

# **Attachment B**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 24A – ADMINISTRATIVE FINES OF THE SANTA BARBARA COUNTY CODE RELATING TO ADMINISTRATIVE FINES FOR VIOLATIONS TO CHAPTER 29, ARTICLE III – DISCHARGE INTO LAGUNA COUNTY SANITATION DISTRICT TREATMENT SYSTEM

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

Section 1: Section 24A-1 of the County Code is amended in its entirety to read as follows:

Sec. 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), 18C, 23 (article III), 25, 26, 29 (articles I, III and IV), 34A, 34B, 34C, 35, 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 services, the 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.

Sec. 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 services 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), 18C, 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 (articles I, III and IV) of the Santa Barbara County Code. The director of 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, 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), 18C, 23 (article III), 25, 26, 29 (articles I, III and IV), 34A, 34B, 34C, 35, 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.

Sec. 24A-3. - Amount of fine - General.

Any person who violates any provision of chapters 6 (article III), 7, 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), 18C, 23 (article III), 25, 26, 29 (articles I, III and IV), 34A, 34B, 34C, 35, 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 for a first violation; (2) a fine not exceeding five hundred dollars for a second violation of the same ordinance within one year; (3) a fine not exceeding one thousand dollars for each additional violation of the same ordinance within one year of the first violation.

Sec. 24A-4. - Amount of fine - Infraction.

If this code designates the violation as an infraction, the director shall impose as the administrative fine up to the maximum fine or penalty amounts for infractions set forth in subdivision (b) of California Government Code Section 25132; the director shall impose the fine if the violation is not abated by the effective date of the notice of violation.

Sec. 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 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.

(d) Violations of Chapter 29, Articles I and III shall be subject to penalties set forth in Section 29-24.

Sec. 24A-6. - Determination of fine—Notice of determination of fine—Recordation of notice.

(a) In making a fine determination, the director shall take into account the facts and circumstances of the violation, including without limitation:

(1) The length of time the violation existed;

(2) The culpability of the owner and the willfulness of the violation;

(3) The number of previous violations of the same or related type committed by the owner within the preceding thirty-six months;

(4) The extent of the violation and the effect of the violation on neighboring properties;

(5) Attempts, if any, to comply with the applicable ordinances;

(6) The time necessary to abate the violation;

(7) Any other information relevant to a determination of the fine. In making a determination of the fine, the director shall consider any information submitted by the owner. In the event that the director determines that the violation was not caused by, or with the knowledge of, the current owner, the director may reduce or eliminate the fine. In the event the director determines that the correction of the violation is not feasible, and the violation does not present a threat to public health or safety, the director may reduce or eliminate the fine.

(b) After making a determination of the fine, the director shall transmit a notice of determination of fine by certified mail or personal service by a public officer, or other service methods in accordance with California Code of Civil Procedures Section 415.20, as amended, to the

person upon whom the fine has been imposed. The notice of determination of fine shall contain a statement that if the owner fails to request an appeal of the administrative fine, the notice of determination of fine shall be final and that any responsible party upon whom an administrative fine has been imposed may seek judicial review of the order imposing the penalty pursuant to Government Code § 53069.4.

- (c) The director may, in his discretion, record a copy of the notice of determination of fine with the Santa Barbara County Recorder. In the event of such recordation, and in the event that the violation is subsequently corrected, the director shall record a notice of correction. Correction of the violation shall not excuse the owner's liability for costs incurred during the administrative abatement process or for payment of all fines accrued prior to correction.

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 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), 18C, 34A and/or 34B of this Code shall be heard by the director of environmental health services as the hearing examiner. An appeal of an administrative fine imposed for violations of chapters 17, 23 (article III) and/or 29 (articles I, III and 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 community 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.

#### Sec. 24A-8. - Enforcement and collection.

When an administrative fine or penalty becomes a final order under this section or Government Code Section 53069.4, the county may proceed to collect the fine or penalty as follows:

- (a) In the event a civil action is commenced to collect the administrative penalty, the county shall be entitled to recover all costs associated with the collection of the penalty. Costs include, without limitation, staff time incurred in the collection of the penalty and those costs set forth in Code of Civil Procedure Section 1033.5.
- (b) An administrative penalty shall accrue interest at the same annual rate as any civil judgment. Interest shall accrue commencing on the 20th day after the penalty becomes a final decision or order.
- (c) The amount of any unpaid administrative fine, plus interest, plus any other costs as provided in this chapter, may be declared a lien on any real property owned by the owner within the county against whom an administrative penalty has been imposed, as follows:
  - (1) Notice shall be given to the owner before recordation of the lien, and shall be served in the same manner as a summons in the civil action pursuant to Code of Civil Procedure Section 415.10 et seq.;
  - (2) The lien shall attach when the county records it with the county recorder's office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final

decision, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel; and

(3) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, the county shall record a notice of the discharge containing the information specified in subsection (2) of this section.

(d) The county may withhold issuance of licenses, permits and other entitlements to a responsible party on any project, property, or application of any kind whenever an administrative penalty remains unpaid.

(e) County may take such other actions as are allowed for enforcement of a civil judgment as provided for pursuant to the Enforcement of Judgment Law, California Code of Civil Procedure Section 680.010 et seq.

Sec. 24A-9. - Judicial review.

Any person aggrieved by a final administrative order or decision imposing an administrative fine may seek review with the superior court in Santa Barbara County pursuant to Government Code Section 53069.4.

Section 2.

This Ordinance shall take effect and be in full 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** by the Board of Supervisors, County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
Das Williams, Chair Board of Supervisors

Date: \_\_\_\_\_



ATTEST:  
MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
County Counsel

By: \_\_\_\_\_  
Deputy Counsel

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 29 OF THE SANTA BARBARA COUNTY CODE RELATING TO PENALTIES FOR VIOLATIONS TO CHAPTER 29, ARTICLE III – DISCHARGE INTO LAGUNA COUNTY SANITATION DISTRICT TREATMENT SYSTEM

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

SECTION 1: Section 29-24 of the County Code is amended in its entirety to read as follows:

Section 29-24. - Penalties for violation.

- (a) Pursuant to Section 4766 of the Health and Safety Code, a violation of a regulation or ordinance of the district this article shall be a misdemeanor, punishable by fine not to exceed one thousand hundred dollars, imprisonment not to exceed 30 days one month, or both. Each day of violation shall be a separate offense.
- (b) Any person responsible for violating any provision of this or any other ordinance of the district shall be held strictly responsible for any and all acts of agents or employees done under the provision of this or any other ordinance, rule, or regulations of the district.
- (c) Pursuant to Section 54739 of the Government Code, any violation of any industrial waste discharge or pretreatment requirement related to the district's collection system and treatment works may be subject to the imposition of civil liabilities pursuant to Section 54740 of the Government Code or administrative complaints and penalties pursuant to Section 54740.5 of the Government Code, including but is not limited to violating the following standards and requirements, as may be amended, superseded, or replaced from time to time: the discharge limits and appropriate protective facilities requirements for fats, oils, and grease in food service establishments pursuant to the district's Ordinance No. 4867 (adopted Sept. 17, 2013) and/or as set forth in this Chapter; all other prohibited discharges or pretreatment requirements identified in this Chapter; the State Water Resource Control Board's Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order No. 2006-0003 and district's associated Sewer System Management Plan; the Central Coast Region Regional Water Quality Control Board's Waste Discharge Requirements and Master Recycling Permit for the district, Order No. R3-2011-0217; and any other relevant or related discharge or pretreatment requirements set forth in federal, state, or local rules, regulations, or laws.

The district may issue an administrative complaint and impose civil penalties, as follows:

- (1) An administrative complaint will be served on the person subject to the discharge or pretreatment requirement either personally or by certified mail.
- (2) The administrative complaint will identify the following: (1) the act or failure to act that constitutes a violation of the local agency's requirements; (2) the provisions of law authorizing civil liability to be imposed; (3) the proposed civil

- penalty; (4) that a hearing will be conducted within 60 days of serving the complaint; and (5) that a right to a hearing may be waived.
- (3) Unless waived, a hearing will be conducted before the manager, serving as the hearing officer for the district, within 60 days of serving the complaint on the person. The person may appeal the manager's decision to the district's Board within 30 days of the notice of the manager's decision.
- (4) At the hearing (or appeal), the manager (or Board) may assess a civil penalty against the person based on all relevant circumstances including the following:
- (i) The economic benefit derived through non-compliance;
  - (ii) The nature and persistence of the violation;
  - (iii) The length of time over which the violation occurred; and
  - (iv) Corrective action taken or attempted by the person
- (5) Civil penalties may be imposed by the district, as follows:
- (i) Not to exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
  - (ii) Not to exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the district.
  - (iii) Not to exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the district.
  - (iv) Not to exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the district.
  - (v) The amount of any civil penalties imposed under this subsection which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the Code of Civil Procedure.
  - (vi) Monies collected will be placed in a special account for monitoring, treatment, and control of discharges or other mitigation measures.
- (6) Unless appealed, an order setting administrative civil penalties will be effective and final upon issuance, and payment shall be made within 30 days thereof. Copies will be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.
- (7) The district may petition the superior court to confirm any order establishing civil penalties, and an aggrieved party may obtain review in superior court pursuant to Government Code Section 54740.6.

- (d) Pursuant to Section 53069.4 of the Government Code, any violation of any ordinance enacted by the district may be subject to an administrative fine or penalty. Any person found to be violating any provision of this or any other ordinance, rule or regulation of the district is subject to the procedures provided for in Chapter 24A of the Santa Barbara County Code, as may be amended from time to time. Pursuant to Section 4766 of the Health and Safety Code, any violation of a regulation or ordinance of the district is a misdemeanor and may be subject to a fine up to one thousand (\$1,000), imprisonment not exceeding 30 days, or both.
- (e) Continued habitation of any building or continued operation of any facility in violation of the provisions of this Chapter or any other ordinance, rule or regulation of the district is hereby declared to be a public nuisance. The district may cause proceedings to be brought for injunctive relief and/or for the abatement of the occupancy of the building or facility during the period of such violation. In such event there is to be paid to the district reasonable attorney's fees and costs of suit arising in said action in an amount to be set by the court.
- (f) When necessary to correct an existing or imminent threat to public safety, the environment, or the district sewer facilities, including sewer blockages and sanitary sewer overflows, the district may enter upon the property and summarily abate, restore, and take those actions necessary to prevent further harm from the threat, including severing pertinent connections to the district sewer facilities, at the responsible party's expense.
- (g) Any person violating any of the provisions of the ordinances, rules or regulations of the district shall become liable to the district for any expense, loss or damage occasioned by the district by reason of such violation, including but not limited to all costs to clean and repair facilities and any liability in civil proceedings to the district for any expense, loss or damage to the district's sewer system, treatment facilities, or treatment process and for any fines imposed on the district under section 13350 of the California Water Code or pursuant to section 5650 of the California Fish and Game Code, as the result of a discharge in violation of this article.
- (h) In addition to the enforcement and collection provisions in Chapter 24A, any moneys owed to the district pursuant to this section that are not paid in the time and manner prescribed by the district may be collected as delinquent charges. Pursuant to Section 5473.10 of the Health & Safety Code, the district may impose a 10% basic penalty and a 1 and one-half percent per month penalty for nonpayment of said charges. If the amounts remain delinquent and unpaid for 60 days, the district may secure such delinquent charges by filing a certificate of lien in the office of the county recorder pursuant to Section 5473.11 of the Health & Safety Code or Section 54740.5(d)(5) of the Government Code, as applicable, and/or the district may elect to have said charges collected on the tax roll pursuant to Section 5473 et seq. of the Health & Safety Code.
- (i) In addition, any person violating this article shall be liable in civil proceedings to the district for any expense, loss or damage to the district's sewer system, treatment facilities, or treatment process and for any fines imposed on the district under section 13350 of the

~~California Water Code or pursuant to section 5650 of the California Fish and Game Code,~~  
as the result of a discharge in violation of this article. The district's manager may revoke  
or suspend any permit and/or sever sewer or water service when it is determined that the  
customer:

- (1) Knowingly provides a false statement, representation, record, report, or other document to the District.
- (2) Refuses to provide records, reports, plans, or other documents required by the District.
- (3) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
- (4) Fails to comply with the terms and conditions of permit suspension.
- (5) Discharges effluent to the District's sewer system while its permit is suspended.
- (6) Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
- (7) Does not make timely payment of all amounts owed to the District for user charges, permit fees, or any other fees imposed pursuant to this Ordinance.
- (8) Causes interference, sewer blockages, or sewer system overflows with the District collection, treatment, or disposal system.
- (9) Violates grease interceptor installation or maintenance requirements, any condition or limit of its discharge permit, or any other provision of the District's fats, oils and grease requirements.

Section 2.

This Ordinance shall take effect and be in full 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** by the Board of Supervisors, County of Santa Barbara, State of California, this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
Das Williams, Chair Board of Supervisors

Date: \_\_\_\_\_

ATTEST:  
MONA MIYASATO, COUNTY EXECUTIVE OFFICER  
CLERK OF THE BOARD

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:  
MICHAEL C. GHIZZONI  
County Counsel

By: \_\_\_\_\_  
Deputy Counsel