

ATTACHMENT B: ORDINANCE

**BOARD OF SUPERVISORS
OF THE
COUNTY OF SANTA BARBARA**

AN ORDINANCE AMENDING CHAPTER 24A, ADMINISTRATIVE FINES, OF THE SANTA BARBARA COUNTY CODE, BY AMENDING SECTION 24A-7, APPEALS, TO ALLOW AN ALTERNATE HEARING EXAMINER TO BE DESIGNATED FOR PURPOSES OF AN ADMINISTRATIVE FINE APPEAL HEARING, AND TO CLARIFY PROCEDURE FOR WAIVER OF THE 45 DAY APPEAL HEARING TIMELINE

ORDINANCE NO. _____

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

CHAPTER 24A, Administrative Fines, of the Santa Barbara County Code, is amended to amend Section 24A-7 (Appeals) to read as follows:

Sec. 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 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 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. 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:

Except as amended by this Ordinance, Chapter 24A, Administrative Fines, of the County Code, shall remain unchanged and shall continue in full force and effect.

SECTION 3:

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

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this ____ day of _____, 2010, by the following vote:

AYES:
NOES:
ABSTAINED:
ABSENT:

JANET WOLF
Chair, Board of Supervisors
County of Santa Barbara


ATTEST:

MICHAEL F. BROWN
Clerk of the Board of Supervisors

By _____
Deputy Clerk

APPROVED AS TO FORM:

DENNIS A. MARSHALL
County Counsel

By 

Deputy County Counsel