapter. Penalties for infractions shall be as set forth in Government Code Section 36900.

(d) Legal proceedings.

The penalties prescribed herein shall not be deemed to limit the right of the city through its legal department as authorized by the city council upon

request of the enforcing officials to institute any appropriate legal procedure as prescribed by law to restrain, enjoin, correct or abate any actual or threatened violation of the provisions of this chapter.

(e) Public Nuisance.

Any violation of this chapter shall constitute a public nuisance. In addition to any other remedies provided in this chapter, the city may summarily abate and bring civil suit to enjoin or abate the violation.

(f) Separate Offenses - Cumulative Remedies.

Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and not exclusive."

Sec. 27-20. Rules and regulations.

The planning commission shall adopt such rules and regulations as may be required for its conduct and the performance of its duties as prescribed by law and the provisions of this chapter. In such rules shall be prescribed the form and scope of petitions and applications provided for in this chapter, and of accompanying data to be furnished so as to secure the fullest practicable presentation of the matter involved in each case and for permanent record. Any petition for an adjustment or use permit or amendment as provided herein shall include, if so specified by the planning commission, a verification by at least one of the petitioners, attesting to the truth and correctness of all facts presented with the petitions. Any such verification required shall be dated and attested before a notary public or the city clerk. (Ord. No. 469, § 19.)

Sec. 27-21. Interpretation; purpose; conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection and promotion of public health, safety, peace, morals, comfort, convenience and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger yards or open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. (Ord. No. 469, § 20.)

Sec. 27-22. Enforcement; penalties; legal procedure.

For the purpose of requiring full compliance with all of the provisions of this chapter the following regulations shall govern:

(a) *Enforcement.* It shall be the duty of the community development director or his authorized representative to enforce the provisions of this chapter. All officers of the city charged by

law with the general duty of enforcing city ordinances shall enforce this chapter and the provisions of the same.

(b) *Licenses and permits.* All departments, officials and public employees of the city, who are vested with the duty and authority to issue licenses or permits where required by law shall conform to the provisions of this chapter and shall issue no such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this chapter. Licenses or permits, if issued in conflict with the provisions of this chapter, shall be null and void.

(c) *Penalties for violation.* Any person, whether a principal, agent or employee, who violates, disobeys, omits, neglects or refuses to comply with the enforcement of any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the city jail for a term of not more than six months, or by both such fine and imprisonment. Each day a violation is permitted to exist shall constitute a separate offense.

(d) *Legal proceedings.* The penalties prescribed herein shall not be deemed to limit the right of the city through its legal department as authorized by the city council upon request of the enforcing officials to institute any appropriate legal procedure as prescribed by law to restrain, enjoin, correct or abate any actual or threatened violation of the provisions of this chapter. (Ord. No. 469, § 21; Ord. No. 1056, § 3.)

realistic speed zoning

TO RESPONSIBLE PUBLIC OFFICIALS AND INTERESTED CITIZENS RECEIVING THIS MANUAL:

All too often speed zoning is considered a cure-all for a community's traffic ills. Citizens frequently demand speed zoning in an effort to develop a quick solution to complicated traffic problems.

Realistic speed zoning is a traffic engineering tool used to derive the best traffic service for a given set of conditions.

This manual is a practical guide to realistic speed zoning for those who are unfamiliar with engineering and traffic surveys as defined in the California Vehicle Code.

Speed zoning should generally be applied to major thoroughfares carrying appreciable volumes of traffic; transition points on major highways from rural to urban conditions; areas of high accident frequency attributable to excessive speed; and areas with unusual enforcement problems. The Vehicle Code supports this viewpoint:

"It is the intent of the Legislature that physical conditions such as width, curvature, grade and surface conditions, or any other condition readily apparent to a driver in the absence of other factors, would not require special downward speed zoning."

FUNDAMENTALS OF REALISTIC SPEED ZONING

Most citizens can be relied upon to behave in a reasonable manner as they go about their daily activities. Many of our laws reflect observations of the way reasonable people behave under most circumstances. Traffic regulations are also based upon observations of the behavior of groups of motorists under various conditions. Generally speaking, traffic laws that reflect the behavior of the majority of motorists are found to be successful. Laws that arbitrarily restrict the majority of drivers encourage wholesale violations, lack public support and usually fail to bring about desirable changes in driving behavior. This is especially true of speed zoning.

Speed zoning is based upon several fundamental concepts deeply rooted in our American system of government and law:

- Driving behavior is an extension of social attitude, and the majority of drivers respond in a safe and reasonable manner as demonstrated by their consistently favorable driving records.
- The normally careful and competent actions of a reasonable person should be considered legal.
- Laws are established for the protection of the public and the regulation of unreasonable behavior of the individual.
- Laws cannot be effectively enforced without the consent and voluntary compliance of the public majority.

Public acceptance of these precepts is normally instinctive. However, the same public, when emotionally aroused in a specific instance, will invariably reject these fundamentals and rely instead on more comfortable and [redacted] such as:

- Speed limit signs will slow the speed of traffic.
- Speed limit signs will decrease the accident rate and increase safety.
- Raising a posted speed limit will cause an increase in the speed of traffic.
- Any posted speed limit must be safer than an unposted speed limit, regardless of traffic and roadway conditions prevailing.

Before-and-after studies consistently demonstrate that there are no significant changes in traffic speeds following the posting of new or revised speed limits.

Police agencies necessarily rely on reasonable and well recognized speed laws to control the unreasonable violator whose behavior is clearly out of line with the normal flow of traffic.

Speed zoning should be reserved for thoroughfares with appreciable volumes of traffic where such zoning can be shown to facilitate the orderly movement of traffic by increasing driver awareness of a reasonable speed.

Through streets that are not wide thoroughfares frequently require zoning to aid the police in determining what is a reasonable limit. On the other hand, it is seldom necessary to post limits relating to business or residence districts in obviously well-established urban areas, where such districts are clearly apparent to drivers. The basic intent of speed zoning is to influence as many drivers as possible to operate at or near the same speed — thus reducing conflicts created by wide differentials in operating speeds. Low-volume streets therefore offer little opportunity for encouraging closely grouped speeds due to the absence of traffic platoons under normal conditions.

BASIC SPEED LAW

All fifty states base their speed regulations on the Basic Speed Law:

"No person shall drive a vehicle upon a highway at a speed greater than is reasonable or prudent having due regard for weather, visibility, the traffic on, and the surface and width of, the highway, and in no event at a speed which endangers the safety of persons or property."

This law recognizes that driving conditions vary widely from time-to-time and place-to-place. No set of fixed driving rules will adequately serve all conditions.

All other speed limits are *prima facie* limits which, "on the face of it," are reasonable and prudent under normal conditions. A driver may exceed any *prima facie* limit if it is safe to do so under prevailing conditions. However, when a police officer cites a driver for exceeding a *prima facie* speed limit, it is up to the driver to prove, if he can, that he was driving in a reasonable and prudent manner under the existing conditions.

INTERMEDIATE SPEED ZONES

State law permits local authorities to lower the maximum speed limit (55 mph) or to raise business and residence district speed limits (25 mph) on the basis of a *traffic and engineering survey*.

ENGINEERING AND TRAFFIC SURVEY

As defined in the California Vehicle Code, an engineering and traffic survey is "a survey of highway and traffic conditions in accordance with methods determined by the Department of Public Works for use by state and local authorities."

- Prevailing speeds as determined by traffic engineering measurements;
- Accident records;
- Highway, traffic, and roadside conditions *not* readily apparent to the driver.

Speed limits are established, based on normal road conditions, to advise the motorist of safe speeds during free-flow operations. Prevailing speeds for zoning purposes are therefore measured during off-peak periods when traffic conditions are closest to free or uninterrupted flow. On most street networks, these conditions exist throughout most of the daytime hours except for the morning and afternoon commuter hours.

INVENTORY OF ACCIDENT RECORDS

When the speed survey form indicates a concentration of reported accidents or an accident rate significantly higher than normal for the type of roadway under study, a detailed accident analysis should be made, including a collision diagram for the route or intersections, as necessary. Adequate consideration may then be given to other corrective measures, the degree of enforcement emphasis needed, and the general applicability of any posted speed limit at all.

ANALYZING SPEED SURVEY FIELD DATA

Two characteristics developed from the prevailing speed data are of primary importance in the selection of a reasonable limit: *the critical (85th percentile) speed, and the pace.*

This is the speed at or below which 85% of the traffic is moving. The critical speed can be determined directly from the field sheet by counting from the top speed the number of vehicles equaling 15% of the total number of vehicles observed.

The 85th percentile speed is usually within two miles per hour of the upper limit of the pace.

The pace is the 10-mph range of speeds containing the largest number of observations. This can usually be determined by visual inspection of the vehicle speed data sheet. After determining the pace, it is useful to compute the percentage of vehicles *in* the pace, the percentage *over* the pace, and the percentage *under* the pace. A normal speed distribution will contain approximately 70% of the sample within the pace with 15% above and 15% below.

SELECTING THE PROPER SPEED LIMIT

Speed limits set higher than the critical speed will make very few additional drivers legal for each 5 mph increment of speed increased. Speed limits set lower than the critical speed will make a large number of reasonable drivers illegal for each 5 mph increment speed is reduced.

For practical purposes, the 5 mph increment at or immediately below the 85th percentile (or the upper limit of the pace) is the numerical value properly selected for posting a realistic and enforceable speed limit.

FINAL CONSIDERATIONS

As a final aid to establishing realistic speed zones, the following practical considerations should be kept in mind:

- Intermediate speed limits are applicable to through routes having positive intersection controls, good signing, striping, and markings to accommodate appreciable volumes of traffic from beyond the immediate neighborhood.
- Unusually short zones of less than a half mile in length should be avoided whenever possible.
- Speed zone changes should be coordinated with visible changes in roadway conditions or roadside development.
- Successive 5 mph speed zone changes should be avoided by properly selecting longer speed zones in 10 mph increments.
- Speed zoning should be coordinated with adjacent jurisdictions to assure compatibility.

An after-study of operating speeds in a newly established speed zone should be made to verify appropriateness, relative effectiveness, and general acceptance by the motoring public.



Concurrence and support of enforcement officials are necessary for the successful operation of a restricted speed zone.

Section 22358.5 of the Vehicle Code provides that it is the intent of the Legislature that physical conditions such as width, curvature, grade and surface conditions, or any other condition readily apparent to a driver, in the absence of other factors, would not require special downward speed zoning.

Speed zones of less than half a mile and short transition zones should be avoided.

2. City and County Through Highways, Arterials, and Collector Roads.

a. Introduction—This is a short method of speed zoning based on the premise that a reasonable speed limit is one that conforms to the actual behavior of the majority of motorists, and that by measuring motorists' speeds, one will be able to select a speed limit that is both reasonable and effective. If there are other factors, such as high pedestrian volume coupled with lack of sidewalks, etc., that might require further down-zoning of speeds, then it is recommended that the procedure for speed zoning on State highways be followed. However, this short method will handle most situations adequately.

b. Determination of Existing Speed Limits—These speeds will be either verified, increased, or decreased depending on the results of the investigation.

c. Speed Zone Survey—

- Only one person is required for the field work. Speeds can be read directly from a radar speed meter. If this is unavailable, a flash box and stop watch can be used.
- A section of road should be selected with representative operating speeds. If speeds vary on a given road, additional surveys should be conducted. In this case, it may be necessary to establish additional speed zones with different speed limits. The section selected should be straight and should have no traffic signal, stop sign or intersection with a major cross street.
- Speed measurements should be taken during off-peak hours on weekdays. The weather should be fair with no unusual conditions prevailing. It is important that the surveyor and his equipment be so inconspicuous as not to affect traffic speeds. For this reason, an unmarked car is recommended, with the radar speed meter located as inconspicuously as possible. It should be placed so as to be able to survey traffic in both directions, and should not make an angle greater than 15 degrees with the roadway center line. If a flash box is used, travel times for a measured

distance must be recorded and speeds calculated.

- It is desirable to have a minimum sample of 100 automobiles in each survey. This may result in excessive survey periods for low-volume roads. Under these conditions the survey should be conducted for a maximum of three hours, but in no case should the sample for any survey contain less than 25 automobiles.
- Figure 8-3 shows a sample data sheet which may be used to record speed observations. Specific types of vehicle may be tallied by use of letter symbols in appropriate squares.
- Experience has shown that speed limits should be established at or below the 85 percentile speed, which is the speed at or below which 85 percent of traffic is moving. This speed can be selected directly from the data sheet. The speed chosen for speed zoning should be in 5 mile per hour increments and should normally be selected at a value immediately below the 85 percentile speed. However, if the 85 percentile speed is within 1½ miles per hour of the next higher increment, the speed limit should be set at the higher speed.
- As a check on the validity of the proposed speed limit, an analysis should be made of the two-year accident record for the section of roadway under consideration. If this record shows an abnormally high percentage of accidents normally associated with excessive speeds, the proposed speed limit should be further reduced. This is a judgment situation, and will not usually be a factor.
- Short-speed zones of less than half a mile should be avoided, except in transition areas.
- Speed zone changes should be coordinated with changes in roadway conditions or roadway development.
- Speed zoning in 5 mile per hour increments should be avoided if possible. A 10 mile per hour increment is preferable.
- Speed zoning should be coordinated between adjacent jurisdictions.

3. Local Streets

a. Introduction—Section 22352 (b)(1) of the Vehicle Code establishes a prima facie speed limit of 25 miles per hour on any highway in any business or residence district. If enforced by radar or other electrical devices, this speed limit must be justified by an engineering and traffic survey. Highways in business districts will normally fit into the category of 2 above and speed zoned in accordance with the techniques listed thereunder. The method described here is in-

tended for speed zoning lightly traveled residential streets in compliance with Section 40802 of the Vehicle Code.

b. **Prevailing Speeds**—Measurement of prevailing speeds is not necessary on each and every street of similar character within a residential area. However, care must be exercised in selecting a location for speed study that is representative of the character of all streets to which the speed study is to be applied. There should be little difference in roadway features and usage as well as the character and density of the adjacent development.

c. **Speed Measurement**—One man with a radar unit can conduct the speed check. At least 50 measurements should be made and, in order to obtain a significant sample, the speed of vehicles in either direction may be used.

Speeds are recorded on a survey sheet. Figure 8-4 shows a typical speed survey sheet. From this sheet, the 85 percentile speed can be selected by separating the upper 15% (approximately 15%) of the total samples observed. In the absence of other factors, this is the most reasonable speed for speed zoning.

d. **Other Considerations**—Every street should be inspected for unusual traffic, roadway and roadside conditions not readily apparent to a motorist. A check should be made of the adequacy of traffic control devices, roadway alignment, width, surface condition, accident history and any unique traffic hazards that may exist. Any of these conditions may warrant the selection of a speed lower than the 85 percentile speed for speed zoning.

Figure 8-4

VEHICLE SPEED SURVEY SHEET FOR CITY AND COUNTY THROUGH HIGHWAYS, ARTERIALS, AND COLLECTOR ROADS

Jurisdiction _____ Date _____

Location _____ Weather _____

Recorder _____ Begin Time _____ End Time _____

MPH	NUMBER OF VEHICLES						PERCENT OF TOTAL	CUMULATIVE PERCENTAGE
	5	10	15	20	25	30		
35								
30							1	100
							5	99
							4	94
							6	90 ← 85th
							5	85
							9	77
25							9	68
							15	57
							11	44
							7	33
20							7	26
							9	19
							1	10
							5	9
							3	4
15							1	3
							1	1
TOTAL NUMBER OF VEHICLES							100	

APRIL 22, 1992

City Attorney Stein informed the Council that at a recent conference of City Attorneys, he was made aware of a procedure in Walnut Creek for the abatement of zoning code violations. A copy of the procedure was provided for Council's perusal.

At present in the City of Lodi, in order to abate a zoning code violation, it becomes necessary to follow a very cumbersome procedure which ends up with the Police Department having to go out and cite an individual for a violation or, in the alternative, having the City Attorney prepare a written complaint and have the individual taken into court.

The Penal Code permits officers or employees of a city to issue citations for violations of the zoning code for which they were hired to enforce. With this in mind, the City of Walnut Creek permits their building inspectors and zoning compliance personnel to issue citations for violations of the zoning code. Mr. Stein indicated he had spoken with our Community Development Director and the Chief of Police and both agree that such a procedure would be valuable in the City of Lodi.

For consideration, City Attorney presented a copy of a proposed ordinance amendment to the City's zoning code in this regard. Mr. Schroeder and Chief Yates and Mr. Stein are also working out a model citation form to be used. It will be necessary for this Council to amend the appropriate zoning code sections.

Mr. Stein suggested that Council put this on for a shirtsleeve to discuss it or set for a future Council meeting to in fact institute same.

A lengthy discussion followed with questions being directed to Staff, and to the City Attorney. On motion of Mayor Pro Tempore Murphy, Olson second, Council referred the matter to the Planning Commission for review.

PROCEDURE FOR
ABATEMENT OF
MUNICIPAL CODE
ZONING VIOLATIONS
WHICH IS AN
AMENDMENT TO
CHAPTER 27, SEC
27-22 OF THE CITY
CODE

Sec. 27-20. Rules and regulations.

The planning commission shall adopt such rules and regulations as may be required for its conduct and the performance of its duties as prescribed by law and the provisions of this chapter. In such rules shall be prescribed the form and scope of petitions and applications provided for in this chapter, and of accompanying data to be furnished so as to secure the fullest practicable presentation of the matter involved in each case and for permanent record. Any petition for an adjustment or use permit or amendment as provided herein shall include, if so specified by the planning commission, a verification by at least one of the petitioners, attesting to the truth and correctness of all facts presented with the petitions. Any such verification required shall be dated and attested before a notary public or the city clerk. (Ord. No. 469, § 19.)

Sec. 27-31. Interpretation; purpose; conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection and promotion of public health, safety, peace, morals, comfort, convenience and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger yards or open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. (Ord. No. 469, § 20.)

Sec. 27-22. Enforcement; penalties; legal procedure.

For the purpose of requiring full compliance with all of the provisions of this chapter the following regulations shall govern:

(a) *Enforcement.* It shall be the duty of the community development director or his authorized representative to enforce the provisions of this chapter. All officers of the city charged by

law with the general duty of enforcing city ordinances shall enforce this chapter and the provisions of the same.

(b) *Licenses and permits.* All departments, officials and public employees of the city, who are vested with the duty and authority to issue licenses or permits where required by law shall conform to the provisions of this chapter and shall issue no such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this chapter. Licenses or permits, if issued in conflict with the provisions of this chapter, shall be null and void.

(c) *Penalties for violation.* Any person, whether a principal, agent or employee, who violates, disobeys, omits, neglects or refuses to comply with the enforcement of any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the city jail for a term of not more than six months, or by both such fine and imprisonment. Each day a violation is permitted to exist shall constitute a separate offense.

(d) *Legal proceedings.* The penalties prescribed herein shall not be deemed to limit the right of the city through its legal department as authorized by the city council upon request of the enforcing officials to institute any appropriate legal procedure as prescribed by law to restrain, enjoin, correct or abate any actual or threatened violation of the provisions of this chapter. (Ord. No. 469, § 21; Ord. No. 1056, § 3.)

CITY OF WALNUT CREEK

COMMUNITY DEVELOPMENT DEPARTMENT

*Implement the
Dec. 1980*

PROCEDURES FOR IMPLEMENTATION OF CITATION PROCESS

FOR ABATEMENT OF MUNICIPAL CODE VIOLATIONS

Ordinance No. 1465 of the City Municipal Code approved by the City Council on May 6, 1980, and effective on June 20, 1980, authorizes the enforcement of violations of the zoning ordinance through a citation procedure. Ordinance No. 1501, approved by the City Council on May 20, 1981, and effective on June 20, 1981, expands the infraction procedure to include Chapter 1 of Title 7, Article 2, Chapter 6 of Title 4, and Chapter 3 of Title 5. The procedure for implementation of this citation program is as follows:

1. In conformance with City Ordinance No. 1465, only the City Manager, Community Development Director, Chief of Code Enforcement, and Code Enforcement Inspectors may issue a citation under this procedure.
2. If a violation of the zoning ordinance is observed and reported to the City, the Chief of Code Enforcement or Community Development permit center representative should be contacted as soon as possible.
3. The Community Development Department representative shall record the complaint on the department Zoning Investigation Form and forward to the Chief of Code Enforcement for assignment of follow-up action.
4. The City staff member assigned to follow up on the zoning complaint will visit the site and determine if a violation of the City's zoning ordinance does exist.
5. If a violation does exist, City staff will verbally notify the property owner or occupant (violation) of the existence of the violation and specify action necessary to correct it. If the violator agrees in a very positive manner to comply with the requested corrective action, City staff may simply record the violation and required corrective action on the Zoning Investigation Form and make a return visit at an agreed-upon date to insure that the violation was corrected. No issue of a City warning notice may be necessary at this time.
6. If the violator does not appear cooperative or on the return visit to the site the violation is not corrected, the staff member shall complete and issue a written City Warning Notice. The City warning notice shall indicate 1) the specific nature of the complaint; 2) the Municipal Code section of the zoning ordinance that is in violation; and 3) a reasonable time or date for the violation to be corrected by the violator. City staff shall retain one copy of the Warning Notice and the second copy shall be given to the violator. The time limit for compliance shall vary depending upon the violation and be a reasonable period for the violator to correct the violation. A copy of the warning notice is enclosed.
7. A City warning notice may be given on the first visit if City staff feels that the violation should be quickly abated.
8. If City staff finds, upon returning to the site after the time period for compliance, that the citation has not been corrected and the violator has no reasonable excuse for failure to abate the violation, a citation shall be issued. A citation may only be issued when the authorized City staff member has witnessed the violation.

9. The citation includes 1) standard information on the violator; 2) the date the violation was observed; 3) location of the violation and the Municipal Code section applicable to the violation, and 4) brief information describing the violation, as required. The citation (Notice to Appear) must be signed by the violator or person responsible for the premises. This may be the owner, lessee or manager. The citation must be issued to the responsible person (violator).

10. The violator's signature on the citation is not an admission of guilt, only a promise to appear as instructed or pay the bail and the violator is released upon his signing. Refusal to sign would require physical arrest.

11. The promise to appear is a release stating that the defendant will appear in court or pay the bail in lieu of physical arrest. If City staff encounters an individual who refuses to sign the citation after all reasonable efforts have been pursued, a police officer should be summoned. City staff should explain the situation to the officer and request the individual be taken into custody. Police officers responding to assist will attempt to persuade the violator to sign the citation. If the violator is taken into custody, the enforcing officer will sign the citizens arrest block of the police officer's Citizens Arrest Report (CAR). The police officer will write a brief report of the violation in accordance with standard policy department procedures.

12. Each citation is numbered and must be accounted for. Citation books shall be issued by citation number to the assigned enforcing staff member. The staff member is accountable for each by number. The Community Development Department is responsible for maintaining administrative control of issued citations and delivering the Court Clerk's copy of the citation to the Court Clerk's office. The Department shall maintain a citation log, entering each citation and final disposition. If a mistake is made while a citation is being written, it shall be voided and all copies retained in the Citation Log Book maintained by the Community Development Department.

13. Transient violations involving persons who are transient are handled by a citation or by arrest if the violation is committed in the enforcing officer's presence. When a physical arrest is necessary, a police officer shall be requested to take the violator into custody and ensure proper procedures are followed.

14. General citation procedures are as follows:

a. When the citation is written and completed, copies will be distributed as follows:

- (1) Cited persons copy (yellow) - give to violator.
- (2) Court copy (hard copy) - attach copy of warning notice and mail-delivered to the Clerk of the Walnut Creek-Danville Municipal Court at 640 Ygnacio Valley Road, Walnut Creek, California 94596.
- (3) File copy (white, original) - the Department's office copy.

b. Citations shall be issued only where a violation of a specific section or section of the appropriate code or ordinance has occurred and the citing staff member has witnessed the violation.

c. Documentation establishing prior efforts to gain compliance shall exist, using the Department Warning Notice and Zoning Investigation Form. (Prior documentation of evidence is unnecessary when citations are issued for violations which present imminent life hazards or in presence of staff member).

d. The date to appear as shown on the citation shall be as for three weeks from the date of issuance. These should be designated by staff as three weeks from the date of the citation at 1:30 p.m.

by the local Municipal Court from the date of issuance.

e. All violations shall be indicated on the citation with reference to the appropriate code or regulations, including the specific section number.

f. All violations as shown on the citation shall be explained to the violator prior to his signing.

15. Citation Program Fine and Bail Schedule: \$50 plus court costs.

16. Each citation for a violation is a separate offense. A fine will be assessed for each citation.

17. While it is not envisioned that every citation issued will be reviewed by a judge, the gathering of supportive evidence to document the case is extremely important as a fundamental part of the investigation process.

1. Supportive Evidence: To avoid possible antagonistic confrontations later, photographs and measurements should be made as soon as it is determined by the enforcing officer that a violation exists and warning notice given. The date, location, file number and photographer's initials should be recorded on the reverse side of each picture or slide. Measurements of violations pertaining to height, setbacks, property lines, etc., should be noted on a rough sketch of the site.

2. Warning Notice: A copy of the warning notice shall be attached to the Court Clerk's copy of the citation in addition to any other supportive evidence. No citation shall be issued unless the violator was given a warning notice. Exception: A warning notice is not required when the citation is issued for an imminent life hazard.

18. The violator may elect to pay the prescribed bail and not appear in court only if the violation is corrected. It is the violator's responsibility to contact the City staff member who issued the violation for reinspection and certification that the violation has been corrected. If the violation has been corrected, the staff member must sign the back side of the violation under "Certification of Correction" and indicate the date. The City's copy should also be signed record of the correction.

19. If the violation is not corrected after a citation is given but before the court hearing, other citations may continue to be given during this time to force abatement of the violation provided a reasonable period for abatement is given by the City staff member each time prior to issuance of another citation.

20. If a violator, upon issuance of a warning notice, corrects the violation but then engages in the same violation at a later date, the City staff member may give a citation without a warning notice for such activity. These situations may occur with the abatement of illegal banners, paper signs and real estate signs.

21. At the Court hearing on the citation, the staff member issuing the citation must be present to provide any additional information required by the Court. Staff from the City Attorney's office need not attend if the defendant has legal representation.

COUNCIL COMMUNICATION

TO: THE CITY COUNCIL

DATE

NO.

FROM: THE CITY MANAGER'S OFFICE

April 19, 1982

SUBJECT:

Citation Procedure for Municipal Zoning Code Violations

At a recent conference of City Attorneys, I was made aware of a procedure in Walnut Creek for the abatement of zoning code violations. Attached hereto is a copy of the procedure.

At present in the City of Lodi, in order to abate a zoning code violation, it becomes necessary to follow a very cumbersome procedure which ends up with the Police Department having to go out and cite an individual for a violation or, in the alternative, having the City Attorney prepare a written complaint and have the individual taken into court.

The Penal Code permits officers or employees of a city to issue citations for violations of the zoning code for which they were hired to enforce. With this in mind, the City of Walnut Creek permits their building inspectors and zoning compliance personnel to issue citations for violations of the zoning code. I have spoken with our Community Development Director and the Chief of Police and both agree that such a procedure would be valuable in the City of Lodi.

For your consideration, I have attached a copy of a proposed ordinance amendment to our zoning code in this regard. Mr. Schroeder and Chief Yates and I are also working out a model citation form to be used. It will be necessary for this Council to amend the appropriate zoning code sections.

My suggestion is that Council put this on for a shirtsleeve to discuss it or set for a future Council meeting to in fact institute same.



RONALD M. STEIN
CITY ATTORNEY

RMS:vc

attachments

follow-up

CITY COUNCIL

JAMES A. McCARTY, Mayor
ROBERT G. MURPHY, Mayor Pro Tem
RICHARD L. HUGHES
WALTER KATNICH
JAMES W. PINKERTON, Jr.

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

April 28, 1982

Mr. James Schroeder
Community Development Director

Dear Jim:

Enclosed herewith please find procedure for the abatement of Municipal Code zoning violations, which is an amendment to Chapter 27, Sec. 27-22 of the City Code of the City of Lodi.

Following a report on this matter by City Attorney Stein at the April 21, 1982 City Council Meeting, by motion action, the matter was referred to the Planning Commission for review.

Very truly yours,


Alice M. Reimche
City Clerk

AR:dg

Enc.

COUNCIL COMMUNICATION

THE CITY COUNCIL	DATE	NO.
THE CITY MANAGER'S OFFICE	April 19, 1982	

SUBJECT: Citation Procedure for Municipal Zoning Code Violations

At a recent conference of City Attorneys, I was made aware of a procedure in Walnut Creek for the abatement of zoning code violations. Attached hereto is a copy of the procedure.

At present in the City of Lodi, in order to abate a zoning code violation, it becomes necessary to follow a very cumbersome procedure which ends up with the Police Department having to go out and cite an individual for a violation or, in the alternative, having the City Attorney prepare a written complaint and have the individual taken into court.

The Penal Code permits officers or employees of a city to issue citations for violations of the zoning code for which they were hired to enforce. With this in mind, the City of Walnut Creek permits their building inspectors and zoning compliance personnel to issue citations for violations of the zoning code. I have spoken with our Community Development Director and the Chief of Police and both agree that such a procedure would be valuable in the City of Lodi.

For your consideration, I have attached a copy of a proposed ordinance amendment to our zoning code in this regard. Mr. Schroeder and Chief Yates and I are also working out a model citation form to be used. It will be necessary for this Council to amend the appropriate zoning code sections.

My suggestion is that Council put this on for a shirtsleeve to discuss it or set for a future Council meeting to in fact institute same.



RONALD M. STEIN
CITY ATTORNEY

RMS:vc

attachments

COMMUNITY DEVELOPMENT DEPARTMENT

PROCEDURES FOR IMPLEMENTATION OF CITATION PROCESSFOR ABATEMENT OF MUNICIPAL CODE VIOLATIONS

Ordinance No. 1465 of the City Municipal Code approved by the City Council on May 6, 1980, and effective on June 20, 1980, authorizes the enforcement of violations of the zoning ordinance through a citation procedure. Ordinance No. 1501, approved by the City Council on May 20, 1981, and effective on June 20, 1981, expands the infraction procedure to include Chapter 1 of Title 7, Article 2, Chapter 6 of Title 4, and Chapter 3 of Title 5. The procedure for implementation of this citation program is as follows:

1. In conformance with City Ordinance No. 1465, only the City Manager, Community Development Director, Chief of Code Enforcement, and Code Enforcement Inspectors may issue a citation under this procedure.
2. If a violation of the zoning ordinance is observed and reported to the City, the Chief of Code Enforcement or Community Development permit center representative should be contacted as soon as possible.
3. The Community Development Department representative shall record the complaint on the department Zoning Investigation Form and forward to the Chief of Code Enforcement for assignment of follow-up action.
4. The City staff member assigned to follow up on the zoning complaint will visit the site and determine if a violation of the City's zoning ordinance does exist.
5. If a violation does exist, City staff will verbally notify the property owner or occupant (violation) of the existence of the violation and specify action necessary to correct it. If the violator agrees in a very positive manner to comply with the requested corrective action, City staff may simply record the violation and required corrective action on the Zoning Investigation Form and make a return visit at an agreed-upon date to insure that the violation was corrected. No issue of a City warning notice may be necessary at this time.
6. If the violator does not appear cooperative or on the return visit to the site the violation is not corrected, the staff member shall complete and issue a written City Warning Notice. The City warning notice shall indicate 1) the specific nature of the complaint; 2) the Municipal Code section of the zoning ordinance that is in violation; and 3) a reasonable time or date for the violation to be corrected by the violator. City staff shall retain one copy of the Warning Notice and the second copy shall be given to the violator. The time limit for compliance shall vary depending upon the violation and be a reasonable period for the violator to correct the violation. A copy of the warning notice is enclosed.
7. A City warning notice may be given on the first visit if City staff feels that the violation should be quickly abated.
8. If City staff finds, upon returning to the site after the time period for compliance, that the citation has not been corrected and the violator has no reasonable excuse for failure to abate the violation, a citation shall be issued. A citation may only be issued when the authorized City staff member has witnessed the violation.

9. The citation includes 1) standard information on the violator; 2) the date the violation was observed; 3) location of the violation and the Municipal Code section applicable to the violation, and 4) brief information describing the violation, as required. The citation (Notice to Appear) must be signed by the violator or person responsible for the premises. This may be the owner, lessee or manager. The citation must be issued to the responsible person (violator).

10. The violator's signature on the citation is not an admission of guilt, only a promise to appear as instructed or pay the bail and the violator is released upon his signing. Refusal to sign would require physical arrest.

11. The promise to appear is a release stating that the defendant will appear in court or pay the bail in lieu of physical arrest. If City staff encounters an individual who refuses to sign the citation after all reasonable efforts have been pursued, a police officer should be summoned. City staff should explain the situation to the officer and request the individual be taken into custody. Police officers responding to assist will attempt to persuade the violator to sign the citation. If the violator is taken into custody, the enforcing officer will sign the citizens arrest block of the police officer's Citizens Arrest Report (CAR). The police officer will write a brief report of the violation in accordance with standard policy department procedures.

12. Each citation is numbered and must be accounted for. Citation books shall be issued by citation number to the assigned enforcing staff member. The staff member is accountable for each by number. The Community Development Department is responsible for maintaining administrative control of issued citations and delivering the Court Clerk's copy of the citation to the Court Clerk's office. The Department shall maintain a citation log, entering each citation and final disposition. If a mistake is made while a citation is being written, it shall be voided and all copies retained in the Citation Log Book maintained by the Community Development Department.

13. Transient violations involving persons who are transient are handled by a citation or by arrest if the violation is committed in the enforcing officer's presence. When a physical arrest is necessary, a police officer shall be requested to take the violator into custody and ensure proper procedures are followed.

14. General citation procedures are as follows:

a. When the citation is written and completed, copies will be distributed as follows:

- (1) Cited persons copy (yellow) - give to violator.
- (2) Court copy (hard copy) - attach copy of warning notice and mail-delivered to the Clerk of the Walnut Creek-Danville Municipal Court at 640 Ygnacio Valley Road, Walnut Creek, California 94596.
- (3) File copy (white, original) - the Department's office copy.

b. Citations shall be issued only where a violation of a specific section or section of the appropriate code or ordinance has occurred and the citing staff member has witnessed the violation.

c. Documentation establishing prior efforts to gain compliance shall exist, using the Department Warning Notice and Zoning Investigation Form. (Prior documentation of evidence is unnecessary when citations are issued for violations which present imminent life hazards or in presence of staff member).

d. The date to appear as shown on the citation shall be as for three weeks from the date of issuance. These should be designated by staff as three weeks from the date of the citation at 1:30 p.m.

by the local Municipal Court from the date of issuance.

e. All violations shall be indicated on the citation with reference to the appropriate code or regulations, including the specific section number.

f. All violations as shown on the citation shall be explained to the violator prior to his signing.

15. Citation Program Fine and Bail Schedule: \$50 plus court costs.

16. Each citation for a violation is a separate offense. A fine will be assessed for each citation.

17. While it is not envisioned that every citation issued will be reviewed by a judge, the gathering of supportive evidence to document the case is extremely important as a fundamental part of the investigation process.

1. Supportive Evidence: To avoid possible antagonistic confrontations later, photographs and measurements should be made as soon as it is determined by the enforcing officer that a violation exists and warning notice given. The date, location, file number and photographer's initials should be recorded on the reverse side of each picture or slide. Measurements of violations pertaining to height, setbacks, property lines, etc., should be noted on a rough sketch of the site.

2. Warning Notice: A copy of the warning notice shall be attached to the Court Clerk's copy of the citation in addition to any other supportive evidence. No citation shall be issued unless the violator was given a warning notice. Exception: A warning notice is not required when the citation is issued for an imminent life hazard.

18. The violator may elect to pay the prescribed bail and not appear in court only if the violation is corrected. It is the violator's responsibility to contact the City staff member who issued the violation for reinspection and certification that the violation has been corrected. If the violation has been corrected, the staff member must sign the back side of the violation under "Certification of Correction" and indicate the date. The City's copy should also be signed record of the correction.

19. If the violation is not corrected after a citation is given but before the court hearing, other citations may continue to be given during this time to force abatement of the violation provided a reasonable period for abatement is given by the City staff member each time prior to issuance of another citation.

20. If a violator, upon issuance of a warning notice, corrects the violation but then engages in the same violation at a later date, the City staff member may give a citation without a warning notice for such activity. These situations may occur with the abatement of illegal banners, paper signs and real estate signs.

21. At the Court hearing on the citation, the staff member issuing the citation must be present to provide any additional information required by the Court. Staff from the City Attorney's office need not attend if the defendant has legal representation.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING SECTION 27-22
(ENFORCEMENT; PENALTIES; LEGAL PROCEDURE)
OF CHAPTER 27 (ZONING) OF THE LODI
MUNICIPAL CODE.

The City Council of the City of Lodi does ordain as
follows:

SECTION 1. Section 27-22 (Enforcement; penalties; legal
procedure) of Chapter 27 (Zoning) of the Lodi Municipal
Code is hereby amended to read in full as follows:

"Section 27-22. Enforcement; penalties; legal procedure.

For the purpose of requiring full compliance with
all of the provisions of this chapter, the following
regulations shall govern:

(a) Enforcement.

The City Manager, Community Development
Director, Chief Building Inspector, Building
Inspectors, and Assistant Planner are hereby
vested with the authority to arrest any person
who violates any of the provisions of this
chapter.

All officials of the City of Lodi charged by
the law with the general duty of enforcing City

ordinances shall also enforce this Chapter and the provisions of the same.

(b) Licenses and permits.

All departments, officials and public employees of the city, who are vested with the duty and authority to issue licenses or permits where required by law shall conform to the provisions of this chapter and shall issue no such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this chapter. Licenses or permits, if issued in conflict with the provisions of this chapter, shall be null and void.

(c) Penalties for violation.

Unless otherwise indicated, it shall be an infraction for any person to do any act forbidden or fail to perform any act required by this chapter. Penalties for infractions shall be as set forth in Government Code Section 36900.

(d) Legal proceedings.

The penalties prescribed herein shall not be deemed to limit the right of the city through its legal department as authorized by the city council upon

request of the enforcing officials to institute any appropriate legal procedure as prescribed by law to restrain, enjoin, correct or abate any actual or threatened violation of the provisions of this chapter.

(e) **Public Nuisance.**

Any violation of this chapter shall constitute a public nuisance. In addition to any other remedies provided in this chapter, the city may summarily abate and bring civil suit to enjoin or abate the violation.

(f) **Separate Offenses - Cumulative Remedies.**

Each day any violation of this chapter continues shall be regarded as a new and separate offense. The remedies provided in this chapter shall be cumulative and not exclusive."

Sec. 27-20. Rules and regulations.

The planning commission shall adopt such rules and regulations as may be required for its conduct and the performance of its duties as prescribed by law and the provisions of this chapter. In such rules shall be prescribed the form and scope of petitions and applications provided for in this chapter, and of accompanying data to be furnished so as to secure the fullest practicable presentation of the matter involved in each case and for permanent record. Any petition for an adjustment or use permit or amendment as provided herein shall include, if so specified by the planning commission, a verification by at least one of the petitioners, attesting to the truth and correctness of all facts presented with the petitions. Any such verification required shall be dated and attested before a notary public or the city clerk. (Ord. No. 469, § 19.)

Sec. 27-21. Interpretation; purpose; conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the protection and promotion of public health, safety, peace, morals, comfort, convenience and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger yards or open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern. (Ord. No. 469, § 20.)

Sec. 27-22. Enforcement; penalties; legal procedure.

For the purpose of requiring full compliance with all of the provisions of this chapter the following regulations shall govern:

(a) *Enforcement.* It shall be the duty of the community development director or his authorized representative to enforce the provisions of this chapter. All officers of the city charged by

law with the general duty of enforcing city ordinances shall enforce this chapter and the provisions of the same.

(b) *Licenses and permits.* All departments, officials and public employees of the city, who are vested with the duty and authority to issue licenses or permits where required by law shall conform to the provisions of this chapter and shall issue no such license or permit for uses, buildings or purposes where the same would be in conflict with the provisions of this chapter. Licenses or permits, if issued in conflict with the provisions of this chapter, shall be null and void.

(c) *Penalties for violation.* Any person, whether a principal, agent or employee, who violates, disobeys, omits, neglects or refuses to comply with the enforcement of any of the provisions of this chapter, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five hundred dollars or by imprisonment in the city jail for a term of not more than six months, or by both such fine and imprisonment. Each day a violation is permitted to exist shall constitute a separate offense.

(d) *Legal proceedings.* The penalties prescribed herein shall not be deemed to limit the right of the city through its legal department as authorized by the city council upon request of the enforcing officials to institute any appropriate legal procedure as prescribed by law to restrain, enjoin, correct or abate any actual or threatened violation of the provisions of this chapter. (Ord. No. 469, § 21; Ord. No. 1056, § 3.)