

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS,
COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA
AMENDING CHAPTER 24A OF THE SANTA BARBARA COUNTY CODE**

The Board of Supervisors of the County of Santa Barbara, under authority of Section 7 of Article XI of the Constitution of the State of California, hereby amends Chapter 24A of the County Code of Santa Barbara County, and ordains as follows:

SECTION 1.

**Section 24A-1. - Administrative fines or penalties in addition to other remedies—
Authority, definitions.**

In addition to any other remedy allowed by this Code or applicable law, any violation of the provisions of Santa Barbara County Code chapters 6 (article III), 7, 9A, 10, 11, 14 (excluding the "potential for significant environmental damage" clause of section 14-8(c)(8)), 14C, 15, 16, 17, 18 (articles I, III, IV and V), 23 (article III), 25, 26, 29 (articles II and IV), 34A, 34B, 34C, 35, ~~and 37~~ and 44, shall be subject to an administrative fine or penalty, enforcement and collection proceedings, as set forth in this chapter and authorized by California Government Code Section 53069.4. For purposes of this article, "director" shall include the treasurer-tax collector, the director of animal services, the director of planning and development, the agricultural commissioner, the fire chief, the director of public works, the director of environmental health, the ~~director of parks~~ director of community services, and their designees. Unless otherwise specified, "owner" shall include the owner of property upon which a violation of this article exists, the occupant of that property and any other party responsible for the violation.

Section 24A-2. - Procedures.

(a)

The treasurer-tax collector or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapter 6 (article III). The director of animal services or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapter 7. The director of planning and development or his or her designee shall be responsible for implementing the procedures, set forth in this chapter with respect to violations of chapters 9A, 10, 11, 14 (excluding the "potential for significant environmental damage" clause of section 14-8(c)(8)), 14C, 25 and 35 of the Santa Barbara County Code. The agricultural commissioner or designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations involving native oak tree removal under chapter

14 and violations of the weights and measures registration requirements under Chapter 34C of the Santa Barbara County Code.

The fire chief or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapters 15 and 18 (articles III, IV and V). The director of environmental health or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapters 16, 18 (article I), 29 (articles II and IV), 34A and 34B of the Santa Barbara County Code. The director of public works or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapters 17, 23 (article III) and 29 (article IV) of the Santa Barbara County Code. The director of parks community services, or his or her designee shall be responsible for implementing the procedures set forth in this chapter with respect to violations of chapter 26, ~~and 37~~ and 44.

(b)

Upon determining that a violation of any provision of chapters 6 (article III), 9A, 10, 11, 14 (excluding the "potential for significant environmental damage" clause of section 14-8(c)(8)), 14C, 15, 16, 17, 18 (articles I, III, IV and V), 23 (article III), 25, 26, 29 (article II and IV), 34A, 34B, 34C, ~~35, or 37~~ or 44 of this Code exists with respect to any property, the director shall transmit a notice of violation to the owner by certified mail or by personal service by a public officer, or other service methods in accordance with California Code of Civil Procedure Section 415.20, as amended. The notice of violation shall specify:

- (1) The conditions constituting violations;
- (2) A specified time period not less than thirty days from receipt of the notice of violation within which the violation must be abated;
- (3) That the conduct, activity or circumstances constituting the violation must be stopped immediately or immediate steps must be taken to make the correction;
- (4) That, in the event the violation is not corrected by the expiration of the specified time period ("effective date of the notice of violation"), the owner shall be subject to an administrative fine under this chapter; and
- (5) That the owner may submit in writing, to the director, any information relating to a determination of the existence of a violation or the amount of the fine to be imposed. If the director determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction of the violation.

(c)

Notwithstanding subsection (b) of this section, the director may require immediate correction of a violation if the violation creates an immediate danger to the health and safety of persons or property.

(d)

The director may condition any building permit, grading permit or land use permit issued to remediate a violation to require that the work or project described in the permit be completed by a certain date or in a certain period of time. Failure to complete the work or project by the date or within the time stated in a permit condition shall be good cause in the discretion of the director to:

- (1) Issue a stop work order; and/or
- (2) Suspend or revoke the permit; and/or
- (3) Impose administrative fines for the permit violation.

Section 24A-3. - Amount of fine—General.

Any person who violates any provision of chapters 6 (article III), 7, [9A](#), 10, 11, 14 (excluding the "potential for significant environmental damage" clause of section 14-8(c)(8)), 14C, 15, 16, 17, 18 (articles, I, III, IV and V), 23 (article III), 25, 26, 29 (articles II and IV), 34A, 34B, [34C](#), [35](#), ~~or~~ [37](#) or 44 of this Code, or any person who owns property upon which a violation exists, irrespective of whether that person caused the violation, shall be subject to an administrative fine up to the maximum amounts as set forth below.

Notwithstanding any other provision of law, a violation of local building and safety codes determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars (\$100) for a first violation; (2) a fine not exceeding five hundred dollars (\$500) for a second violation of the same ordinance within one year; (3) a fine not exceeding one thousand dollars (\$1,000) for each additional violation of the same ordinance within one year of the first violation.

Section 24A – 5. – Amount of fine – Other

If this code does not designate the violation as an infraction, or deems as a separate and distinct violation each and every day during which a violation continues to exist or, if it provides in the alternative for civil remedies and penalties in amounts greater than set forth in subdivision (b) of California Government Code section 25132, the director shall impose an administrative fine within the amounts set forth below:

(a)

If the violation arises from an unlawful commercial, industrial, rental (residential or nonresidential), owner-occupied residential or similar use or structure on the

property, the director, in his or her discretion, shall impose a fine in one of the following sums:

(1) One hundred dollars for the date of transmittal of the notice of violation, and up to one hundred dollars for each calendar day thereafter that the violation ~~exists~~exists on the property through the effective date of the notice of violation for initial notice of violation, two hundred dollars per day for second notice of violation and five hundred dollars per day for any third or subsequent notice of violation for the same violation, within one year.

(2) In addition to the fines described in subsection (a)(1), in the event that the use of a structure in violation may be permitted with an appropriate permit, up to a maximum of five times the amount of the standard fee for such permit.

(b)

In the event that an action results in a "one-time" violation which cannot be corrected/cured (e.g., violation of permit conditions, use violations, etc.) the director may impose fines under an immediate notice of determination of fines up to one thousand dollars per each one-time action.

(c)

If a violation is corrected pursuant to a notice of violation and the same conduct is committed within forty-five days of the correction, the violation will be deemed a continuing violation and immediate fines will be incurred dating back to the date of the original notice of violation.

Section 24A-7. - Appeals.

(a)

Any person upon whom an administrative fine is imposed by the director may appeal such fine pursuant to the procedures set forth in this section. The appellant must file a written appeal with the director within ten working days of personal service or the date of mailing of the notice of determination of fine. The written appeal shall contain:

- (1) A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the penalty;
- (2) A brief statement of the material facts which the appellant claims supports his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;

(b)

An appeal of an administrative fine imposed for violations of chapter 6, (article III) shall be heard by the treasurer-tax collector as the hearing examiner. An appeal of an administrative fine imposed for violations of chapter 7 of this Code shall be heard by the director of animal services as the hearing examiner. An appeal of an administrative fine imposed for violations of chapters [9A](#), 10, 11, 14 (excluding the "potential for significant environmental damage" clause of section 14-8(c)(8)), 14C, 25 and/or chapter 35 of this Code shall be heard by the director of planning and development as the hearing examiner. An appeal of an administrative fine imposed for violations of chapter 14 involving native oak tree removal [or violations of the weights and measures registration requirements under Chapter 34C](#) shall be heard by the agricultural commissioner as the hearing examiner. An appeal of an administrative fine imposed for violations of chapter 15 and chapter 18 (articles III, IV and V) of this Code shall be heard by the fire chief as the hearing examiner. An appeal of an administrative fine imposed for violations of chapters 16, 18 (article I), 29 (article II), 34A and/or 34B of this Code shall be heard by the director of environmental health as the hearing examiner. An appeal of an administrative fine imposed for violations of chapters 17, 23 (article III) and/or 29 (article IV) of this Code shall be heard by the director of public works as the hearing examiner. An appeal of an administrative fine imposed for violations of chapters [26, 37 and/or 44](#) shall be heard by the director of [parkscommunity services](#). The above-specified hearing examiner may, at his or her discretion, appoint an alternate hearing examiner. The administrative fine appeal hearing shall be set no sooner than twenty days and no later than forty-five days following a request for an appeal hearing, unless otherwise waived by the appellant in writing. Notice of the appeal hearing shall be mailed at least twelve calendar days before the date set for the hearing. Failure to appear timely will cause the administrative fine to become a final order or decision.

(c)

In reviewing the fine, the hearing examiner shall consider the factors set forth in subsection (a) of this section, and shall uphold the fine imposed by the director or his or her designee, eliminate the fine, or modify it. The decision of the hearing examiner shall constitute the final administrative order or decision of the local agency within the meaning of Government Code Section 53069.4(b)(1) and (c). The hearing examiner shall serve a copy of his or her written decision on the appellant by first class mail to the address provided by appellant in the written notice of appeal.

(d)

Alternate Hearing Examiner. Should the specified hearing examiner deem it appropriate to appoint an alternate hearing examiner, such alternate hearing examiner shall have the experience, subject matter expertise and/or knowledge of administrative procedure to properly perform those duties. An experienced public agency employee, licensed professional (attorney, engineer, accountant, health

professional, etc.) or qualified administrative law judge may, as deemed appropriate by the specified hearing officer, be appointed to such duties.

SECTION 2.

Those sections of Chapter 24A not set forth in this Ordinance shall remain in full force and effect.

SECTION 3. Publication and Effective Date.

This ordinance shall take effect and be in force thirty (30) days from the date of its passage; and before the expiration of fifteen (15) days after its passage it, or a summary of it, shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SALUD CARBAJAL
Chair, Board of Supervisors

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: _____
Deputy Clerk

APPROVED AS TO FORM:
DENNIS A. MARSHALL,
COUNTY COUNSEL

By: _____
Deputy County Counsel